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POLICY & REGULATORY Overview on Sustainability and Climate Planning

The Federal government has been implementing policies in the planning arena to address the potential impacts from climate change for several years. For example, Executive Order 13514 signed in 2009⁸ created the Interagency Climate Change Adaptation Task Force (“Task Force”). This Task Force identified eight (8) Guiding Principles that governments, communities and private sector organizations should consider when designing and implementing sustainability measures and climate change adaptation policies. The Council on Environmental Quality (“CEQ”) has taken the policies a bit further and incorporated them into the planning requirements for federal agencies. The eight (8) climate change planning principles are:

- 1)** Adaptation of an integrated sustainability approach into the core policies, planning and practices of the agencies;
- 2)** Prioritizing planning approaches for the most vulnerable people, places and infrastructure;
- 3)** Using best available science when implementing adaptation protocols even though there will always be risk of uncertainty;
- 4)** Building strong partnerships by coordinating among geographical scales and levels of government based on the varying and unique risks of the locality and region;



Executive Order 13693

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- 5) Applying standard risk management tools that most governments already have in place to aid in critical decisions for potential consequences of inaction as well as options for risk reduction;
- 6) Maximizing mutual benefits by coordinating with and supporting other climate or environmental initiatives such as disaster preparedness, resource management, and cost-effective technologies to reduce GHGs;
- 7) Applying ecosystem based approaches by integrating biodiversity and ecosystem services into adaptation strategies; and
- 8) Continuously evaluating performance by measuring goals and metrics to evaluate whether adaptive measures are achieving goals.⁹

Executive Order 13693,¹⁰ signed March 15th of 2015, takes the planning concepts a step further by enumerating twelve (12) specific sustainability goals for Federal agencies. The Order also encourages parallel changes “across the federal supply chain.” Some of these new goals include:

- setting building efficiency targets for renewable or alternative energy use;
- reducing energy intensity in Federal buildings by certain percentages; and
- establishing alternative energy acquisition in government procurement policies.

While these more specific goals are not met with regulatory compliance consequences, the goals are a step towards establishing identifiable sustainability metrics.

On January 30, 2015, the President signed Executive Order 13690,¹¹ “Establishing a Federal Flood Risk Management Standard ‘FFRMS’ and



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a Process for Further Soliciting and Considering Stakeholder Input”, which amended Executive Order 11988, Floodplain Management, issued in 1977. The standard targets federal investments that are implemented through Hazard Mitigation Assistance Grants, the Public Assistance Program, and any other Federal Emergency Management Agency (“FEMA”) grants when they fund construction activities in or affecting a floodplain.

These actions include: (1) acquiring, managing, and disposing of Federal lands, and facilities; (2) providing federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

This applies to all new construction and substantially improved structures (e.g., reconstruction, rehabilitation, addition, and any other improvement) the cost of which equals or exceeds 50 percent of the value of the structure. The FFRMS builds upon this Executive Order and is to be incorporated into existing Federal department and agency processes used to implement it.

The State of Florida has also implemented several policies during the past decade to address GHG mitigation and climate change generally. In 2006, the Legislature passed the Florida Energy Act¹² which created the Florida Energy Commission (“FEC”), renewable energy grants and a solar rebate program. In 2007, then Governor Charlie Crist signed a series of executive orders aimed at reducing GHG emissions and establishing an Action Team on Energy and Climate Change.¹³



“...a designation in the coastal management element of a local government’s comprehensive plan which identifies one or more areas that experience coastal flooding due to extreme high tides and storm surge, and that are vulnerable to the related impacts of rising sea levels for the purposes of prioritizing funding for infrastructure needs and adaptation planning.”¹⁸

Most recently, legislation was passed in 2015 amending Section 163.3178, Florida Statutes,¹⁹ further expanding the requirements for redevelopment components of the Coastal Management Element of a Comprehensive Plan. Effective July 1st 2015, the Coastal Management Element of all Comprehensive Plans must include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea level rise. This is significant in that, for the first time, it requires local governments to consider the impacts of sea level rise in long-range planning efforts.

Other legislation was also passed in 2007¹⁴ directing the Florida Building Commission to create a model green building ordinance. Similarly, in 2008 legislation was passed directing local governments to include GHG reduction strategies into the Local Government Comprehensive Plans.¹⁵ That same year, new legislation required municipal governments and state agencies to construct new buildings to a recognized green third party rating system standard, such as the U.S. Green Building Council’s Leadership in Energy & Environmental Design (“LEED”) or those created by the Florida Green Building Coalition.¹⁶ Additionally, legislation also passed in 2008 requiring the Florida Building Code to become significantly more energy efficient as compared to the requirements of the 2007 Code.

In 2011, Chapter 163 of the Florida Statutes was revised to include the concept of “adaptation action areas” (“AAAs”).¹⁷ Adaptation action areas are a permissive option for local governments to address sea level rise adaptation as part of the Coastal Management Element in their Comprehensive Plans. Adaptation action areas or “adaptation areas” are defined as:

