

Florida Stormwater Association

Comments on Delegation of Wetlands Permitting Program to FDEP

July 31, 2018

1. Proposed Rule 62-331
2. Proposed Memorandum of Agreement between FDEP and EPA
3. Proposed Memorandum of Agreement between FDEP and ACOE

**CHAPTER 62-331
STATE 404 PROGRAM**

1	
2	
3	
4	<u>62-331.010 Intent, Purpose, and Implementation</u>
5	<u>62-331.020 Regulated Activities</u>
6	<u>62-331.030 Definitions</u>
7	<u>62-331.040 Procedures for Review and Agency Action on Exemption Requests</u>
8	<u>62-331.050 Individual Permits</u>
9	<u>62-331.051 Application for an Individual Permit</u>
10	<u>62-331.052 Processing of Individual Permit Applications</u>
11	<u>62-331.053 Additional Conditions for Issuance of Individual Permits</u>
12	<u>62-331.054 General Conditions for Individual Permits</u>
13	<u>62-331.060 Public Notice</u>
14	<u>62-331.070 Water Quality and Coastal Zone Consistency Review</u>
15	<u>62-331.080 Modification, Suspension, or Revocation of Permits</u>
16	<u>62-331.090 Duration of Permits</u>
17	<u>62-331.100 Transfer of Permit Upon Change in Ownership or Control</u>
18	<u>62-331.110 Emergency Authorizations</u>
19	<u>62-331.120 Fees</u>
20	<u>62-331.130 Mitigation</u>
21	<u>62-331.140 Mitigation Banks</u>
22	<u>62-331.160 Use of Formal Determinations</u>
23	<u>62-331.200 Policy and Purpose of General Permits</u>
24	<u>62-331.201 Conditions for General Permits</u>
25	<u>62-331.210 General Permit for Maintenance or Removal</u>
26	<u>62-331.211 General Permit for Fish and Wildlife Harvesting, Enhancement, and Attraction Devices</u>
27	<u>62-331.212 General Permit for Scientific Measurement Devices</u>
28	<u>62-331.213 General Permit for Survey Activities</u>
29	<u>62-331.214 General Permit for Outfall and Intake Structures</u>
30	<u>62-331.215 General Permit for Utility Line Activities</u>
31	<u>62-331.216 General Permit for Bank Stabilization</u>
32	<u>62-331.217 General Permit for Linear Transportation Projects</u>
33	<u>62-331.218 General Permit for Return Water from Upland Contained Disposal Areas</u>
34	<u>62-331.219 General Permit for Hydropower Projects</u>
35	<u>62-331.220 General Permit for Minor Activities</u>
36	<u>62-331.221 General Permit for Response Operations for Oil or Hazardous Substances</u>
37	<u>62-331.222 General Permit for Removal of Vessels</u>
38	<u>62-331.223 General Permit for Structural Activities</u>
39	<u>62-331.224 General Permit for Aquatic Habitat Restoration, Enhancement, and Creation Activities</u>
40	<u>62-331.225 General Permit for Specific Reversion Activities</u>
41	<u>62-331.226 General Permit for Residential Developments</u>
42	<u>62-331.227 General Permit for Moist Soil Management for Wildlife</u>
43	<u>62-331.228 General Permit for Maintenance of Existing Flood Control Facilities</u>
44	<u>62-331.229 General Permit for Temporary Construction, Access, and Dewatering</u>
45	<u>62-331.230 General Permit for Boat Ramps</u>
46	<u>62-331.231 General Permit for Emergency Watershed Protection and Rehabilitation</u>
47	<u>62-331.232 General Permit for Cleanup of Hazardous and Toxic Waste</u>
48	<u>62-331.233 General Permit for Commercial and Institutional Developments</u>
49	<u>62-331.234 General Permit for Agricultural Activities</u>
50	<u>62-331.235 General Permit for Reshaping Existing Drainage Ditches</u>
51	<u>62-331.236 General Permit for Recreational Facilities</u>

52	<u>62-331.237</u>	<u>General Permit for Stormwater Management Facilities</u>
53	<u>62-331.238</u>	<u>General Permit for Mining Activities</u>
54	<u>62-331.239</u>	<u>General Permit for Repair of Uplands Damaged by Discreet Events</u>
55	<u>62-331.240</u>	<u>General Permit for Activities in Ditches</u>
56	<u>62-331.241</u>	<u>General Permit for Commercial Shellfish Aquaculture Activities</u>
57	<u>62-331.242</u>	<u>General Permit for Land-Based Renewable Energy Generation Facilities</u>
58	<u>62-331.243</u>	<u>General Permit for Water-Based Renewable Energy Generation Pilot Projects</u>

59

60 **62-331.010 Intent, Purpose, and Implementation**

61 (1) This Chapter, together with the rules and all documents it incorporates by reference, implements the State
 62 404 Program under Section 373.4146, F.S.

63 (2) The State 404 Program governs all dredging and filling in waters of the United States regulated by the State
 64 under section 404(g)-(l) of the Clean Water Act (CWA). (“Assumed Waters” or “State-assumed Waters”)

65 (3) For the purpose of implementing this Chapter, the state wetland delineation methodology in Chapter 62-340,
 66 F.A.C., shall be used to determine the boundary of assumed waters. Agency staff shall document the boundary of
 67 assumed waters using Form 62-330.201(1), “Chapter 62-340, F.A.C., Data Form” [effective date], incorporated by
 68 reference in subsection 62-330.201(2), F.A.C., and as described in Section 7.1 of Applicant’s Handbook Volume I
 69 (hereinafter “Volume I”), incorporated by reference in Rule 62-330.010, F.A.C.
 70 [<https://www.flrules.org/gateway/reference.asp?No=Ref-02522>].

71 (4) The “Memorandum of Agreement Between the Florida Department of Environmental Protection and the
 72 United States Environmental Protection Agency” (“EPA MOA”), the “Memorandum of Agreement Between the
 73 Florida Department of Environmental Protection and the Department of the Army” (“Corps MOA”), any other
 74 agreements approved by EPA, the operating and delegation agreements between the Department of Environmental
 75 Protection (“Department”) and the water management districts (“Districts”) which are incorporated by reference in
 76 Rule 62-113.100, F.A.C., as applicable, contain information for implementing this Chapter. The term “Agency”
 77 applies to the Department or a District, as applicable, throughout this Chapter.

78 (5) This Chapter is used in conjunction with Chapter 62-330, F.A.C., Volume I, the State 404 Program
 79 Applicant’s Handbook (hereinafter “404 Handbook”) (effective date), incorporated by reference herein [DOS Link],
 80 and Chapter 62-342, F.A.C.

81 (6) Where there are conflicts between this Chapter and the rules listed in (5), above, this Chapter will control
 82 (See section 8.3 of the 404 Handbook).

83 (7) A State 404 Program permit (“permit”) is not an authorization under Chapter 62-330, F.A.C., and shall be
 84 reviewed as a separate authorization.

85 (8) A copy of Memorandums of Agreement, rules, forms, and other documents incorporated by reference herein
 86 and in Chapter 62-330, F.A.C., may also be obtained from the Agency Internet site or by contacting staff in an
 87 Agency office identified in Appendix A of Volume I.

88 (9) This Chapter explains how to submit notices and applications for activities regulated under the State 404
 89 Program, and provides the standards for Agency review and action.

90 (10) Where both an ERP and a State 404 Program authorization are required for a dredge or fill activity, an
 91 applicant must receive both authorizations prior to conducting the dredge or fill activity. An applicant may choose to
 92 have both authorizations issued concurrently to avoid the need for subsequent modification of the project that may
 93 occur if one authorization is issued before the other.

94 (a) Where an applicant chooses to have the State 404 Program and ERP authorizations issued concurrently, and
 95 project modifications are required for one authorization after the other application has been deemed complete by the
 96 Agency, the complete application shall return to an “incomplete” status until all additional required information for
 97 such modification is received. No additional fee shall be charged for review of such modifications.

98 (b) Where an applicant chooses to have the ERP and State 404 Program authorizations issued separately, and
 99 modifications to the issued ERP authorization are required as a result of the State 404 Program review process, the
 100 ERP permit modification fees under 62-330.071, F.A.C., shall apply.

101 *Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4131, 373.4145, 373.4146(2), 403.805(1) FS. Law*
 102 *Implemented 373.109, 373.4141, 373.4146, 373.421, 373.4211 FS. History – New _____.*

103 (11) At least ten percent (10%) of the projects that have been issued a permit under the State 404 Program shall
104 be reviewed by EPA and the Corps every twelve months for consistency with the criteria and conditions of the
105 project's permit, and the project's consistency with state and federal policy and standards concerning the 404
106 Program. The findings will be made available to DEP and to the public annually.

107
108 **62-331.020 Regulated Activities**

109 (1) A permit under this Chapter is not required for the activities described in 40 CFR § 232.3, incorporated by
110 reference herein (DOS link), and in Appendix A of the 404 Handbook, subject to the limitations described therein.

111 (2) Unless an activity qualifies under subsection (1), above, a permit is required prior to conducting any dredge
112 or fill activities in, on, or over assumed waters.

113 (3) The following types of permits are available:

114 (a) A general permit, as provided in Rule 62-331.200, F.A.C.; and

115 (b) An individual permit, as provided in Rule 62-331.050, F.A.C.

116 *Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4131, 373.4135, 373.414(9), 373.4145, 373.4146(2),*
117 *403.805(1) FS. Law Implemented 373.413, 373.4131, 373.4132, 373.4135, 373.4136, 373.4145, 373.4146, 373.416,*
118 *373.414, 373.426 FS. History – New _____.*

119
120 **62-331.030 Definitions**

121 Terms used in this Chapter are defined in section 2.0 of the 404 Handbook.

122 *Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1) FS.*
123 *Law Implemented 373.118, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416 FS. History – New _____.*

124
125 **62-331.040 Procedures for Review and Agency Action on Exemption Requests**

126 (1) A notice to the Agency is not required to conduct an activity that is exempt under subsection 62-331.020(1),
127 F.A.C., except where the activity requires an authorization or notification under Chapter 62-330, F.A.C. Exemptions
128 under Rule 62-330.051, F.A.C., are not applicable to the State 404 Program.

129 (2) If a person desires Agency verification of qualification to conduct an exempt activity, they shall apply as
130 described in subsections 62-330.050(2) and (3), F.A.C.

131 (3) The verification of qualification to conduct an exempt activity shall be conducted as described in
132 subsections 62-330.050(4) through (7), F.A.C.

133 *Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4145, 373.4146(2), 403.805(1) FS. Law Implemented*
134 *373.4131, 373.4141, 373.4146(4) FS. History – New _____.*

135
136 **62-331.050 Individual Permits**

137 (1) An individual permit is required for activities within assumed waters if they do not qualify for an exemption
138 under subsection 62-331.020(1), F.A.C. or a general permit under Rules 62-331.200 through 62-331.243, F.A.C.

139 (2) An application for an individual permit shall be:

140 (a) Prepared in accordance with Rule 62-331.051, F.A.C.;

141 (b) Submitted in accordance with section 4.4 of Volume I; and

142 (c) Reviewed and acted on in accordance with Rule 62-331.052, F.A.C., Rule 62-331.053, F.A.C., and section
143 5.4 of the 404 Handbook.

144 (3) An application for a mitigation bank shall be processed in the same manner as an individual permit, except
145 the individual permit review timeframes shall not apply.

146 *Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4135, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
147 *FS. Law Implemented 373.413, 373.4131, 373.4135, 373.4136, 373.414, 373.4146, 373.416 FS. History – New*
148 *_____.*

149
150 **62-331.051 Application for an Individual Permit**

151 Materials to include in an application for an individual permit are described below. Applicants are encouraged
152 to have a pre-application meeting or discussion with Agency staff prior to submitting the application.

153 (1) The application shall be made on Form 62-330.060(1), “Application for Individual and Conceptual
154 Approval Environmental Resource Permit, State 404 Program Permit, and Authorization to Use State-Owned
155 Submerged Lands”, including the information required in the applicable Sections A, B, C, D, G, H, and I,
156 incorporated by reference in Rule 62-330.060, F.A.C. [https://www.flrules.org/gateway/reference.asp?No=Ref-
157 XXXXX]; or by use of the applicable Agency’s equivalent e-application form.

158 (2) All activities which the applicant plans to undertake which are reasonably related to the same project shall
159 be included in the same permit application.

160 (3) In addition to the information described in subsection (1), above, the applicant will be required to provide
161 additional information as necessary to assist in the evaluation of the application. Such additional information may
162 include environmental data and information on alternate methods and sites as may be necessary for the preparation
163 of the required environmental documentation.

164 *Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4135, 373.414(9), 373.4145, 373.4146(2), 403.061(44),*
165 *403.805(1) FS. Law Implemented 373.413, 373.4131, 373.4135, 373.4136, 373.414, 373.4146, 373.416, 668.003,*
166 *668.004, 668.50 FS. History – New _____.*

167 **62-331.052 Processing of Individual Permit Applications**

168 (1) Within 30 days of receipt of an application for a permit in accordance with Rule 62-331.051, F.A.C., or
169 receipt of any additional information provided by the applicant in response to the Agency’s timely request for
170 information, the Agency shall review the application for administrative and technical completeness and shall request
171 any additional information required by the Agency to publish public notice pursuant to Rule 62-331.060, F.A.C.,
172 and to determine if the proposed activity meets the conditions for issuance in Rules 62-330.301, 62-330.302, and 62-
173 331.053, F.A.C. The applicant may voluntarily submit a written waiver of the above 30-day timeclock requirement
174 to allow the Agency additional time to determine if additional information is required; the Agency is not obligated to
175 accept the waiver or to delay sending the request for additional information.

176 (a) An application will be considered administratively incomplete if it does not include the information required
177 in subsection 62-331.060(1), F.A.C., and will be considered technically incomplete if additional information is
178 needed to determine if the proposed activity meets the conditions for issuance in Rules 62-330.301, 62-330.302, and
179 62-331.053, F.A.C. Permit applications shall not be considered technically complete until the ERP review, if
180 required, is complete. This is to satisfy the requirement for reasonable assurance that State water quality standards
181 and coastal zone consistency requirements will be met. (See Rule 62-331.070, F.A.C., below, and section 5.0 of the
182 404 Handbook)

183 (b) The timeframes and other provisions described in Volume I, sections 5.5.3.5 through 5.5.3.7 shall also apply
184 to applications for permits under this Chapter.

