APPENDIX G

Regulatory Settings

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G-1. REGULATORY SETTINGS

This appendix provides additional information on the federal (and state, as applicable) statutes, regulations, executive orders, and other requirements applicable to the preparation of the Environmental Assessment (EA) for the Facilities Redevelopment Project at Teterboro Airport. The purpose of this appendix is to supplement the regulatory summaries included in the main body of the EA by presenting a more detailed description of the environmental laws and implementing regulations that govern the evaluation of potential impacts associated with the Proposed Action and its action alternatives. Specifically, additional regulatory information is provided for the following applicable environmental categories:

- Biological Resources
- Coastal Resources
- Hazardous Materials, Solid Waste, and Pollution Prevention
- Water Resources

Section 4.2 of the EA provides a list of environmental resources not significantly affected and reasons why those resources are not expected to be impacted. Accordingly, those resource categories are not included in this appendix.

G-1.1 BIOLOGICAL RESOURCES

Federal laws on biological resources with potential applicability to the Proposed Action and other action alternatives are described in this section. Some Federal laws grant individual states the authority to establish their own policies and regulations related to the protection and management of biological resources. Accordingly, this section also summarizes relevant state regulations. Federal and state agencies with regulatory authority over biological resources for the Proposed Action include the US Fish and Wildlife Service (USFWS) and the New Jersey Department of Environmental Protection (NJDEP). The following are the primary Federal statutes related to the consideration of biological resources for the EA:

- The **Endangered Species Act** protects Federally listed species and provides for the protection of designated critical habitats on which listed species depend for survival. For those actions that may affect a listed species or critical habitat, Section 7 of the Endangered Species Act requires the Federal agencies to consult, at a minimum, with the USFWS and/or the National Marine Fisheries Service (NMFS), as applicable, to ensure any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. A determination of *may affect* is appropriate when an action may pose any effects on listed species or designated critical habitat. A determination of *not likely to adversely affect* is appropriate when effects on listed species or designated critical habitat are expected to be discountable, insignificant, or beneficial.
- The **Migratory Bird Treaty Act** prohibits the taking, possessing, importing, exporting, transporting, selling, purchasing, or bartering of any migratory bird, or the parts, nests, or eggs of such a bird, except under the terms of a valid Federal permit. The USFWS has statutory authority for enforcing the Migratory Bird Treaty Act.
- The **Bald and Golden Eagle Protection Act** protects bald and golden eagles from the unauthorized capture, purchase, or transportation of birds, nests, or eggs. This act is administered by the USFWS.
- The **Fish and Wildlife Coordination Act** requires that whenever a federal agency proposes to control or modify any body of water, it must consult with the USFWS and relevant state wildlife agencies. This consultation is intended to

ensure that fish and wildlife conservation receives equal consideration alongside other project purposes during planning and implementation.

- The **Magnuson-Stevens Fishery Conservation and Management Act** governs the conservation and management of marine fisheries resources within federal waters. The act established eight regional Fishery Management Councils and mandates that federal agencies must consult with the NMFS on any action that may adversely affect Essential Fish Habitat designated under the act.

Furthermore, under the provisions of the Endangered Species Act, all states retained the authority to create their own endangered species protection policies. The State of New Jersey has enacted regulations for the protection of state-listed wildlife and plant species. The New Jersey Endangered and Nongame Species Conservation Act of 1973 (NJENSCA) prohibits the taking, transport, export, and sale of endangered species or regulated nongame species.[1] The NJENSCA established the Endangered and Nongame Species Program to manage endangered and nongame species in the state of New Jersey.

G-1.2 COASTAL RESOURCES

The Coastal Zone Management Act (CZMA) of 1972, 16 U.S.C. §§ 1451-1466, is the Federal law that provides for the management of US coastal resources. The National Coastal Zone Management Program (NCZMP) is a voluntary federal and state partnership established under the CZMA to protect, restore, and responsibly develop the nation's coastal and Great Lakes resources. Participating states prepare and obtain federal approval of their own coastal zone management programs. If a proposed action or its viable action alternative(s) has the potential for impacts within a state's coastal zone, the Federal agency must initiate consultation with the relevant state agency to ensure that the proposed action and viable action alternative(s) are consistent with the state's coastal zone management program.

The NCZMP includes the New Jersey Coastal Management Program (NJCMP) which is authorized by the CZMA to manage coastal resources in the State of New Jersey. The NJCMP is comprised of various offices within the NJDEP that support coastal resources and ecosystems; the Wetlands Act of 1970 authorizes the NJDEP to regulate activities on coastal wetlands that have been delineated and mapped by the NJDEP.