185 (2) Within 10 days of the Agency determining that an application is administratively complete pursuant to
186 subsection 62-331.060(1), F.A.C., the Agency shall provide public notice as described in Rule 62-331.060, F.A.C.
187 In addition, the Agency shall send a copy of the public notice to EPA for those projects that are not waived for
188 review, or those that are waived but for which EPA or the Agency has requested review, under section II.B. of the
189 EPA MOA.

190 (a) For those projects that are not waived for review, or where EPA is reviewing in accordance with section
191 II.B. of the EPA MOA, if the EPA does not comment on, provide notice to the Agency of its intent to comment on,
192 object to, make recommendations with respect to, or notify the Agency that it is reserving its right to object to, a
193 permit application within 30 days of the date EPA receives the notice, the Agency shall make a final permit decision
194 within 60 days after either the close of the public comment period described in subsection 62-331.060(3), F.A.C., or
195 the project is declared technically complete, whichever occurs later.

196 1. If the decision is to issue a permit, the permit becomes effective when it is signed by the Agency and the
197 applicant.

198 2. If the decision is to deny the permit, the Agency will notify the applicant in writing of the reason(s) for
199 denial.

200 (b) For those projects that are not waived for review, or where EPA is reviewing in accordance with section
201 II.B. of the EPA MOA, if the EPA intends to comment on, object to, or make recommendations with respect to a
202 permit application, or if EPA does not wish to comment but wishes to reserve the right to object based on any new
203 information brought out by the public during the comment period or at a public meeting, EPA shall notify the
204 Agency of its intent within 30 days of receipt of the public notice. Once the Agency is notified by EPA, or if the
205 Agency fails to accept the recommendations of an affected state or tribe and EPA must review the reasons for failing
206 to accept the recommendations, the following procedures shall apply:
207

208 1. Subject to subparagraphs (2)(b)2. through 5., below, the permit shall not be issued until after the receipt of
209 such comments, objections, or recommendations, or within 90 days of EPA’s receipt of the notice, whichever occurs
210 first.

211 2. When the Agency has received an EPA objection or requirement for a permit condition under this section, the
212 Agency shall not issue the permit unless the steps required by the EPA to eliminate the objection have been taken. If
213 the Agency chooses not to perform the required steps, the Agency may still issue an ERP permit under Chapter 62-
214 330, F.A.C., but shall not issue a permit under this Chapter. In such a case, the applicant is responsible for obtaining
215 any necessary authorizations under section 404 of the CWA from the Corps.

216 3. Within 90 days after Agency receipt of an objection or a requirement for a permit condition from the EPA,
217 the Agency or any interested party may request that the EPA hold a public meeting on the objection or requirement.
218 EPA shall conduct a public meeting if requested by the Agency, or if warranted by significant public interest based
219 on requests received.

220 4. If EPA holds a public meeting under subparagraph 3., above, EPA shall reaffirm, modify, or withdraw the
221 objection or requirement for a permit condition, and notify the Agency of that decision.

222 5. If EPA holds a public meeting, the Agency shall have 30 days after EPA gives the Agency notice of its
223 decision under subparagraph 4., above, to take one of the following actions:

224 a. If EPA has withdrawn the objection or requirement for a permit condition, and the application is technically
225 complete, the Agency may issue the permit; or

226 b. If EPA has not withdrawn the objection or requirement for a permit condition, the Agency shall do one of the
227 following:

228 i. Issue a permit that includes the required permit condition and/or otherwise satisfies EPA’s objection;

229 ii. Notify EPA of its intent to deny the permit; or

230 iii. Notify EPA and the applicant that the Agency intends to take no action, in which case the Corps shall
231 process the section 404 authorization pursuant to 40 CFR § 233.50(j).

232 *Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4135, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
233 *FS. Law Implemented 373.042, 373.409, 373.413, 373.4131, 373.4132, 373.4135, 373.4136, 373.414, 373.4141,*
234 *373.4142, 373.4145, 373.4146, 373.416, 373.426, 373.429, 704.06 FS. History – New _____.*

62-331.053 Additional Conditions for Issuance of Individual Permits

237 In addition to the conditions in Rules 62-330.301 and 62-330.302, F.A.C., individual permits under this Chapter
238 are subject to the following conditions:

239 (1) No dredge or fill activity shall be permitted if there is a practicable alternative to the proposed activity which
240 would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant
241 adverse impact. The Agency shall require the applicant to submit an alternatives analysis completed in accordance
242 the provisions below. Guidance for completing an alternatives analysis is in Appendix C of the 404 Program
243 Handbook.

244 (a) For the purpose of this condition, practicable alternatives shall include, but shall not be limited to:

245 1. Activities which do not involve dredging or filling in jurisdictional waters;

246 2. Locations where dredge or fill activities would have less adverse impact than the proposed project location,
247 so long as the alternative does not have other significant adverse impact.

248 (b) An alternative is practicable if it is available and capable of being done after taking into consideration cost,
249 existing technology, and logistics in light of overall project purposes. If it is otherwise a practicable alternative, an
250 area not presently owned by the applicant which could reasonably be obtained, utilized, expanded, or managed to
251 fulfill the basic purpose of the proposed activity may be considered.

252 (c) Where the dredge or fill activity proposed within a special aquatic site does not require access or proximity
253 to or siting within the special aquatic site to fulfill its basic purpose (i.e., is not “water dependent”), practicable
254 alternatives that do not involve special aquatic sites are presumed to be available, unless clearly demonstrated
255 otherwise. In addition, where a dredge or fill activity is proposed within a special aquatic site, all practicable
256 alternatives to the proposed activity which do not involve dredging or filling within a special aquatic site are
257 presumed to have less adverse impact on the aquatic ecosystem, unless clearly demonstrated otherwise.

258 (d) To the extent that practicable alternatives have been identified and evaluated under the Coastal Zone
259 Management Program, a CWA section 208 program, or other planning process, such evaluation shall be considered
260 by the Agency as part of the consideration of alternatives under this section. Where such evaluation does not contain
261 all information required under this section, the additional information shall be provided to the Agency for review.

262 (2) The activity shall not significantly adversely affect the aesthetics of the aquatic ecosystem as they apply to
263 the quality of life enjoyed by the general public and property owners as described in section 8.2 of the 404
264 Handbook. Activities that are consistent with park or natural area management plans, local government
265 comprehensive plans adopted pursuant to Chapter 163, F.S., and/or other land use restrictions of local governments
266 having jurisdiction over the project site shall not be considered aesthetically adverse for the purpose of this Chapter.
267 The Agency shall, if necessary, require the applicant to obtain a letter of consistency concurrence with such plans as
268 reasonable assurance that this requirement is met.

269 (3) No permit shall be issued for the following:

270 (a) When the project is inconsistent with the requirements of this Chapter and the CWA, including 40 CFR part
271 230, and including when the project:

272 1. Causes or contributes to violations of any applicable State water quality standard, except when temporarily
273 within a mixing zone proposed by the applicant and approved by the Agency;

274 2. Violates any applicable toxic effluent standard or prohibition under section 307 of the CWA;

275 3. Jeopardizes the continued existence of species listed as endangered or threatened under the Endangered
276 Species Act of 1973, as amended, or results in the likelihood of the destruction or adverse modification of a habitat
277 which is determined by the Secretary of Interior or Commerce, as appropriate, to be a critical habitat under the
278 Endangered Species Act of 1973, as amended. If an exemption has been granted by the Endangered Species
279 Committee, the terms of such exemption shall apply in lieu of this subparagraph;

280 4. Violates any requirement imposed by the Secretary of Commerce to protect any marine sanctuary designated
281 under Title III of the Marine Protection, Research, and Sanctuaries Act of 1972.

282 5. Causes or contributes to significant degradation of jurisdictional waters. Effects contributing to significant
283 degradation considered individually or collectively, include:

284 i. Significant adverse effects on human health or welfare, including but not limited to, effects on municipal
285 water supplies, plankton, fish, shellfish, wildlife, and special aquatic sites;

286 ii. Significant adverse effects on life stages of aquatic life and other wildlife dependent on aquatic ecosystems,
287 including the transfer, concentration, and spread of pollutants or their by-products outside of the project site through
288 biological, physical, and chemical processes;

289 iii. Significant adverse effects on aquatic ecosystem diversity, productivity, and stability. Such effects may
290 include, but are not limited to, loss of fish and wildlife habitat or loss of the capacity of a wetland to assimilate
291 nutrients, purify water, or reduce wave energy; or

292 iv. Significant adverse effects on recreational, aesthetic, and economic values.

293 (b) When appropriate and practicable steps have not been taken to minimize potential adverse impacts of the
294 activity on the aquatic ecosystem;

295 (c) When the EPA has objected to issuance of the permit and the objection has not been resolved;

296 (d) When the proposed dredge or fill activity would be in an area which has been prohibited, withdrawn, or
297 denied as a disposal site by the EPA under section 404(c) of the CWA, or when the activity would fail to comply
298 with a restriction imposed thereunder;

299 (e) If the Corps determines, after consultation with the Secretary of the Department in which the Coast Guard is
300 operating, that anchorage and navigation of any of the navigable waters would be substantially impaired.

301 *Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4135, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
302 *FS. Law Implemented 373.4146 FS. History – New _____.*
303

304 **62-331.054 General Conditions for Individual Permits**

305 (1) Individual permits shall contain the general conditions for individual permits in subsection 62-330.350(1),
306 F.A.C., and any specific conditions necessary to assure compliance with this Chapter.

307 (a) The general conditions in subsection 62-330.350(1), F.A.C., shall be modified to contain applicable
308 references to the rules of this Chapter, where necessary.

309 (2) Individual permits shall contain the following conditions in addition to those described in (1), above:

310 (a) The permittee shall comply with all conditions of the permit, even if that requires halting or reducing the
311 permitted activity to maintain compliance. Any permit violation constitutes a violation of the Clean Water Act as
312 well as a violation of Part IV of Chapter 373, F.S., and this Chapter.

313 (b) The permittee shall take all reasonable steps to prevent any unauthorized dredging or filling in violation of
314 this permit.

315 *Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4135, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
316 *FS. Law Implemented 373.042, 373.409, 373.413, 373.4131, 373.4132, 373.4135, 373.4136, 373.414, 373.4141,*
317 *373.4142, 373.4145, 373.4146, 373.416, 373.426, 373.429, 704.06 FS. History – New _____.*
318

319 **62-331.060 Public Notice**

320 (1) The Agency shall provide public notice, as described in subsection (2), below, within 10 days of the
321 following: agency determination that an application for an individual permit or major modification is
322 administratively complete; Agency notification to a permittee of revocation or suspension of a permit; and issuance
323 of an emergency field authorization. The Agency shall provide public notice 30 days prior to any scheduled public
324 meeting for such projects. An administratively complete application, as defined in the section 2.0 and described in
325 section 8.1 of the 404 Handbook , shall include the following information:

326 (a) Name, address, and telephone number of the applicant;

327 (b) Name(s) and address(es) of adjoining property owners;

328 (c) Self-addressed, stamped envelopes and/or email addresses for each adjoining property owner. These will be
329 used by the Agency to send the public notice. Do not include a return address; it will be added by the Agency;

330 (d) A complete description of the activity including necessary drawings, sketches, or plans sufficient for public
331 notice; the location, purpose, and intended use of the proposed activity; scheduling of the activity; the location and
332 dimensions of adjacent structures; and a list of authorizations required by other agencies including federal, interstate,
333 state, or local agencies for the work, including all approvals received or denials already made;

334 (e) A description of the type, composition, source, and quantity of the material to be dredged or used as fill;
335 construction methods; and the site and plans for disposal of any dredged material including a description of spoil
336 cells, dredged material management areas (DMMAAs), and final disposal plans if the dredged material is not
337 proposed to remain onsite; and

338 (f) A certification that all information contained in the application is true and accurate and acknowledging
339 awareness of penalties for submitting false information.

340 (2) Public notice shall be provided as follows:

341 (a) The Agency shall mail and/or email the notice to the following parties:

342 1. The applicant;

343 2. Any other agency with jurisdiction over the activity or the project site, whether or not the agency issues a
344 permit;

345 3. Owners of property adjoining the property where the regulated activity is proposed or is permitted to occur;

346 4. Any State or tribe whose waters may be affected by the proposed or permitted activity; and

347 5. All persons, other than those listed above, who have specifically requested copies of public notices.

348 a. The Agency may require the use of an existing online notification system to request and receive such notices,
349 except where the requestor asks to be notified by an alternative method because of a technical or financial hardship.

350 (b) Notice shall be published on the Agency website.

351 (c) The notice provided in (a) or (b), above, may be combined with notice required for ERP permits or certain
352 activities on sovereign submerged lands pursuant to Volume I, section 5.5.2.3, provided the provisions of this
353 section are met.

354 (3) From the date of publication, interested parties may express their views concerning the permit application,
355 modification, revocation, or suspension for a period of:

356 (a) 30 days; or

357 (b) 15 days for the following projects:

358 1. Mosquito control activities including rotary ditching;

359 2. Erosion control activities not to exceed 0.2 acre of fill;

360 3. Restoration efforts required by the Agency that do not exceed 0.5 acre of dredge or fill activities into
361 assumed waters;

362 4. The placement of fill material in freshwater wetlands for residential development, not to exceed 0.2 acre,
363 except within the following areas:

364 a. Wetlands in or adjacent to Outstanding Florida Waters (OFWs);

365 b. Wetlands in or adjacent to National Parks, National Wildlife Sanctuaries, National Preserves, and National
366 Marine Sanctuaries;

367 c. Wetlands in Areas of Critical State Concern;

368 d. Timicuan Ecological and Historical Preserve in Duval County;

369 e. Golden Gate Estates, Collier County, south of Alligator Alley;

370 f. The Florida Keys.

371 (c) The public notice comment period shall automatically be extended to the close of any public meeting, if one
372 is held. The presiding officer may also extend the comment period at the public meeting.

373 (4) The Agency may hold a public meeting for a proposed project, modification, revocation, or suspension if it
374 is determined that there is a significant degree of public interest in the application. A public meeting may also be
375 held at the discretion of the Agency, when the Agency determines a public meeting may be useful to a decision on
376 the permit application. Interested parties may request a public meeting during the comment period in subsection (3),
377 above.

378 (a) Any request for a public meeting shall be in writing and shall state the nature of the issues proposed to be
379 raised at the public meeting.

380 (b) The Agency shall provide notice of a public meeting at least 30 days prior to the scheduled public meeting
381 date.

382 (c) Any person may submit oral or written statements or data concerning the permit application at the public
383 meeting. Public meetings shall be reported verbatim. Copies of the record of proceedings may be obtained from the
384 Agency or the reporter of such meeting. A copy of the transcript (or, if none is prepared, a recording of the
385 proceedings) shall be made available for public inspection at the local Agency office.

386 (5) Any state or tribe whose waters may be affected by the proposed activity may submit written comments and
387 suggest permit conditions within the public notice comment period provided in subsection (3), above. If the Agency
388 does not accept the recommendations of the state or tribe, the Agency shall notify the state or tribe and EPA in
389 writing, prior to permit issuance, of the Agency's failure to accept the recommendations, with the reasons for so
390 doing. The application shall then be subject to the review process in 62-331.052(2)(b), F.A.C.

391 (6) Revocation or suspension of permits shall be subject to the review process in 62-331.052(2), F.A.C.

392 *Rulemaking Authority 373.026(7), 373.043, 373.4145, 373.4146(2), 403.805(1) FS. Law Implemented 373.4146 FS.*
393 *History – New _____.*

62-331.070 Water Quality and Coastal Zone Consistency Review

396 (1) Compliance with applicable state water quality standards shall be required for issuance of a permit.

397 (2) Compliance with the Coastal Zone Management Program shall be required for issuance of a permit.

398 (3) To ensure compliance with (1) and (2), above, the verification of exemption or permit shall not be issued
399 unless the activity is exempt under Chapter 62-330, F.A.C., or the applicable ERP under Chapter 62-330, F.A.C., is
400 issued.

401 *Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4131, 373.4145, 380.23(4), 403.0877, 403.805(1) FS. Law*
402 *Implemented 373.026(7), 373.109, 373.117, 373.118, 373.413, 373.4131, 373.4141, 373.4145, 373.4136, 373.4146,*
403 *373.416, 373.426, 373.428, 380.23, 403.0877 FS. History – New _____.*

62-331.080 Modification, Suspension, or Revocation of Permits

406 Modification of permits shall be conducted in accordance with subsections 62-330.315(1) through (3), F.A.C.,
407 and section 6.2 of Volume I, as applicable. Suspension or revocation of permits shall be conducted in accordance
408 with Section 373.429, F.S. In addition, modification, suspension, or revocation of permits is subject to the
409 following:

410 (1) The Agency may reevaluate the circumstances and conditions of a permit at any time, either on its own
411 motion or at the request of the permittee or a third party and initiate action to modify, suspend, or revoke a permit if
412 sufficient cause exists. Among the factors to be considered are:

413 (a) Permittee's noncompliance with any of the terms or conditions of the permit;

414 (b) Permittee's failure in the application or during the permit issuance process to fully disclose all relevant facts
415 or the permittee's misrepresentation of any relevant facts at the time;

416 (c) Information that activities authorized by a general permit are having more than minimal individual or
417 cumulative adverse effect on the environment, or that the permitted activities are more appropriately regulated by
418 individual permits;

419 (d) Circumstances relating to the authorized activity have changed since the permit was issued and justify
420 changed permit conditions or temporary or permanent cessation of any dredge or fill activity controlled by the
421 permit;

422 (e) Any significant information relating to the activity authorized by the permit if such information was not
423 available at the time the permit was issued and would have justified the imposition of different permit conditions or
424 denial at the time of issuance;

425 (f) Revisions to applicable statutory or regulatory authority, including toxic effluent standards or prohibitions or
426 water quality standards.

427 (2) Extensions of permits.

428 (a) Individual permits shall not be extended beyond five years from its original effective date.

429 (b) General permits shall not be extended.

430 (3) Public notice.

431 (a) Minor modifications shall not be subject to the public notice requirements in Rule 62-331.060, F.A.C.

432 (b) Major modifications shall be subject to the public notice requirements in Rule 62-331.060, F.A.C. However,
433 only the conditions subject to modification shall be re-opened.

434 (c) Revocation and suspension of permits shall be effective upon the permittee's receipt of notification from the
435 Agency of such revocation or suspension. Public notice of the revocation or suspension shall be made in accordance
436 with Rule 62-331.060, F.A.C.

437 *Rulemaking Authority 373.026(7), 373.043, 373.4145, 373.4146(2), 403.805(1) FS. Law Implemented 373.4146,*

438 *373.429 FS. History – New _____.*

439

440 **62-331.090 Duration of Permits**

441 Unless revoked or otherwise modified, the duration of a permit under this Chapter is:

442 (1) General permits shall be effective for a fixed term not to exceed five years as provided in subsection 62-
443 331.200(5), F.A.C.

444 (2) Individual permits shall expire no later than five years from the date they originally become effective (see
445 section 6.0 of the 404 Handbook).

446 *Rulemaking Authority 373.026(7), 373.043, 373.4145, 373.4146(2), 403.805(1) FS. Law Implemented 373.4146(5)*

447 *FS. History – New _____*

448

449 **62-331.100 Transfer of Permit Upon Change of Ownership or Control**

450 (1) Transfer of an individual permit shall be in accordance with Rule 62-330.340, F.A.C. The phrase “under this
451 chapter” shall mean Chapter 62-331, F.A.C.

452 (2) If the permittee sells the property associated with the general permit verification, the permittee shall transfer
453 the general permit verification to the new owner by submitting a completed Form 62-331.100(1) – “Transfer of State
454 404 Program General Permit Verification”, incorporated by reference herein [effective date], within 30 days of the
455 sale, to the Agency that processed the original notice.

456 *Rulemaking Authority 373.026(7), 373.043, 373.4145, 373.4146(2), 403.805(1) FS. Law Implemented 373.4131,*

457 *373.4135, 373.4136, 373.4145, 373.4146, 373.416, 373.426 FS. History – New _____.*

458

459 **62-331.110 Emergency Field Authorizations**

460 (1) The Agency may issue an emergency field authorization for dredge or fill activities to abate an emergency
461 condition before a permit could be issued or modified under this Chapter. “Emergency conditions” are defined as
462 those that pose an imminent or existing serious threat or danger and require immediate action to protect the public
463 health, safety, or welfare, or the water resources of the Agency, including the health of aquatic and wetland-
464 dependent species; a public water supply; or recreational, commercial, industrial, agricultural or other reasonable
465 uses. Carelessness or the lack of planning on the part of an applicant shall not be sufficient grounds to warrant the
466 granting of an emergency field authorization.

467 (2) The entity requesting an emergency field authorization shall complete an “Emergency Field Authorization”
468 Form 62-330.360(1), F.A.C. (effective date) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02506>), which
469 is incorporated by reference in 62-330.360(3), F.A.C. A copy of this form may be obtained from the Agency, as
470 described in subsection 62-331.010(8), F.A.C. The activity authorized by the emergency field authorization may
471 commence upon approval by the Agency's field representative. The recipient of an emergency field authorization is
472 responsible for compliance with all the terms and conditions of the authorization.

473 (3) Any emergency field authorization shall be limited to the duration of time (typically no more than 90 days)
474 required to complete the authorized emergency action.

475 (4) The emergency field authorization may be terminated at any time, effective immediately upon the Agency
476 notifying the permittee of the termination either orally or in writing, if the Agency determines that termination is

477 necessary to protect human health or the environment. If oral termination is given, the Agency shall follow up with a
478 written termination within five business days.

479 (5) Notice of the emergency field authorization shall be published and public comments solicited in accordance
480 with Rule 62-331.060, F.A.C., as soon as possible, but no later than 10 days after the issuance date.

481 (6) If required by a condition in the emergency field authorization, the permittee shall, within 90 days of
482 issuance of the emergency field authorization, apply for a Section 404 Program permit. Such permit, if issued, may
483 include requirements for restoration of aquatic resources or modification of the work completed under the
484 emergency field authorization to comply with the provisions of this Chapter.

485 *Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4145, 373.4146, 403.805(1) FS. Law Implemented*
486 *373.119, 373.413, 373.4131, 373.4145, 373.4146, 373.416, 373.426, 373.439 FS. History – New*

487 **62-331.120 Fees**

488 There shall be no fee charged for verifications, notices, applications, or permits under this Chapter.

489 *Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4145, 373.4146(2), 403.805(1) FS. Law Implemented*
491 *373.109, 373.4146 FS. History – New*

492 **62-331.130 Mitigation**

493 Compensatory mitigation required for authorizations or compliance actions under this Chapter shall be
494 conducted in accordance with section 10.3 of Volume I, with the following additional requirements:

495 (1) Mitigation Hierarchy. The following preferential hierarchy shall be used by the Agency when compensatory
496 mitigation is required for authorizations and compliance actions with (a) being the most preferred and (e) being the
497 least preferred method, unless the preference is overridden. More information about the preferential hierarchy and
498 overriding the hierarchy may be found in section 8.5.1 of the 404 Handbook.

499 (a) Mitigation bank credits. When permitted impacts are located within the service area of an approved
500 mitigation bank, and the bank has the appropriate number and resource type of credits available, the permittee's
501 compensatory mitigation requirements may be met by the purchase of mitigation bank credits.

502 (b) Corps authorized in-lieu fee program credits. Where permitted impacts are located within the service area of
503 a Corps authorized in-lieu fee program, and the in-lieu fee program has the appropriate number and resource type of
504 credits available, the permittee's compensatory mitigation requirements may be met by securing those credits from
505 the in-lieu fee program.

506 (c) Permittee-responsible mitigation under a watershed approach. Where permitted impacts are not in the
507 service area of an approved mitigation bank or in-lieu fee program that has the appropriate number and resource
508 type of credits available, permittee-responsible mitigation is the only option. Where practicable and likely to be
509 successful and sustainable, the resource type and location for the required permittee-responsible compensatory
510 mitigation shall be determined using the principles of a watershed approach as outlined in section 8.5 of the 404
511 Handbook.

512 (d) Permittee-responsible mitigation through on-site and in-kind mitigation. In cases where a watershed
513 approach is not practicable, the Agency shall consider opportunities to offset anticipated aquatic resource impacts by
514 requiring on-site and in-kind compensatory mitigation. The Agency shall also consider the practicability of on-site
515 compensatory mitigation and its compatibility with the proposed project.

516 (e) Permittee-responsible mitigation through off-site and/or out-of-kind mitigation. If, after considering
517 opportunities for on-site, in-kind compensatory mitigation as provided in paragraph (d), above, the Agency
518 determines that these compensatory mitigation opportunities are not practicable, are unlikely to compensate for the
519 permitted impacts, or will be incompatible with the proposed project, and an alternative, practicable off-site and/or
520 out-of-kind mitigation opportunity is identified that has a greater likelihood of offsetting the permitted impacts or is
521 environmentally preferable to on-site or in-kind mitigation, the Agency shall require that this alternative
522 compensatory mitigation be provided.

523 (2) Federal credits from mitigation banks or in-lieu fee programs approved by the Corps shall be accepted by
524 the Agencies to offset impacts for permits when the number and resource type of credits available are appropriate to
525 offset impacts.

526 (3) Mining reclamation activities may be considered appropriate mitigation for impacts from mining projects
527 undertaken pursuant to Chapter 378, F.S., and rules promulgated thereunder, if they maintain or improve the water
528 quality and the function of biological systems present at the site prior to the commencement of mining activities,
529 subject to the following additional requirements:
530

531 (a) Additional mitigation shall be required if the Agency determines that the onsite reclamation activities will
532 not fully offset the regulated activity's adverse impacts.

533 (b) Section 373.414(6)(b), F.S., and paragraph 62-345.600(1)(b), F.A.C., pertaining to time lag for phosphate
534 and heavy minerals mines, shall not apply to compensatory mitigation for permits or compliance actions.

535 (c) Additional mitigation, if required, shall be subject to the mitigation hierarchy in subsection (1), above.

536 *Rulemaking Authority 373.026(7), 373.043, 373.414, 373.4145, 373.4146(2), 403.805(1) FS. Law Implemented*
537 *373.413, 373.4131, 373.4132, 373.4135, 373.4136, 373.414, 373.4144, 373.4145, 373.4146, 373.416 FS. History –*
538 *New*

539

540 **62-331.140 Mitigation Banks**

541 Mitigation banks shall be reviewed and processed in accordance with Chapters 62-330 and 62-342, F.A.C., with
542 the following additional requirements:

543 (1) The processing timeframes under 62-330.090, F.A.C., shall not apply to applications for a mitigation bank
544 under this Chapter.

545 (2) Interagency Review Team (IRT)

546 (a) The Agency will establish an Interagency Review Team to review documentation for the establishment and
547 management of mitigation banks. The primary role of the IRT is to facilitate the establishment of mitigation banks
548 through the development of mitigation bank instruments. The IRT shall review the application, draft instrument, and
549 other appropriate documents and provide comments to the Agency. Requests for credit releases shall be reviewed by
550 the IRT.

551 (b) A designated representative of the Agency shall serve as Chair of the IRT. Where a mitigation bank is
552 proposed to satisfy the compensatory mitigation requirements of Corps permits in addition to permits issued under
553 this Chapter, the Agency shall invite the Corps to serve as co-Chair of the IRT.

554 (c) The IRT shall include representatives from EPA, the Corps, the Florida Fish and Wildlife Conservation
555 Commission, the US Fish and Wildlife Service, National Oceanic and Atmospheric Administration Fisheries, the US
556 Natural Resources Conservation Service, the District within whose jurisdictional area the bank lies when the
557 mitigation bank instrument is processed by the Department, and any other federal, state, or tribal agencies as
558 appropriate. The Agency shall seek to include all public agencies with a substantive interest in the establishment of
559 the mitigation bank on the IRT, but retains final authority over its composition.

560 (3) The Corps District Engineer shall, at his or her discretion, sign the mitigation bank instrument to express
561 approval of the instrument so that the bank may be used to satisfy compensatory mitigation requirements for Corps-
562 issued Section 404 permits.

563 (4) Pre-Application Meetings

564 (a) Pre-application meetings are strongly encouraged. Pre-application meetings are intended to identify potential
565 issues early so that the applicant may attempt to address those issues prior to the start of the formal review process.
566 An applicant may schedule a pre-application meeting and/or provide a draft application to the Agency for review.
567 The Agency may advise the applicant about the project and any additional information that may be needed. Pre-
568 application meetings help the applicant submit a more administratively and technically complete application as
569 defined in section 2.0 and described in section 8.1 of the 404 Handbook, which in most cases, helps to streamline the
570 review process considerably once the actual application is submitted.

571 (b) The Agency shall submit any draft information to the IRT within 10 days of receipt.

572 (5) Review Process

573 (a) An application to establish a mitigation bank shall be submitted in accordance with 62-331.051, F.A.C., and
574 shall contain all information required under Chapters 62-330, 62-342, F.A.C., and this Chapter.