Under the CZMA, the NJCMP has the following enforceable statutes:

- The **Coastal Area Facility Review Act (CAFRA)** authorizes the NJDEP to regulate commercial, residential, and industrial development within the CAFRA area.
- The **Hackensack Meadowlands Reclamation and Development Act** created the Hackensack Meadowlands Development Commission (remade the New Jersey Meadowlands Commission in 2001 and made part of the New Jersey Sports and Exposition Authority in 2015) to oversee the development of 21,000 acres of Hackensack River Meadowlands and protect the balance of nature.
- The **New Jersey Freshwater Wetlands Protection Act** authorizes the NJDEP to regulate most development within freshwater wetlands and associated transition and buffer areas.[2]

[1] *New Jersey Endangered Species Conservation Act of 1973,* New Jersey Statutes Annotated (NJSA), §23:2A-1-2A-16, (2024).

[2] New Jersey Department of Environmental Protection Coastal Management Program, Enforceable Policies, https://www.nj.gov/dep/cmp/czm_enforcepolicies.html (accessed December 17, 2025).

G-1.3 HAZARDOUS MATERIALS, SOLID WASTE, AND POLLUTION PREVENTION

Several Federal and state agencies have regulatory authority over hazardous materials, solid waste, and pollution prevention within the General Study Area: the US Department of Transportation (USDOT), the USEPA, the US Department of Labor Occupational Safety and Health Administration, and the NJDEP. Federal laws on hazardous materials, solid waste, and pollution prevention with potential applicability[3] to the Proposed Action and its action alternatives include:

- The **Clean Air Act** regulates emissions of air pollutants (including hazardous air pollutants) to the ambient (outside) air. Air pollutant emissions are discussed in Section 4.3 of the EA.
- The **Clean Water Act (CWA)** regulates discharges and spills of pollutants (including hazardous materials) to surface waters and groundwater, which are discussed in Section 1.4. Section 401 of the CWA regulates the discharge of pollutants, including stormwater, into Waters of the United States (WOTUS). Section 402 of the CWA formed the National Pollutant Discharge Elimination System (NPDES), which permits discharges associated with industrial activities, municipal storm sewer systems, and construction. The USEPA delegates authority in New Jersey to the NJDEP to implement their New Jersey Pollutant Discharge Elimination System permitting program.
- The **Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)**, commonly known as Superfund, provides broad Federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA enabled the establishment of the National Priorities List, which is a list of priority sites to guide the USEPA in determining which sites warrant further investigation. The Superfund Amendments and Reauthorization Act (SARA) amended CERCLA on October 17, 1986. SARA reflected USEPA's experience in administration of the complex Superfund program during its first six years and required USEPA to revise the Hazard Ranking System.
- The **Emergency Planning and Community Right-to-Know Act** requires hazardous chemical emergency planning by Federal, state, and local governments, Native American tribes, and industry, and requires reporting on the storage, use, and releases of hazardous chemicals to Federal, state, and local governments.
- The **Federal Facilities Compliance Act** was enacted to clarify that Federal facilities are subject to civil and administrative penalties and fines in connection with Federal, state, interstate, or local solid waste or hazardous waste regulatory programs.
- The **Hazardous Materials Transportation Act** regulates the transportation of hazardous and other regulated materials.
- The **Resource Conservation and Recovery Act** regulates the generation, treatment, storage, and disposal of solid and hazardous wastes.
- The **Safe Drinking Water Act** prohibits Federal funding of actions that would contaminate a USEPA-designated sole source aquifer or its recharge area.
- The **Pollution Prevention Act** of 1990 was enacted to promote source reduction and pollution prevention by encouraging industries to adopt cost-effective practices that reduce waste at its source.

[3] Per guidance in the FAA Order 1050.1 Desk Reference, state and local regulations for hazardous materials, solid waste, and pollution prevention that apply to a proposed action should be determined on a case-by-case basis and are therefore included here for disclosure purposes.

Pursuant to delegation from the USEPA, at the state level, NJDEP is primarily responsible for ensuring Federal hazardous materials regulations are enforced and upheld. Federal regulations have been incorporated into state-level regulations, which are meant to ensure proper enforcement of Federal regulations. State laws and regulations with potential applicability to the Proposed Action include:

- The **New Jersey Solid Waste Utility Control Act** regulates economic properties related to solid waste collection and disposal. This act gives the Board of Public Utilities the authority to regulate rates within the solid waste industry, as well as requires the submission and maintenance of records from all solid waste utilities.
- The **New Jersey Solid Waste Management Act** established a comprehensive system in the state of New Jersey for management of solid waste. This act, amended several times since its establishment, identifies all twenty-one counties and the Hackensack Meadowlands District as Solid Waste Management Districts and requires all districts to provide and maintain a comprehensive plan for waste management.
- The NJDEP **Solid Waste Compliance and Enforcement Program** oversees that all solid waste is collected, transported, and disposed of in an environmentally conscious matter. The NJDEP oversees all solid waste collection and disposal in the state of New Jersey.