575 (b) The application shall be reviewed in accordance with Rules 62-331.050(3), and 62-331.052, F.A.C.

576 (c) Any dredge or fill activities required for implementation of the mitigation bank shall be permitted separately
577 under general or individual permits.

578 (6) State 404 Program mitigation bank credits shall be made available to provide compensatory mitigation for
579 impacts permitted by the Corps, when the mitigation bank instrument has been signed by the Corps as provided in
580 subsection (3), above.

581 *Rulemaking Authority 373.026(7), 373.043, 373.4135, 373.414, 373.4145, 373.4146(2), 403.805(1) FS. Law*
582 *Implemented 373.413, 373.4131, 373.4132, 373.4135, 373.4136, 373.4146 FS. History – New*

583

584

585

62-331.160 Use of Formal Determinations

586 A valid formal determination completed in accordance with Rule 62-330.201(2), F.A.C. and Applicant’s
587 Handbook I, section 7.2 may be used in an application for a permit.

588 *Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.421(2), 373.4146(2), 403.805(1), 403.0877 FS. Law*
589 *Implemented 373.026, 373.4131, 373.4146, 373.421(2), 373.441 FS. History – New*

590

591 **62-331.200 Policy and Purpose of General Permits**

592 (1) The general permits apply to those activities that do not otherwise qualify for an exemption under subsection
593 62-331.020(1), F.A.C., and that qualify under the general permit requirements in this section and in Rules 62-
594 331.201 through 62-331.243, F.A.C.

595 (2) General permits authorize activities that, if conducted consistent with the permit requirements, will cause
596 minimal individual and cumulative adverse impacts to jurisdictional waters. Mitigation may be required to offset
597 impacts authorized under a general permit, unless the general permit specifically states otherwise. Any required
598 mitigation must comply with provisions in Rule 62-331.130, F.A.C., and section 8.5 of the 404 Handbook.

599 (3) If required, notice shall be given pursuant to subsection 62-330.402(1), F.A.C., and section 4.2 of the 404
600 Handbook, and acted upon in accordance with subsection 62-330.402(4), F.A.C., section 5.0 of the 404 Handbook,
601 and this section. Notice to the Agency is required if:

602 (a) Indicated in the general permit;

603 (b) The activity requires a notification or authorization under Chapter 62-330, F.A.C.;

604 (c) The activity is adjacent to the river segments identified in the National Rivers Inventory:

605 <https://www.nps.gov/nrcr/programs/rtca/nri/index.html>, <https://www.nps.gov/nrcr/programs/rtca/nri/index.html>;

606 (d) The State Historic Preservation Office (SHPO) determines that the Florida Master Site File (FMSF) includes
607 a historic property within 50 meters of the project area that is listed on, determined to be eligible for listing on, or
608 potentially eligible for listing on the National Register of Historic Places. To obtain this determination, any person
609 who intends to use a general permit that does not otherwise require notice shall contact the FMSF to conduct an
610 historic properties search. The applicant shall provide the FMSF with the project area and Section/Township/Range
611 information to sitefile@dos.myflorida.com or contact the FMSF office at (850) 245-6440.

612 1. Where the FMSF Report for the property (or all properties if more than one) shows the SHPO Evaluation
613 (‘SHPO Eval’ column) to be “Not Eligible” and also shows the property(ies) are not listed or proposed for listing on
614 the National Register of Historic Places (‘NR Status’ column), and notice is not otherwise required under this
615 section, then submittal of a pre-construction notice is not required.

616 2. Notice is required if the applicant has knowledge of a historic property that is listed on, determined to be
617 eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including
618 previously unidentified properties.

619 (e) The activity is in the Florida Keys;

620 (f) The project is adjacent to a federal project;

621 (g) The project is adjacent to Tribal lands.

622 (4) Each permittee who receives a general permit verification letter under this Chapter must submit a completed
623 Form 62-331.200(1) – “Certification of Compliance with a State 404 Program General Permit” [effective date],
624 incorporated by reference herein [dos link], within 30 days of completion of the authorized activity, or the
625 implementation of any required compensatory mitigation, whichever is later.

626 (5) General permits shall expire on [date]. If the general permits are not renewed before the expiration date, an
627 individual permit will be required for the activities.

628 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1),*
629 *FS. Law Implemented 373.118, 373.4131, 373.414, 373.4145, 373.4146, 373.416, 373.426 FS. History – New*

630 _____

631

632 **62-331.201 Conditions for General Permits**

633 (1) General permits shall be subject to the general conditions for all general permits in Rule 62-330.405, F.A.C.,
634 except subsection 62-330.405(10), F.A.C., and the conditions in subsections (2) and (3), below.

635 (2) When a project requires pre-construction notice, the Agency may impose specific conditions as necessary
636 for protection of the resource. Specific conditions may include, but are not limited to, mitigation requirements, and
637 protection measures for listed species or historical resources.

638 (3) In addition, general permits under this Chapter are subject to the following conditions:

639 (a) Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those
640 species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area,
641 unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies
642 shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the
643 movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing shall be designed and
644 constructed to minimize adverse effects to aquatic life movements.

645 (b) Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum
646 extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream
647 smothering by substantial turbidity) of an important spawning area are not authorized.

648 (c) Migratory Bird Breeding Areas. Activities in assumed waters that serve as breeding areas for migratory
649 birds must be avoided to the maximum extent practicable.

650 (d) Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is
651 directly related to a shellfish harvesting activity authorized by general permits 62-331.211 or 62-331.241, F.A.C., or
652 is a shellfish seeding or habitat restoration activity authorized by general permit 62-331.224, F.A.C.

653 (e) Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.).
654 Material used for construction or fill must be free from toxic pollutants in toxic amounts as listed in section 307 of
655 the CWA or state law.

656 (f) Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where
657 the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

658 (g) Fills Within 100-year Floodplains. The activity shall comply with applicable FEMA-approved state or local
659 floodplain management requirements.

660 (h) Single and Complete Project. The activity must be a single and complete project. The same general permit
661 cannot be used more than once for the same single and complete project.

662 (i) Wild and Scenic Rivers. No general permit activity may occur in a component of the National Wild and
663 Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the
664 System while the river is in an official study status, unless the appropriate federal agency with direct management
665 responsibility for such river has determined in writing that the proposed activity will not adversely affect the Wild
666 and Scenic River designation or study status.

667 (j) Tribal Rights. No general permit activity may cause more than minimal adverse effects on tribal rights
668 (including treaty rights), protected tribal resources, or tribal lands.

669 (k) Listed species. No activity is authorized under any general permit which is likely to directly or indirectly
670 jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation
671 as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or
672 adversely modify the critical habitat of such species. No activity is authorized under any general permit which "may
673 affect" a listed species or critical habitat, unless the Agency has consulted with federal and/or state wildlife agencies
674 and appropriate measures to address the effects of the proposed activity have been implemented or are required as a
675 specific condition to the general permit. Information on the location of threatened and endangered species and their
676 critical habitat can be found at <http://www.fws.gov/>, <http://www.fws.gov/ipac>, and
677 <http://www.nmfs.noaa.gov/pr/species/esa/>.

678 (l) Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring their action complies
679 with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for
680 contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to
681 reduce impacts to migratory birds or eagles, including whether "incidental take" permits are necessary and
682 available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

683 (m) Historic Properties. In cases where the Agency determines, based on information from SHPO, that the
684 activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of

685 Historic Places, the activity is not authorized until the requirements of Section 106 of the National Historic
686 Preservation Act have been satisfied.

687 (n) Manatees. In waters that are accessible to manatees, the permittee shall follow the “Standard Manatee
688 Conditions for In-Water Work (2011)”, incorporated by reference herein (effective date).

689 (o) Sea turtles, smalltooth sawfish, Gulf sturgeon, or shortnose sturgeon. In waters that are accessible to these
690 species, the permittee shall follow the “Sea Turtle and Smalltooth Sawfish Construction Conditions”, incorporated
691 by reference herein (effective date).

692 (p) Use of Multiple General Permits. The use of more than one general permit under this Chapter for a single
693 and complete project is prohibited, except when the acreage loss of jurisdictional waters authorized by the general
694 permits, including any applicable nationwide permits issued by the Corps for portions of the project within retained
695 waters, does not exceed the acreage limit of the general permit with the highest specified acreage limit.

696 (q) Transfer of General Permit Verifications. If the permittee sells the property associated with the general
697 permit verification, the permittee shall transfer the general permit verification to the new owner by submitting a
698 completed Form 62-331.100(1) – “Transfer of State 404 Program General Permit Verification” [effective date],
699 within 30 days of the sale, to the Agency that processed the original notice.

700 (r) Compliance Certification. Each permittee who receives a general permit verification letter under this Chapter
701 must submit a completed Form 62-331.200(1) – “Certification of Compliance with a State 404 Program General
702 Permit” [effective date] within 30 days of completion of the authorized activity, or the implementation of any
703 required compensatory mitigation, whichever is later.

704 (s) Activities Affecting Structures or Work Built by the United States. If an activity also requires permission
705 from the Corps pursuant to 33 U.S.C. § 408 because it will alter or temporarily or permanently occupy or use a
706 Corps federally authorized Civil Works project, the prospective permittee is responsible for obtaining such
707 permission separately from the Corps prior to commencing activities authorized by the general permit.

708 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
709 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
710 *373.422, 373.423, 373.429 FS. History – New _____.*

711
712 **62-331.210 General Permit for Maintenance or Removal**

713 (1) This general permit authorizes the following activities:

714 (a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill,
715 or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not
716 to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently
717 authorized modification. Minor deviations in the structure’s configuration or filled area, including those due to
718 changes in materials, construction techniques, requirements of other regulatory agencies, or current construction
719 codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized.

720 (b) The removal of previously authorized structures or fills. Any stream channel modification is limited to the
721 minimum necessary for the repair, rehabilitation, or replacement of the structure or fill; such modifications,
722 including the removal of material from the stream channel, must be immediately adjacent to the project.

723 (c) The removal of accumulated sediment and debris within, and in the immediate vicinity of, the structure or
724 fill.

725 (d) The repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods,
726 fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to
727 commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as
728 hurricanes or tornadoes, this two-year limit may be waived by the Agency, provided the permittee can demonstrate
729 funding, contract, or other similar delays.

730 (e) The removal of accumulated sediments and debris outside the immediate vicinity of existing structures (e.g.,
731 bridges, culverted road crossings, water intake structures, etc.). The removal of sediment is limited to the minimum
732 necessary to restore the waterway in the vicinity of the structure to the approximate dimensions that existed when
733 the structure was built but cannot extend farther than 200 feet in any direction from the structure. This 200-foot limit
734 does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake
735 structures. All dredged or excavated materials must be deposited and retained in an area that has no jurisdictional
736 waters unless otherwise specifically approved by the Agency under separate authorization.

737 (f) Temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the
738 maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize
739 flooding to the maximum extent practicable, when temporary structures, work, and fill, including cofferdams, are
740 necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of
741 materials, and be placed in a manner, that will not be eroded by expected high flows. After conducting the
742 maintenance activity, temporary fills must be removed in their entirety and the affected areas returned to
743 preconstruction elevations. The areas affected by temporary fills must be revegetated, using native wetland species
744 in similar composition to those species which were present at the site or in the contiguous wetland.

745 (2) This general permit does not authorize:

746 (a) Beach restoration; or

747 (b) New stream channelization or stream relocation projects.

748 (c) Maintenance or removal of projects that capture and store water, such as Dispersed Water Management
749 Projects (DWMPs).

750 (3) Notification: For activities authorized by paragraph (e), the permittee must submit a notice prior to
751 commencing the activity. The notice must include information regarding the original design capacities and
752 configurations of the outfalls, intakes, and small impoundments.

753 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.373.4145, 373.4146(2),*
754 *403.805(1) FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146,*
755 *373.416, 373.422, 373.423, 373.429 FS. History – New _____.*

756
757 **62-331.211 General Permit for Fish and Wildlife Harvesting, Enhancement, and Attraction Devices**

758 (1) This general permit authorizes the following activities:

759 (a) Fish and wildlife harvesting devices and activities such as pound nets, crab traps, crab dredging, eel pots,
760 lobster traps, duck blinds, and clam and oyster digging, fish aggregating devices (for research purposes only), and
761 small fish attraction devices.

762 (2) This general permit does not authorize:

763 (a) Artificial reefs;

764 (b) Impoundments and semi-impoundments of assumed waters for the culture or holding of motile species such
765 as lobster;

766 (c) The use of covered oyster trays or clam racks;

767 (d) Placement of materials for Live Rock culture;

768 (e) Harvesting of Live Rock.

769 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2),*
770 *403.805(1) FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146,*
771 *373.416, 373.422, 373.423, 373.429 FS. History – New _____.*

772
773 **62-331.212 General Permit for Scientific Measurement Devices**

774 (1) This general permit authorizes the following activities:

775 (a) Installation and removal of devices, whose purpose is to measure and record scientific data, such as staff
776 gages, meteorological stations, water recording and biological observation devices, water quality testing and
777 improvement devices, and similar structures.

778 (b) Installation and removal of small weirs and flumes constructed primarily to record water quantity and
779 velocity, provided the dredging or filling is limited to 25 cubic yards.

780 (2) Upon completion of the use of the device to measure and record scientific data, the measuring device and
781 any other structures or fills associated with that device (e.g., foundations, anchors, buoys, lines, etc.) must be
782 removed to the maximum extent practicable and the site restored to pre-construction elevations.

783 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
784 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
785 *373.422, 373.423, 373.429 FS. History – New _____.*

786
787 **62-331.213 General Permit for Survey Activities**

788 (1) This general permit authorizes the following activities:

789 (a) Survey activities, such as core sampling, seismic exploratory operations, plugging of seismic shot holes and
790 other exploratory-type bore holes, exploratory trenching, soil surveys, sampling, sample plots or transects for
791 wetland delineations, and historic resources surveys.

792 1. For the purposes of this general permit, the term “exploratory trenching” means mechanical land clearing of
793 the upper soil profile to expose bedrock or substrate, for the purpose of mapping or sampling the exposed material.
794 The area in which the exploratory trench is dug must be restored to its pre-construction elevation upon completion
795 of the work and must not drain a jurisdictional water. In wetlands, the top 6 to 12 inches of the trench shall be
796 backfilled with topsoil from the trench.

797 (b) The construction of temporary pads, provided the fill does not exceed 1/10-acre in waters of the U.S.

798 (2) This general permit does not authorize:

799 (a) Dredging, filling, or structures associated with the recovery of historic resources.

800 (b) Drilling and the sidecasting of excavated material from test wells for oil and gas exploration; however, the
801 plugging of such wells is authorized.

802 (c) Fill placed for roads and other similar activities;

803 (d) Permanent structures.

804 (e) Seismic exploratory devices within the limits of the Everglades as defined in Sections 403.031(13(a) and (b),
805 F.S., and the Big Cypress and Water Conservation Areas 1, 2A, 2B, 3, and 3A.

806 (3) The permittee must submit a notice to the Agency prior to commencing the activity for seismic exploratory
807 activities in assumed waters accessible to any federal listed species.

808 (4) The discharge of drilling mud and cuttings may require a permit under section 402 of the Clean Water Act.

809 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*

810 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*

811 *373.422, 373.423, 373.429 FS. History – New _____.*

812

813 **62-331.214 General Permit for Outfall and Intake Structures**

814 (1) This general permit authorizes the following activities:

815 (a) Activities related to the construction or modification of outfall structures and associated intake structures,
816 where the effluent from the outfall is authorized, conditionally authorized, or specifically exempted by, or otherwise
817 in compliance with regulations issued under the National Pollutant Discharge Elimination System Program (section
818 402 of the Clean Water Act).

819 (2) This general permit does not authorize:

820 (a) The construction of intake structures, unless they are directly associated with an authorized outfall structure.

821 (3) Notification: The permittee must submit a notice to the Agency prior to commencing the activity.

822 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*

823 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*

824 *373.422, 373.423, 373.429 FS. History – New _____.*

825

826 **62-331.215 General Permit for Utility Line Activities**

827 (1) This general permit authorizes the following activities:

828 (a) Activities required for the construction, maintenance, repair, and removal of utility lines and associated
829 facilities in assumed waters, provided the activity does not result in the loss of greater than 1/2-acre of jurisdictional
830 waters for each single and complete project.

831 1. A “utility line” is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or
832 slurry substance, for any purpose, and any cable, line, or wire for the transmission for any purpose of electrical
833 energy, telephone, and telegraph messages, and internet, radio, and television communication. The term “utility
834 line” does not include activities that drain a jurisdictional water, such as drainage tile or french drains, but it does
835 apply to pipes conveying drainage from another area.

836 2. Material resulting from trench excavation may be temporarily sidecast into assumed waters for no more than
837 three months, provided the material is not placed in such a manner that it is dispersed by stormwater or other forces.
838 The Agency may extend the period of temporary side casting for no more than a total of 180 days, where
839 appropriate. For a trench with a top width greater than three feet in herbaceous wetlands, the upper layer of the soil
840 horizon shall initially be scraped and segregated into a spoil bank that is separated from the spoil bank resulting
841 from the excavation of the trench for the utility line. The upper layer of the soil horizon shall be replaced as the last
842 step of restored grades to facilitate natural revegetation. The trench cannot be constructed or backfilled in such a
843 manner as to drain jurisdictional waters (e.g., backfilling with extensive gravel layers, creating a french drain effect).

844 3. Any exposed slopes and stream banks must be stabilized immediately upon completion of the utility line
845 crossing of each waterbody.

846 4. For overhead utility lines authorized by this general permit, a copy of the notice will be provided to the
847 Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

848 (b) Construction, maintenance, or expansion of substation facilities associated with a power line or utility line in
849 non-tidal assumed waters, provided the activity, in combination with all other activities included in one single and
850 complete project, does not result in the loss of greater than 1/2-acre of jurisdictional waters.

851 (c) Construction or maintenance of foundations for overhead utility line towers, poles, and anchors in assumed
852 waters, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather
853 than a larger single pad) are used where feasible.

854 (d) Construction of access roads for the construction and maintenance of utility lines, including overhead power
855 lines and utility line substations, in non-tidal assumed waters, provided the activity, in combination with all other
856 activities included in one single and complete project, does not cause the loss of greater than 1/2-acre of non-tidal
857 jurisdictional waters.

858 1. Access roads must be the minimum width necessary.

859 2. Access roads must be constructed so that the length of the road minimizes any adverse effects on
860 jurisdictional waters and must be as near as possible to pre-construction contours and elevations (e.g., at grade
861 corduroy roads or geotextile/gravel roads). Access roads constructed above pre-construction contours and elevations
862 in assumed waters must be properly bridged or culverted to maintain surface flows.

863 3. Access roads used for both construction and maintenance may be authorized, provided they meet the terms
864 and conditions of this general permit.

865 4. Access roads used solely for construction of the utility line must be removed upon completion of the work, in
866 accordance with the requirements for temporary fills as referenced in paragraph (e), below.

867 (e) Temporary structures, fills, and work necessary for the remediation of inadvertent returns of drilling fluids to
868 jurisdictional waters through sub-soil fissures or fractures that might occur during horizontal directional drilling
869 activities conducted for the purpose of installing or replacing utility lines.

870 1. These remediation activities must be done as soon as practicable, to restore the affected waterbody.

871 2. Permittees must prepare a frac-out plan prior to construction that meets the requirements of section 3.2.1.3 of
872 the 404 Handbook.

873 (f) Temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the utility
874 line activity.

875 1. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the
876 maximum extent practicable, when temporary structures, work, and fill, including cofferdams, are necessary for
877 construction activities, access fills, or dewatering of construction sites.

878 2. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected
879 high flows or stormwater.

880 3. After construction, temporary fills must be removed in their entirety and the affected areas returned to
881 preconstruction elevations.

882 4. The areas affected by temporary fills must be revegetated, using native wetland species in similar
883 composition to those species which were present at the site or in the contiguous wetland.

884 (2) This general permit does not authorize:

885 (a) Dredging or filling in non-tidal wetlands adjacent to tidal jurisdictional waters to construct, maintain, or
886 expand substation facilities.

887 (b) Dredging or filling in nontidal wetlands adjacent to tidal waters for access roads.

888 (3) The permittee must submit a notice to the Agency prior to commencing the activity if any of the following
889 criteria are met:

890 (a) The activity involves mechanized land clearing in a forested wetland for the utility line right-of-way;
891 (b) The utility line in jurisdictional waters, excluding overhead lines, exceeds 500 feet;
892 (c) The utility line is placed within a jurisdictional water, and it runs parallel to or along a stream bed that is
893 within that area of jurisdictional waters;

894 (d) Activities that result in the loss of greater than 1/10-acre of jurisdictional waters;
895 (e) The activity is within forested or tidal wetlands;
896 (f) The activity is in assumed waters accessible to the Florida panther;
897 (g) Permanent access roads are constructed above grade in jurisdictional waters for a distance of more than 500
898 feet; or

899 (h) Permanent access roads are constructed in jurisdictional waters with impervious materials.

900 (4) For utility line activities crossing a single waterbody more than one time at separate and distant locations, or
901 multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for
902 purposes of general permit authorization.

903 (5) For activities that require pre-construction notice, the notice must include any other general permit(s), or
904 individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity,
905 including other separate and distant crossings that require a general permit authorization but do not require
906 preconstruction notification.

907 (6) The agency may require mitigation to ensure that the authorized activity results in no more than minimal
908 individual and cumulative adverse environmental effects.

909 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
910 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
911 *373.422, 373.423, 373.429 FS. History – New _____.*

912 **62-331.216 General Permit for Bank Stabilization**

913 (1) This general permit authorizes the following activities:

914 (a) Bank stabilization activities necessary for erosion control or prevention, such as vegetative stabilization,
915 bioengineering, sills, rip rap, revetment, gabion baskets, stream barbs, and bulkheads, or combinations of bank
916 stabilization techniques, provided the activity meets all of the following criteria:

917 1. No material is placed in excess of the minimum needed for erosion protection;

918 2. The activity is no more than 500 feet in length along the bank, unless the Agency waives this criterion by
919 making a written determination concluding that the activity will result in no more than minimal adverse
920 environmental effects (an exception is for bulkheads—the Agency cannot issue a waiver for a bulkhead that is
921 greater than 1,000 feet in length along the bank);

922 3. The activity will not exceed an average of one cubic yard per running foot, as measured along the length of
923 the treated bank, below the plane of the mean or ordinary high water line, unless the Agency waives this criterion by
924 making a written determination concluding that the activity will result in no more than minimal adverse
925 environmental effects;

926 4. The activity does not involve dredging or filling into special aquatic sites, unless the Agency waives this
927 criterion by making a written determination concluding that the activity will result in no more than minimal adverse
928 environmental effects;

929 5. No material is of a type, or is placed in any location, or in any manner, that will impair surface water flow
930 into or out of any jurisdictional water;

931 6. No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored
932 native trees and treetops may be used in low energy areas);

933 7. Native plants appropriate for current site conditions, including salinity, must be used for bioengineering or
934 vegetative bank stabilization;

935 8. The activity is not a stream channelization activity; and

936 9. The activity must be properly maintained, which may require repairing it after severe storms or erosion
937 events.

938 (b) Maintenance and repair of the bank stabilization activities if they require authorization.

939 (c) Temporary structures, fills, and work, including the use of temporary mats, necessary to construct the bank
940 stabilization activity.

941 1. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the
942 maximum extent practicable, when temporary structures, work, and fill [including cofferdams] are necessary for
943 construction activities, access fills, or dewatering of construction sites.

944 2. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected
945 high flows or stormwater.

946 3. After construction, temporary fills must be removed in their entirety and the affected areas returned to
947 preconstruction elevations.

948 4. The areas affected by temporary fills must be revegetated with native wetland species in similar composition
949 to those species which were present at the site or in the contiguous wetland, as appropriate.

950 (2) The permittee must submit a pre-construction notice to the Agency prior to commencing the activity if the
951 bank stabilization activity:

952 (a) Involves dredging or filling into special aquatic sites; or

953 (b) Is in excess of 500 feet in length; or
954

955 (c) Will involve filling greater than an average of one cubic yard per running foot as measured along the length
956 of the treated bank, below the plane of the mean or ordinary high water line.

957 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
958 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
959 *373.422, 373.423, 373.429 FS. History – New _____.*

960
961 **62-331.217 General Permit for Linear Transportation Projects**

962 (1) This general permit authorizes the following activities:

963 (a) Activities required for crossings of assumed waters associated with the construction, expansion,
964 modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport
965 runways, and taxiways) in jurisdictional waters.

966 1. For linear transportation projects in non-tidal waters, the activity cannot cause the loss of greater than 1/2-
967 acre of jurisdictional waters.

968 2. For linear transportation projects in tidal waters, the activity cannot cause the loss of greater than 1/3-acre of
969 jurisdictional waters.

970 3. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to
971 construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the
972 project.

973 (b) Temporary structures, fills, and work, including the use of temporary mats, necessary to construct the linear
974 transportation project.

975 1. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the
976 maximum extent practicable, when temporary structures, work, and fill, including cofferdams, are necessary for
977 construction activities, access fills, or dewatering of construction sites.

978 2. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected
979 high flows.

980 3. Temporary fills must be removed in their entirety and the affected areas returned to preconstruction
981 elevations.

982 4. The areas affected by temporary fills must be revegetated using native wetland species in similar composition
983 to those species which were present at the site or in the contiguous wetland, as appropriate.

984 (2) This general permit does not authorize:

985 (a) Non-linear features commonly associated with transportation projects, such as vehicle maintenance or
986 storage buildings, parking lots, train stations, or aircraft hangars.

987 (b) Activities within the Belle Meade South area bounded by I-75 to the north, CR 951 to the west, Miller Canal
988 to the east, and U.S. 41 to the south in Collier County.

989 (c) Activities within Golden Gate Estates, south of Alligator Alley in Collier County.

990 (d) Activities within Golden Gate Estates, that together with other activities exceed 0.5 acres of dredging or
991 filling within Golden Gate Estates north of Alligator Alley in Collier County.

992 (3) The permittee must submit a pre-construction notice to the agency prior to commencing the activity if:

993 (a) The loss of jurisdictional waters exceeds 1/10-acre; or

994 (b) There is dredging or filling in a special aquatic site, including wetlands.

995 (c) The notice must include any other general permit(s), or individual permit(s) used or intended to be used to
996 authorize any part of the proposed project or any related activity, including other separate and distant crossings that
997 require authorization but do not require preconstruction notice.

998 (d) The activity is within assumed waters accessible to the Florida panther.

999 (4) For linear transportation projects crossing a single waterbody more than one time at separate and distant
1000 locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and
1001 complete project for purposes of the general permit authorization.

1002 (5) The Agency may require mitigation to ensure that the authorized activity results in no more than minimal
1003 individual and cumulative adverse environmental effects.

1004 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1005 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1006 *373.422, 373.423, 373.429 FS. History – New _____.*

1007
1008 **62-331.218 General Permit for Return Water from Upland Contained Disposal Areas**

1009 (1) This general permit authorizes the following activities:

- 1010 (a) Return water from an upland contained dredged material disposal area, when:
1011 1. The return water will not adversely affect the quality of receiving waters such that the state water quality
1012 standards set forth in Chapters 62-4, 62-302, 62-520, and 62-550, F.A.C., including the antidegradation provisions
1013 of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62- 4.242(2) and (3), F.A.C., and Rule 62-302.300,
1014 F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set
1015 forth in subsections 62-4.242(2) and (3), F.A.C., will be violated;
1016 2. The return water is not part of an activity that requires an individual permit (if so, return water will be
1017 addressed within the individual permit).

1018 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1019 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1020 *373.422, 373.423, 373.429 FS. History – New _____.*

1021
1022 **62-331.219 General Permit for Hydropower Projects**

- 1023 (1) This general permit authorizes the following activities:
1024 (a) Dredging or filling associated with hydropower projects having:
1025 1. Less than 5000 kW of total generating capacity at existing reservoirs, where the project, including the fill, is
1026 licensed by the Federal Energy Regulatory Commission (FERC) under the Federal Power Act of 1920, as amended;
1027 or
1028 2. A licensing exemption granted by the FERC pursuant to section 408 of the Energy Security Act of 1980 (16
1029 U.S.C. 2705 and 2708) and section 30 of the Federal Power Act, as amended.
1030 (2) The permittee must submit a pre-construction notice to the Agency prior to commencing the activity.