G-1.4 WATER RESOURCES

Several Federal and state agencies have regulatory authority over water resources for the Proposed Action, including the Federal Emergency Management Agency (FEMA), the US Army Corps of Engineers, USDOT, USEPA, USFWS, and the NJDEP. Federal and state laws on water resources with potential applicability to the Proposed Action are discussed below.

- **Clean Water Act** (33 U.S.C. §§ 1251 to 1387) regulates discharges and spills of pollutants (including hazardous materials) to surface and certain groundwaters.
  - Section 303 requires states to establish standards consisting of designated beneficial uses of water bodies and water quality standards to protect those uses for all WOTUS.
  - Section 303(d) requires states, territories, and authorized tribes to develop lists of impaired waters.
  - Section 304(a) requires USEPA to publish national recommended water quality criteria that accurately reflect the latest scientific knowledge on the kind and extent of all effects on health and welfare that may be expected from the presence of pollutants in water. The criteria provide guidance for states to set water quality standards and control discharges or releases of pollutants.
  - Section 401 requires Federal actions that may result in discharge into WOTUS to receive a Section 401 water quality certification from the state. In New Jersey, the certification is granted through the NJDEP.
  - Section 402 regulates waste and stormwater discharges from construction sites 1 acre or greater and from municipal, industrial, and commercial facilities to surface waters through the NPDES program, administered by the USEPA with implementation authority in New Jersey delegated to the NJDEP.
  - Section 404 regulates the discharge of dredged or fill material into WOTUS, including wetlands. It requires a permit from the US Army Corps of Engineers and NJDEP. The permit process evaluates whether a proposed activity is the least damaging alternative and whether compensatory mitigation is necessary for unavoidable impacts.
- **National Flood Insurance Act** (42 U.S.C. §§ 4001 to 4005) establishes the National Flood Insurance Program administered by FEMA, which is a voluntary floodplain management program under which participating communities must adopt sound floodplain management programs in exchange for the Federal government making floodplain

insurance available to the community. Federal actions within a FEMA-mapped floodplain in a participating community must follow the community's floodplain management regulations.

- **Safe Drinking Water Act** (42 U.S.C § 300f) prohibits Federal funding of actions that would contaminate a USEPA-designated sole source aquifer or its recharge area. A Sole Source Aquifer is defined as an aquifer that supplies at least 50 percent of the drinking water consumed in the area overlying the aquifer. The SDWA authorizes the USEPA to set standards for drinking water quality, and the USEPA can delegate authority to states to implement the act within their jurisdictions if they meet or exceed USEPA standards.
- **Executive Order 11988, *Floodplain Management*,** requires Federal agencies to avoid, to the extent possible, the long and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative. To accomplish this objective, Federal agencies should take action to reduce the floodplain loss; minimize flood impacts on human safety, health, and welfare; and restore and preserve the natural and beneficial values served by floodplains.
- **Executive Order 11990, *Protection of Wetlands,*** establishes recognition of the unique and significant public value of wetlands and requires all Federal agencies to take leadership and appropriate action to protect, diminish the destruction of, and preserve wetlands.
- **USDOT Order 5660.1A, *Preservation of the Nation's Wetlands*,** provides USDOT agencies with direction on implementing Executive Order 11990. The order requires that transportation facilities be planned, constructed, and operated in order to assure the protection and enhancement of wetlands to the fullest extent practicable.
- **USDOT Order 5650.2, *Floodplain Management and Protection*,** provides policies and procedures for the implementation of Executive Order 11988. The order requires that for actions with a significant encroachment[4] in the floodplain, the FAA must make a finding that the proposed action is the only practicable alternative and that an evaluation was conducted to identify whether other alternatives are feasible to avoid or reduce adverse impacts on the floodplain.
- **New Jersey Administrative Code, Surface Water Quality Standards (SWQS)** (N.J.A.C 7:9B) establishes designated uses to the state's surface waters and sets water quality standards that protect designated uses for each water classification, which is determined per designated use.
- **New Jersey Statutes Annotated, Water Pollution Control Act** (N.J.S.A 58:10A-1) establishes, per the Federal Water Pollution Control Act, a permit program to regulate the discharge of pollutants into New Jersey waters and to maintain the highest quality of water possible. Permits will be issued by the Federal Government or by states with adequate authority and programs to implement the regulatory provisions of that act.
- **New Jersey Administrative Code, The Flood Hazard Area Control Act** (N.J.A.C 7:13-2.3) establishes standards for issuance of permits that delineate location and type of activity based on its designation as a flood hazard area and/or a riparian zone.

[4] As defined in USDOT Order 5650.2, significant encroachment is an encroachment in a floodplain that results in one or more of the following construction or flood-related impacts: 1) considerable probability of loss of human life, 2) likely future damage associated with the encroachment that could be substantial in cost or extent, including interruption of service on or loss of a vital transportation facility, and 3) notable adverse impact on "natural and beneficial floodplain values."