1031 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1032 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1033 *373.422, 373.423, 373.429 FS. History – New _____.*

1034
1035 **62-331.220 General Permit for Minor Activities**

- 1036 (1) This general permit authorizes the following activities:
1037 (a) Minor dredge or fill activities in assumed waters, provided the activity meets all of the following criteria:
1038 1. The quantity of fill and the volume of material excavated do not exceed 25 cubic yards below the plane of the
1039 mean or ordinary high water line;
1040 2. The activity will not cause the loss of more than 1/10-acre of jurisdictional waters; and
1041 3. The activity is not conducted for the purpose of a stream diversion.
1042 (2) This general permit does not authorize:
1043 (a) Projects that capture and store water, such as Dispersed Water Management Projects (DWMP).
1044 (3) The permittee must submit a pre-construction notice to the Agency prior to commencing the activity if:
1045 (a) The fill or the volume of material excavated exceeds 10 cubic yards below the plane of the mean or ordinary
1046 high water line;
1047 (b) The activity is in a special aquatic site, including wetlands; or
1048 (c) The activity is within assumed waters accessible to the Florida panther.

1049 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1050 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1051 *373.422, 373.423, 373.429 FS. History – New _____.*

1052
1053 **62-331.221 General Permit for Response Operations for Oil or Hazardous Substances**

- 1054 (1) This general permit authorizes:
1055 (a) Activities conducted in response to a spill or release of oil or hazardous substances that are subject to the
1056 National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR Part 300) including containment,
1057 cleanup, and mitigation efforts, provided that the activities are done under either:
1058 1. The Spill Control and Countermeasure Plan required by 40 CFR 112.3;
1059 2. The direction or oversight of the federal on scene coordinator designated by 40 CFR Part 300; or
1060 3. Any approved existing state, regional or local contingency plan provided that the Regional Response Team
1061 (if one exists in the area) concurs with the proposed response efforts.
1062 (b) Activities required for the cleanup of oil releases in assumed waters from electrical equipment that are
1063 governed by EPA's polychlorinated biphenyl spill response regulations at 40 CFR Part 761.

- 1064 (c) The use of temporary structures and fills in assumed waters for spill response training exercises.
1065 (2) Use of this general permit is subject to the following conditions:
1066 (a) Activities shall be conducted in conformance with the National Response Team Integrated Contingency Plan
1067 Guidance, available by calling 1-800-424-9346;
1068 (b) Activities shall be conducted in conformance with any applicable emergency order for oil spill or hazardous
1069 waste control, clean-up, and recovery/restoration issued by the Department.

1070 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1071 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1072 *373.422, 373.423, 373.429 FS. History – New _____.*

1073

1074 **62-331.222 General Permit for Removal of Vessels**

- 1075 (1) This general permit authorizes the following activities:
1076 (a) Temporary structures or minor dredging or filling required for the removal of wrecked, abandoned, or
1077 disabled vessels.
1078 (2) This general permit does not authorize:
1079 (a) Maintenance dredging, shoal removal, or riverbank snagging.
1080 (3) The permittee must submit a pre-construction notice to the Agency prior to commencing the activity if:
1081 (a) The activity is conducted in a special aquatic site, including wetlands;
1082 (b) The activity is proposed within designated critical habitat for any federally listed species; or
1083 (c) The vessel is listed or eligible for listing in the National Register of Historic Places.
1084 1. If this condition is triggered, the permittee cannot commence the activity until informed by the Agency that
1085 compliance with the “Historic Properties” general condition is completed.

1086 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1087 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1088 *373.422, 373.423, 373.429 FS. History – New _____.*

1089

1090 **62-331.223 General Permit for Structural Activities**

- 1091 (1) This general permit authorizes the following activities:
1092 (a) Placement of fill material such as concrete, sand, rock, etc., into tightly sealed forms or cells where the
1093 material will be used as a structural member for standard pile supported structures, such as bridges, transmission line
1094 footings, and walkways, including the excavation of bottom material from within the form prior to the placement of
1095 concrete, sand, rock, etc.
1096 (2) This general permit does not authorize:
1097 (a) Filled structural members that would support buildings, building pads, homes, house pads, parking areas,
1098 storage areas and other such structures.

1099 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1100 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1101 *373.422, 373.423, 373.429 FS. History – New _____.*

1102

1103 **62-331.224 General Permit for Aquatic Habitat Restoration, Enhancement, and Creation Activities**

- 1104 (1) This general permit authorizes the following activities:
1105 (a) Activities in assumed waters associated with the restoration, enhancement, and creation of tidal and non-
1106 tidal wetlands and riparian areas, the restoration and enhancement of non-tidal streams and other non-tidal open
1107 waters, and the rehabilitation or enhancement of tidal streams, tidal wetlands, and tidal open waters, provided those
1108 activities result in net increases in aquatic resource functions and services. To the extent that an activity requires a
1109 Section 404 permit, the activities authorized by this general permit, include, but are not limited to:
1110 1. The removal of accumulated sediments;
1111 2. The installation, removal, and maintenance of small water control structures, dikes, and berms, as well as
1112 dredging or filling to restore appropriate stream channel configurations after small water control structures, dikes,
1113 and berms, are removed;
1114 3. The installation of current deflectors;
1115 4. The enhancement, rehabilitation, or re-establishment of riffle and pool stream structure;
1116 5. The placement of in-stream habitat structures;
1117 6. Modifications of the stream bed and/or banks to enhance, rehabilitate, or re-establish stream meanders;

1118 7. The removal of stream barriers, such as undersized culverts, fords, and grade control structures;
1119 8. The backfilling of artificial channels;
1120 9. The removal of existing drainage structures, such as drain tiles, and the filling, blocking, or reshaping of
1121 drainage ditches to restore wetland hydrology;
1122 10. The installation of structures or fills necessary to restore or enhance wetland or stream hydrology;
1123 11. The construction of open water areas;
1124 12. Activities needed to reestablish vegetation, including plowing or discing for seed bed preparation and the
1125 planting of appropriate wetland species;
1126 13. Re-establishment of submerged aquatic vegetation in areas where those plant communities previously
1127 existed;
1128 14. Re-establishment of tidal wetlands in tidal waters where those wetlands previously existed;
1129 15. Mechanized land clearing to remove non-native invasive, exotic, or nuisance vegetation;
1130 16. Other related activities.
1131 (b) Relocation of non-tidal waters, including non-tidal wetlands and streams, on the project site provided there
1132 are net increases in aquatic resource functions and services.
1133 (2) This general permit does not authorize:
1134 (a) The conversion of a stream or natural wetlands to another aquatic habitat type (e.g., the conversion of a
1135 stream to wetland or vice versa) or uplands, except for the relocation of non-tidal waters on the project site. Changes
1136 in wetland plant communities that occur when wetland hydrology is more fully restored during wetland
1137 rehabilitation activities are not considered a conversion to another aquatic habitat type.
1138 (b) Stream channelization.
1139 (c) Relocation of tidal waters or the conversion of tidal waters, including tidal wetlands, to other aquatic uses,
1140 such as the conversion of tidal wetlands into open water impoundments.
1141 (d) Lake restoration projects proposing any type of in-lake disposal of dredged or fill material.
1142 (3) Authorized activities are subject to the following conditions:
1143 (a) The aquatic habitat restoration, enhancement, or creation activity must be planned, designed, and
1144 implemented so that it results in aquatic habitat that resembles an ecological reference. An ecological reference may
1145 be based on the characteristics of an intact aquatic habitat or riparian area of the same type that exists in the region,
1146 or it may be based on a conceptual model developed from regional ecological knowledge of the target aquatic
1147 habitat type or riparian area.
1148 (b) Only native plant species shall be planted at the site.
1149 (c) Reporting. For those activities that do not require pre-construction notice, the permittee must submit a report
1150 to the Agency at least 30 days prior to commencing activities in assumed waters authorized by this general
1151 permit. The report shall include:
1152 1. Information on baseline ecological conditions on the project site, such as a delineation of wetlands, streams,
1153 and/or other aquatic habitats; and
1154 2. A copy of:
1155 a. The binding stream enhancement or restoration agreement or wetland enhancement, restoration, or creation
1156 agreement, or a project description, including project plans and location map;
1157 b. The NRCS or USDA Technical Service Provider documentation for the voluntary stream enhancement or
1158 restoration action or wetland restoration, enhancement, or creation action; or
1159 c. The SMCRA permit issued by OSMRE or the applicable state agency.
1160 (4) Compensatory mitigation is not required for activities authorized by this general permit since these activities
1161 must result in net increases in aquatic resource functions and services.
1162 (5) The permittee must submit a pre-construction notice to the Agency prior to commencing any activity, except
1163 for the following activities:
1164 (a) Activities conducted on non-Federal public lands and private lands, in accordance with the terms and
1165 conditions of a binding stream enhancement or restoration agreement or wetland enhancement, restoration, or
1166 creation agreement between the landowner and the FWS, NRCS, FSA, NMFS, NOS, USFS or their designated state
1167 cooperating agencies;
1168 (b) Voluntary stream or wetland restoration or enhancement action, or wetland creation action, documented by
1169 the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or
1170 (6) This general permit can be used to authorize compensatory mitigation projects, including mitigation banks
1171 and in-lieu fee projects.

1172 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1173 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1174 *373.422, 373.423, 373.429 FS. History – New _____.*

1175

1176 **62-331.225 General Permit for Specific Reversion Activities**

1177 (1) This general permit authorizes dredging or filling associated with the reversion of an area permitted under
1178 Corps Nationwide Permit 27, the general permit under Rule 62-331.224, F.A.C., or any other applicable ERP or
1179 CWA Section 404 permit that specifically references reversion, to its documented prior condition when the
1180 reversion is conducted:

1181 (a) In accordance with the terms and conditions of a binding stream or wetland enhancement or restoration
1182 agreement, or a wetland creation agreement, between the landowner and the U.S. Fish and Wildlife Service (FWS),
1183 the Natural Resources Conservation Service (NRCS), the Farm Service Agency (FSA), the National Marine
1184 Fisheries Service (NMFS), the National Ocean Service (NOS), U.S. Forest Service (USFS), or their designated state
1185 cooperating agencies; or

1186 (b) As a component of voluntary wetland restoration, enhancement, and creation actions documented by the
1187 NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards.

1188 (c) On prior-converted cropland or on uplands, in accordance with a binding agreement between the landowner
1189 and NRCS, FSA, FWS, or their designated state cooperating agencies (even though the restoration, enhancement, or
1190 creation activity did not require a section 404 permit).

1191 (2) This general permit does not authorize:

1192 (a) Reversion of an area used for a compensatory mitigation project to its prior condition, since compensatory
1193 mitigation is generally intended to be permanent.

1194 (3) Authorized activities are subject to the following conditions:

1195 (a) The reversion activity has been evaluated by FWS under Section 7 or Section 10 consultation, and a Section
1196 7 incidental take statement or Section 10 incidental take permit has been issued for the activity, if required.

1197 (b) The prior condition and the option for reversion shall be documented in the original agreement or permit,
1198 and the determination of return to prior conditions will be made by the Federal agency or appropriate state agency
1199 executing the agreement or permit.

1200 (c) The reversion must be completed within five years after expiration of a limited term stream or wetland
1201 enhancement or restoration agreement, or a wetland creation agreement or permit.

1202 (d) Reporting. The permittee must submit a report to the Agency at least 30 days prior to commencing
1203 activities in assumed waters authorized by this general permit. The report shall include:

1204 1. Information on baseline ecological conditions on the project site, such as a delineation of wetlands, streams,
1205 and/or other aquatic habitats; and

1206 2. A copy of:

1207 a. The binding stream enhancement or restoration agreement or wetland enhancement, restoration, or creation
1208 agreement, or a project description, including project plans and location map;

1209 b. The NRCS or USDA Technical Service Provider documentation for the voluntary stream enhancement or
1210 restoration action or wetland restoration, enhancement, or creation action;

1211 c. The SMCRA permit issued by OSMRE or the applicable state agency;

1212 d. The FWS biological assessment, including any applicable incidental take statement or permit.

1213 (d) Once an area has been reverted to its prior physical condition, it will be subject to any regulatory
1214 requirements applicable to that type of land at the time.

1215 (4) Pre-construction notice, other than submittal of the information in (3)(c), above, is not required for activities
1216 authorized under this general permit.

1217 (5) Compensatory mitigation is not required for activities authorized by this general permit.

1218

1219 **62-331.226 General Permit for Residential Developments**

1220 (1) This general permit authorizes the following activities:

1221 (a) Dredge or fill activities in non-tidal assumed waters for the construction or expansion of a single residence, a
1222 multiple unit residential development, or a residential subdivision.

1223 (b) The construction of building foundations and building pads and attendant features that are necessary for the
1224 use of the residence or residential development.

- 1225 1. Attendant features may include but are not limited to roads, parking lots, garages, yards, utility lines, storm
1226 water management facilities, septic fields, and recreation facilities such as playgrounds, playing fields, and golf
1227 courses (provided the golf course is an integral part of the residential development).
1228 (2) The activity is subject to the following conditions:
1229 (a) The activity must not cause the loss of greater than 1/2-acre of non-tidal jurisdictional waters.
1230 (b) The activity must not cause the loss of more than 300 linear feet of stream bed, unless for intermittent and
1231 ephemeral stream beds the Agency waives the 300 linear foot limit by making a written determination concluding
1232 that the activity will result in no more than minimal adverse environmental effects.
1233 (c) The loss of stream bed plus any other losses of jurisdictional waters caused by the activity cannot exceed
1234 1/2-acre.
1235 (d) For residential subdivisions, the aggregate total loss of jurisdictional surface waters authorized by this
1236 general permit cannot exceed 1/2-acre. This includes any loss of jurisdictional waters associated with development
1237 of individual subdivision lots.
1238 (3) This general permit does not authorize:
1239 (a) Dredging or filling in non-tidal wetlands adjacent to tidal waters.
1240 (b) Activities in Golden Gate Estates, south of Alligator Alley in Collier County.
1241 (c) Activities in the Belle Meade South area bounded by I-75 to the north, CR 951 to the west, Miller Canal to
1242 the east, and U.S. 41 to the south in Collier County.
1243 (d) Activities in the Florida panther consultation area (south of the Caloosahatchee River) as defined in the
1244 Florida panther effect determination key
1245 (<https://www.fws.gov/verobeach/MammalsPDFs/20070219LetterSFESoToCOEPantherKey.pdf>)
1246 (4) The permittee must submit a pre-construction notice to the Agency prior to commencing the activity.

1247 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1248 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1249 *373.422, 373.423, 373.429 FS. History – New _____.*

1251 **62-331.227 General Permit for Moist Soil Management for Wildlife**

- 1252 (1) This general permit authorizes the following activities:
1253 (a) Dredging or filling in non-tidal assumed waters and maintenance activities that are associated with moist soil
1254 management for wildlife for the purpose of continuing ongoing, site specific, wildlife management activities where
1255 soil manipulation is used to manage habitat and feeding areas for wildlife. Such activities include, but are not limited
1256 to: plowing or discing to impede succession, preparing seed beds, or establishing fire breaks.
1257 1. Sufficient riparian areas must be maintained adjacent to all open water bodies, including streams, to preclude
1258 water quality degradation due to erosion and sedimentation.
1259 (2) This general permit does not authorize:
1260 (a) Construction of new dikes, roads, water control structures, or similar features associated with the
1261 management areas.
1262 (b) The conversion of wetlands to uplands, impoundments, or other open water bodies.
1263 (3) Activities authorized under this general permit must not result in a net loss of aquatic resource functions and
1264 services.

1265 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1266 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1267 *373.422, 373.423, 373.429 FS. History – New _____.*

1269 **62-331.228 General Permit for Maintenance of Existing Flood Control Facilities**

- 1270 (1) This general permit authorizes the following activities:
1271 (a) Dredging or filling resulting from activities associated with the maintenance of existing flood control
1272 facilities, including debris basins, retention/detention basins, levees, and channels that:
1273 1. Were previously authorized by a 404 individual permit, general permit, or 33 CFR 330.3, or did not require a
1274 permit at the time they were constructed; or
1275 2. Were constructed by the Corps and transferred to a non-Federal sponsor for operation and maintenance.
1276 (b) Dredging or filling associated with maintenance activities in flood control facilities in any watercourse that
1277 have previously been determined to be within the maintenance baseline.
1278 1. The maintenance baseline is a description of the physical characteristics (e.g., depth, width, length, location,
1279 configuration, or design flood capacity, etc.) of a flood control project within which maintenance activities are

1280 normally authorized by this general permit, subject to any case-specific conditions required by the Agency. The
1281 Agency will approve the maintenance baseline based on the approved or constructed capacity of the flood control
1282 facility, whichever is smaller, including any areas where there are no constructed channels but which are part of the
1283 facility. The prospective permittee will provide documentation of the physical characteristics of the flood control
1284 facility (which will normally consist of as-built or approved drawings) and documentation of the approved and
1285 constructed design capacities of the flood control facility. If no evidence of the constructed capacity exists, the
1286 approved capacity will be used. The documentation will also include best management practices to ensure that the
1287 adverse environmental impacts caused by the maintenance activities are no more than minimal, especially in
1288 maintenance areas where there are no constructed channels. (The Agency may request maintenance records in areas
1289 where there has not been recent maintenance.) Revocation or modification of the final determination of the
1290 maintenance baseline can only be done in accordance with section 62-331.080, F.A.C. Except in emergencies as
1291 described below, this general permit cannot be used until the Agency approves the maintenance baseline and
1292 determines the need for mitigation and any regional or activity-specific conditions. Once determined, the
1293 maintenance baseline will remain valid for any subsequent reissuance of this general permit.
1294 (c) The removal of vegetation from levees associated with the flood control project.
1295 (2) Activities authorized by this general permit are limited to those resulting from maintenance activities that
1296 are conducted within the “maintenance baseline”, as described above.
1297 (3) This general permit does not authorize:
1298 (a) The removal of sediment and associated vegetation from natural water courses except when these activities
1299 have been included in the maintenance baseline.
1300 (b) Maintenance of a flood control facility that has been abandoned.
1301 1. A flood control facility will be considered abandoned if it has operated at a significantly reduced capacity
1302 without needed maintenance being accomplished in a timely manner.
1303 2. A flood control facility will not be considered abandoned if the prospective permittee is in the process of
1304 obtaining other authorizations or approvals required for maintenance activities and is experiencing delays in
1305 obtaining those authorizations or approvals.
1306 (4) The activities must meet the following conditions:
1307 (a) All dredged and excavated material must be deposited and retained in an area that has no jurisdictional
1308 waters unless otherwise specifically approved by the Agency under separate authorization.
1309 (b) Proper sediment controls must be used.
1310 (5) The Agency will determine any required mitigation one-time only for impacts associated with maintenance
1311 work at the same time that the maintenance baseline is approved.
1312 (a) Such one-time mitigation will be required when necessary to ensure that adverse environmental effects are
1313 no more than minimal, both individually and cumulatively.
1314 (b) Such mitigation will only be required once for any specific reach of a flood control project. However, if one-
1315 time mitigation is required for impacts associated with maintenance activities, the Agency will not delay needed
1316 maintenance, provided the Agency and the permittee establish a schedule for identification, approval, development,
1317 construction and completion of any such required mitigation.
1318 (c) Once the one-time mitigation described above has been completed, or a determination made that mitigation
1319 is not required, no further mitigation will be required for maintenance activities within the maintenance baseline.
1320 (d) In determining appropriate mitigation, the Agency will give special consideration to natural water courses
1321 that have been included in the maintenance baseline and require mitigation and/or best management practices as
1322 appropriate.
1323 (e) If mitigation was previously required and completed for the specific reach of the flood control project,
1324 additional mitigation for that specific reach will not be required.
1325 (6) In emergency situations, this general permit may be used to authorize maintenance activities in flood control
1326 facilities for which no maintenance baseline has been approved.
1327 (a) Emergency situations are those which would result in an unacceptable hazard to life, a significant loss of
1328 property, or an immediate, unforeseen, and significant economic hardship if action is not taken before a maintenance
1329 baseline can be approved.
1330 (b) In such situations, the determination of mitigation requirements, if any, may be deferred until the emergency
1331 has been resolved.
1332 (c) Once the emergency has ended, a maintenance baseline must be established expeditiously, and mitigation,
1333 including mitigation for maintenance conducted during the emergency, must be required as appropriate.
1334 (d) The permittee must submit a pre-construction notice to the Agency before any maintenance work is
1335 conducted.

1336 1. The pre-construction notification may be for activity-specific maintenance or for maintenance of the entire
1337 flood control facility by submitting a five-year (or less) maintenance plan.

1338 2. The pre-construction notification must include a description of the maintenance baseline and the disposal site
1339 for dredged or excavated material.

1340 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1341 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1342 *373.422, 373.423, 373.429 FS. History – New _____.*

1343
1344 **62-331.229 General Permit for Temporary Construction, Access, and Dewatering**

1345 (1) This general permit authorizes the following activities:

1346 (a) Temporary structures, work, dredging, and filling, including cofferdams, necessary for construction
1347 activities or access fills or dewatering of construction sites, provided that the associated primary activity is
1348 authorized by the Agency.

1349 (b) Temporary structures, work, dredging, and filling, including cofferdams, necessary for construction
1350 activities not otherwise subject to 404 permit requirements.

1351 (2) The activities authorized by this general permit must meet the following conditions:

1352 (a) Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding.

1353 (b) Fill must consist of materials, and be placed in a manner, that will not be eroded by expected high flows or
1354 stormwater. The use of dredged material may be allowed if the Agency determines that it will not cause more than
1355 minimal adverse environmental effects.

1356 (c) Following completion of construction, temporary fill must be entirely removed to an area that has no
1357 jurisdictional waters, dredged material must be returned to its original location, and the affected areas must be
1358 restored to pre-construction elevations.

1359 (d) The affected areas must be revegetated with native wetland species in similar composition to those species
1360 which were present at the site or in the contiguous wetland, as appropriate.

1361 (3) This general permit does not authorize:

1362 (a) The use of cofferdams to dewater wetlands or other aquatic areas to change their use.

1363 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1364 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1365 *373.422, 373.423, 373.429 FS. History – New _____.*

1366
1367 **62-331.230 General Permit for Boat Ramps**

1368 (1) This general permit authorizes the following activities:

1369 (a) Activities required for the construction of boat ramps, provided the activity meets all of the following
1370 criteria:

1371 1. Fill in jurisdictional waters does not exceed 50 cubic yards of concrete, rock, crushed stone or gravel into
1372 forms, or in the form of pre-cast concrete planks or slabs, unless the Agency waives the 50 cubic yard limit by
1373 making a written determination concluding that the activity will result in no more than minimal adverse
1374 environmental effects;

1375 2. The boat ramp does not exceed 20 feet in width, unless the Agency waives this criterion by making a written
1376 determination concluding that the activity will result in no more than minimal adverse environmental effects;

1377 3. The base material is crushed stone, gravel, or other suitable material;

1378 4. The excavation is limited to the area necessary for site preparation and all excavated material is removed to
1379 an area that has no jurisdictional waters; and,

1380 5. No material is placed in special aquatic sites, including wetlands.

1381 (2) This general permit does not authorize:

1382 (a) The use of unsuitable material that is structurally unstable.

1383 (b) Dredging in navigable waters. This general permit shall not be used in areas without existing access to
1384 navigation channels where the minimum water depth for ingress or egress from the navigation channels is less than -
1385 3 feet at mean or ordinary low water.

1386 (3) The permittee must submit a pre-construction notification to the Agency prior to commencing the activity if:

1387 (a) Fill to be placed in jurisdictional waters exceeds 50 cubic yards;

1388 (b) The boat ramp exceeds 20 feet in width;

1389 (c) The project area is accessible to the Florida panther;

1390 (d) The project is within critical habitat for the smalltooth sawfish;

1391 (e) The project is in the following rivers, creeks, and their tributaries:

1392 1. Escambia River

1393 2. Yellow River

1394 3. Shoal River

1395 4. Choctawhatchee River

1396 5. Chipola River

1397 6. Apalachicola River

1398 7. Ochlockonee River

1399 8. Santa Fe River

1400 9. New River (Bradford and Union County line)

1401 10. Econfina Creek

1402 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*

1403 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*

1404 *373.422, 373.423, 373.429 FS. History – New _____.*

1405

1406 **62-331.231 General Permit for Emergency Watershed Protection and Rehabilitation**

1407 (1) This general permit authorizes the following activities:

1408 (a) Work done by or funded by:

1409 1. The Natural Resources Conservation Service for a situation requiring immediate action under its emergency

1410 Watershed Protection Program (7 CFR Part 624);

1411 2. The U.S. Forest Service under its Burned-Area Emergency Rehabilitation Handbook (FSH 2509.13);

1412 3. The Department of the Interior for wildland fire management burned area emergency stabilization and

1413 rehabilitation (DOI Manual part 620, Ch. 3);

1414 4. The Office of Surface Mining, or states with approved programs, for abandoned mine land reclamation

1415 activities under Title IV of the Surface Mining Control and Reclamation Act (30 CFR subchapter R); or

1416 5. The Farm Service Agency under its Emergency Conservation Program (7 CFR Part 701).

1417 (2) In general, the prospective permittee shall wait until the Agency issues a general permit verification or 45

1418 calendar days have passed before proceeding with the watershed protection and rehabilitation activity. However, in

1419 cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur,

1420 the emergency watershed protection and rehabilitation activity may proceed immediately, and the Agency will

1421 consider the information in the pre-construction notice and any comments received as a result of agency

1422 coordination to decide whether the general permit authorization should be modified, suspended, or revoked.

1423 (3) Except in cases where there is an unacceptable hazard to life or a significant loss of property or economic

1424 hardship will occur, the permittee must submit a pre-construction notice to the Agency prior to commencing the

1425 activity.

1426 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*

1427 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*

1428 *373.422, 373.423, 373.429 FS. History – New _____.*

1429

1430 **62-331.232 General Permit for Cleanup of Hazardous and Toxic Waste**

1431 (1) This general permit authorizes the following activities:

1432 (a) Specific activities required to affect the containment, stabilization, or removal of hazardous or toxic waste

1433 materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory

1434 authority.

1435 (b) Court ordered remedial action plans or related settlements.

1436 (2) This general permit does not authorize:

1437 (a) The establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous

1438 or toxic waste.

1439 (3) The permittee must submit a pre-construction notice to the Agency prior to commencing the activity.

1440 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*

1441 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*

1442 *373.422, 373.423, 373.429 FS. History – New _____.*

1443

1444 **62-331.233 General Permit for Commercial and Institutional Developments**

1445 (1) This general permit authorizes the following activities:
 1446 (a) Dredging or filling in non-tidal assumed waters for the construction or expansion of commercial and
 1447 institutional building foundations and building pads and attendant features that are necessary for the use and
 1448 maintenance of the structures.
 1449 1. Attendant features may include, but are not limited to, roads, parking lots, garages, yards, utility lines, storm
 1450 water management facilities, wastewater treatment facilities, and recreation facilities such as playgrounds and
 1451 playing fields.
 1452 2. Examples of commercial developments include retail stores, industrial facilities, restaurants, business parks,
 1453 and shopping centers.
 1454 3. Examples of institutional developments include schools, fire stations, government office buildings, judicial
 1455 buildings, public works buildings, libraries, hospitals, and places of worship.
 1456 (2) This general permit does not authorize:
 1457 (a) The construction of new golf courses and new ski areas.
 1458 (b) Dredging or filling in non-tidal wetlands adjacent to tidal waters.
 1459 (c) Activities within Golden Gate Estates, south of Alligator Alley in Collier County.
 1460 (d) Activities within the Belle Meade South bounded by I-75 to the north, CR 951 to the west, Miller Canal to
 1461 the east, and U.S. 41 to the south in Collier County.
 1462 (e) Activities in the Florida panther consultation area (south of the Caloosahatchee River) as defined in the
 1463 Florida panther effect determination key
 1464 (<https://www.fws.gov/verobeach/MammalsPDFs/20070219LetterSFESotoCOEPantherKey.pdf>)
 1465 (3) This general permit is subject to the following conditions:
 1466 (a) The activity must not cause the loss of greater than 1/2-acre of non-tidal jurisdictional waters.
 1467 (b) The activity must not cause the loss of more than 300 linear feet of stream bed, unless for intermittent and
 1468 ephemeral stream beds the Agency waives the 300 linear foot limit by making a written determination concluding
 1469 that the activity will result in no more than minimal adverse environmental effects.
 1470 (c) The loss of stream bed plus any other losses of jurisdictional waters caused by the general permit activity
 1471 cannot exceed 1/2-acre.
 1472 (4) The permittee must submit a pre-construction notice to the Agency prior to commencing the activity.
 1473 (5) For any activity that involves the construction of a wind energy generating structure, solar tower, or
 1474 overhead transmission line, a copy of the Notice and general permit verification will be provided to the Department
 1475 of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

1476 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
 1477 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
 1478 *373.422, 373.423, 373.429 FS. History – New _____.*
 1479

1480 **62-331.234 General Permit for Agricultural Activities**

1481 (1) This general permit authorizes the following activities:
 1482 (a) Dredging and filling in non-tidal assumed waters for agricultural activities, including the construction of
 1483 building pads for farm buildings.
 1484 1. Authorized activities include the installation, placement, or construction of drainage tiles, ditches, or levees;
 1485 mechanized land clearing; land leveling; the relocation of existing serviceable drainage ditches constructed in
 1486 assumed waters; and similar activities.
 1487 (b) Construction of farm ponds in non-tidal assumed waters, excluding perennial streams, provided the farm
 1488 pond is used solely for agricultural purposes.
 1489 (c) Dredging or filling in non-tidal assumed waters to relocate existing serviceable drainage ditches constructed
 1490 in non-tidal streams.
 1491 (2) This general permit does not authorize:
 1492 (a) Construction of aquaculture ponds.
 1493 (b) Dredging or filling in non-tidal wetlands adjacent to tidal waters.
 1494 (c) Activities within Golden Gate Estates, south of Alligator Alley in Collier County.
 1495 (d) Activities within the Belle Meade South bounded by I-75 to the north, CR 951 to the west, Miller Canal to
 1496 the east, and U.S. 41 to the south in Collier County.
 1497 (e) Projects that capture and store water, such as Dispersed Water Management Projects (DWMP).
 1498 (3) The activities authorized by this general permit are subject to the following conditions:
 1499 (a) The activity must not cause the loss of greater than 1/2-acre of non-tidal jurisdictional waters.

1500 (b) The activity must not cause the loss of more than 300 linear feet of stream bed, unless for intermittent and
1501 ephemeral stream beds the Agency waives the 300 linear foot limit by making a written determination concluding
1502 that the activity will result in no more than minimal adverse environmental effects.

1503 (c) The loss of stream bed plus any other losses of jurisdictional waters caused by the activity cannot exceed
1504 1/2-acre.

1505 (4) The permittee must submit a pre-construction notice to the Agency prior to commencing the activity.

1506 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1507 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1508 *373.422, 373.423, 373.429 FS. History – New _____.*

1509

1510 **62-331.235 General Permit for Reshaping Existing Drainage Ditches**

1511 (1) This general permit authorizes the following activities:

1512 (a) Dredging or filling in non-tidal assumed waters, excluding non-tidal wetlands adjacent to tidal waters, to
1513 modify the cross-sectional configuration of currently serviceable drainage ditches constructed in assumed waters, for
1514 the purpose of improving water quality by regrading the drainage ditch with gentler slopes, which can reduce
1515 erosion, increase growth of vegetation, and increase uptake of nutrients and other substances by vegetation.

1516 (2) The reshaping of the ditch cannot:

1517 (a) Increase drainage capacity beyond the original as-built capacity;

1518 (b) Expand the area drained by the ditch as originally constructed;

1519 (c) Change the rate or volume of water discharged from the site from pre-construction conditions.

1520 (d) Cause erosion or sedimentation, or violate state water quality standards.

1521 (3) Compensatory mitigation is not required because the work is designed to improve water quality.

1522 (4) This general permit does not authorize:

1523 (a) Relocation of drainage ditches constructed in assumed waters; the location of the centerline of the reshaped
1524 drainage ditch must be approximately the same as the location of the centerline of the original drainage ditch.

1525 (b) Stream channelization or stream relocation projects.

1526 (c) Activities within Golden Gate Estates, south of Alligator Alley in Collier County.

1527 (d) Activities within the Belle Meade South bounded by I-75 to the north, CR 951 to the west, Miller Canal to
1528 the east, and U.S. 41 to the south in Collier County.

1529 (e) Projects that capture and store water, such as Dispersed Water Management Projects (DWMP).

1530 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1531 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1532 *373.422, 373.423, 373.429 FS. History – New _____.*

1533

1534 **62-331.236 General Permit for Recreational Facilities**

1535 (1) This general permit authorizes the following activities:

1536 (a) Dredging or filling in non-tidal assumed waters for the construction or expansion of recreational facilities.

1537 1. Examples of recreational facilities that may be authorized by this general permit include playing fields (e.g.,
1538 football fields, baseball fields), basketball courts, tennis courts, hiking trails, bike paths, golf courses, ski areas,
1539 horse paths, nature centers, and campgrounds (excluding recreational vehicle parks).

1540 (b) Construction or expansion of small support facilities, such as maintenance and storage buildings and stables
1541 that are directly related to the recreational activity.

1542 (2) This general permit does not authorize:

1543 (a) Construction of hotels, restaurants, racetracks, stadiums, arenas, or similar facilities.

1544 (b) Dredging or filling in non-tidal wetlands adjacent to tidal waters.

1545 (c) Activities within Golden Gate Estates, south of Alligator Alley in Collier County.

1546 (d) Activities within the Belle Meade South bounded by I-75 to the north, CR 951 to the west, Miller Canal to
1547 the east, and U.S. 41 to the south in Collier County.

1548 (3) The activities are subject to the following conditions:

1549 (a) The activity must not cause the loss of greater than 1/2-acre of non-tidal jurisdictional waters.

1550 (b) The activity must not cause the loss of more than 300 linear feet of stream bed, unless for intermittent and
1551 ephemeral stream beds the Agency waives the 300 linear foot limit by making a written determination concluding
1552 that the activity will result in no more than minimal adverse environmental effects.

1553 (c) The loss of stream bed plus any other losses of jurisdictional waters caused by the activity cannot exceed
1554 1/2-acre.

1555 (4) The permittee must submit a pre-construction notice to the Agency prior to commencing the activity.

1556 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1557 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1558 *373.422, 373.423, 373.429 FS. History – New _____.*

1559

1560 **62-331.237 General Permit for Stormwater Management Facilities**

1561 (1) This general permit authorizes the following activities:

1562 (a) Dredging or filling in non-tidal assumed waters for the construction of stormwater management facilities,
1563 including stormwater detention basins and retention basins and other stormwater management facilities;

1564 (b) The construction of water control structures, outfall structures and emergency spillways;

1565 (c) The construction of low impact development integrated management features such as bioretention facilities
1566 (e.g., rain gardens), vegetated filter strips, grassed swales, and infiltration trenches; and the construction of pollutant
1567 reduction green infrastructure features designed to reduce inputs of sediments, nutrients, and other pollutants into
1568 waters to meet reduction targets established under Total Daily Maximum Loads set under the Clean Water Act.

1569 (d) To the extent that a section 404 permit is required, dredging or filling in non-tidal assumed waters for the
1570 maintenance of stormwater management facilities, low impact development integrated management features, and
1571 pollutant reduction green infrastructure features.

1572 (2) This general permit does not authorize:

1573 (a) Dredging or filling in non-tidal wetlands adjacent to tidal waters.

1574 (b) Dredging or filling for the construction of new stormwater management facilities in perennial streams.

1575 (c) Activities within Golden Gate Estates, south of Alligator Alley in Collier County.

1576 (d) Activities within the Belle Meade South bounded by I-75 to the north, CR 951 to the west, Miller Canal to
1577 the east, and U.S. 41 to the south in Collier County.

1578 (3) The authorized activities are subject to the following conditions:

1579 (a) The activity must not cause the loss of greater than 1/2-acre of non-tidal jurisdictional waters.

1580 (b) The activity must not cause the loss of more than 300 linear feet of stream bed, unless for intermittent and
1581 ephemeral stream beds the Agency waives the 300 linear foot limit by making a written determination concluding
1582 that the activity will result in no more than minimal adverse environmental effects.

1583 (c) The loss of stream bed plus any other losses of jurisdictional waters caused by the activity cannot exceed
1584 1/2-acre.

1585 (4) A pre-construction notice shall be submitted to the agency for:

1586 (a) Dredging or filling in non-tidal assumed waters for the construction of new stormwater management
1587 facilities or pollutant reduction green infrastructure features.

1588 (b) Expansion of existing stormwater management facilities or pollutant reduction green infrastructure features.

1589 (c) Activities in wetlands adjacent to Deer Lake and its tributaries, Bay County.

1590 (d) Activities in assumed waters accessible to the Florida panther.

1591 (e) Maintenance activities do not require pre-construction notification if they are limited to restoring the original
1592 design capacities of the stormwater management facility or pollutant reduction green infrastructure feature.

1593 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*

1594 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*

1595 *373.422, 373.423, 373.429 FS. History – New _____.*

1596

1597 **62-331.238 General Permit for Mining Activities**

1598 (1) This general permit authorizes the following activities:

1599 (a) Dredging or filling in non-tidal assumed waters for mining activities, provided the activity meets all of the
1600 following criteria:

1601 1. For mining activities involving dredging or filling in non-tidal wetlands, the activity must not cause the loss
1602 of greater than 1/2-acre of non-tidal wetlands;

1603 2. For mining activities involving dredging or filling in non-tidal open waters (e.g., streams, lakes, and ponds)
1604 the mined area, including permanent and temporary impacts due to dredging or filling in jurisdictional waters, must
1605 not exceed 1/2-acre; and

1606 3. The acreage loss under paragraph (1)(a)1. plus the acreage impact under paragraph (1)(a)2. does not exceed
1607 1/2-acre.

1608 (2) This general permit does not authorize:

1609 (a) Dredging or filling in non-tidal wetlands adjacent to tidal waters.

- 1610 (b) Activities within Golden Gate Estates, south of Alligator Alley in Collier County.
1611 (c) Activities within the Belle Meade South bounded by I-75 to the north, CR 951 to the west, Miller Canal to
1612 the east, and U.S. 41 to the south in Collier County.
1613 (d) Activities within the Corkscrew Marsh Basin, south of S.R. 82, east of I-75 in Collier and Lee Counties.
1614 (3) The authorized activities are subject to the following conditions:
1615 (a) The activity must not cause the loss of more than 300 linear feet of stream bed, unless for intermittent and
1616 ephemeral stream beds the Agency waives the 300 linear foot limit by making a written determination concluding
1617 that the activity will result in no more than minimal adverse environmental effects.
1618 (b) The loss of stream bed plus any other losses of jurisdictional waters caused by the activity cannot exceed
1619 1/2-acre.
1620 (4) A pre-construction notice is required if reclamation is required by other laws. A copy of the final
1621 reclamation plan must be submitted with the pre-construction notice.

1622 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1623 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1624 *373.422, 373.423, 373.429 FS. History – New _____.*
1625

1626 **62-331.239 General Permit for Repair of Uplands Damaged by Discreet Events**

- 1627 (1) This general permit authorizes the following activities:
1628 (a) Dredging or filling in assumed waters for activities associated with the restoration of upland areas damaged
1629 by storms, floods, or other discrete events.
1630 2. Bank stabilization to protect the restored uplands.
1631 (2) This general permit does not authorize:
1632 (a) Beach restoration or nourishment.
1633 (b) Reclamation of lands lost to normal erosion processes over an extended period
1634 (3) The authorized activities are subject to the following conditions:
1635 (a) The restoration of the damaged areas, including any bank stabilization, must not exceed the contours, or the
1636 mean or ordinary high water line, that existed before the damage occurred.
1637 (b) The work must commence, or be under contract to commence, within two years of the date of damage,
1638 unless this condition is waived in writing by the Agency.
1639 (c) Dredging is limited to the amount necessary to restore the damaged upland area and shall not significantly
1640 alter the pre-existing bottom contours of the waterbody.
1641 (4) The Agency retains the right to determine the extent of the pre-existing conditions and the extent of any
1642 restoration work authorized by this general permit.
1643 (5) The permittee must submit a pre-construction notice to the Agency within 12 months of the date of the
1644 damage; for major storms, floods, or other discrete events, the Agency may waive the 12-month limit for submitting
1645 a pre-construction notice if the permittee can demonstrate funding, contract, or other similar delays.
1646 (a) The pre-construction notice must include documentation, such as a recent topographic survey or
1647 photographs, to justify the extent of the proposed restoration.

1648 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1649 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1650 *373.422, 373.423, 373.429 FS. History – New _____.*
1651

1652 **62-331.240 General Permit for Activities in Ditches**

- 1653 (1) This general permit authorizes the following activities:
1654 (a) Activities in non-tidal ditches that:
1655 1. Are constructed in uplands,
1656 2. Receive water from an area determined to be a water of the United States prior to the construction of the
1657 ditch,
1658 3. Divert water to an area determined to be a water of the United States prior to the construction of the ditch,
1659 and
1660 4. Are determined to be assumed waters.
1661 (2) This general permit does not authorize:
1662 (a) Dredging or filling in ditches constructed in streams or other assumed waters, or in streams that have been
1663 relocated in uplands.

- 1664 (b) Activities that increase the capacity of the ditch and drain those areas determined to be jurisdictional waters
- 1665 prior to construction of the ditch.
- 1666 (c) Activities within Golden Gate Estates, south of Alligator Alley in Collier County.
- 1667 (d) Activities within the Belle Meade South bounded by I-75 to the north, CR 951 to the west, Miller Canal to
- 1668 the east, and U.S. 41 to the south in Collier County.
- 1669 (e) Projects that capture and store water, such as Dispersed Water Management Projects (DWMP).
- 1670 (3) The authorized activities are subject to the following conditions:
- 1671 (a) The activity must not cause the loss of greater than one acre of jurisdictional waters.
- 1672 (4) The permittee must submit a pre-construction notice to the district Agency prior to commencing the activity.

1673 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
 1674 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
 1675 *373.422, 373.423, 373.429 FS. History – New _____.*

1676
 1677 **62-331.241 General Permit for Commercial Shellfish Aquaculture Activities**

- 1678 (1) This general permit authorizes the following activities:
- 1679 (a) Dredging or filling in assumed waters for new and continuing commercial shellfish aquaculture operations
- 1680 in authorized project areas. For the purposes of this general permit, the project area is the area in which the operator
- 1681 is authorized to conduct commercial shellfish aquaculture activities, as identified through a lease or permit issued by
- 1682 an appropriate state or local government agency, a treaty, or any easement, lease, deed, contract, or other legally
- 1683 binding agreement that establishes an enforceable property interest for the operator. A “new commercial shellfish
- 1684 aquaculture operation” is an operation in a project area where commercial shellfish aquaculture activities have not
- 1685 been conducted during the past 100 years.
- 1686 (b) The installation of buoys, floats, racks, trays, nets, lines, tubes, containers, and other structures into assumed
- 1687 waters.
- 1688 (c) Dredging or filling in assumed waters necessary for shellfish seeding, rearing, cultivating, transplanting, and
- 1689 harvesting activities. Rafts and other floating structures must be securely anchored and
- 1690 clearly marked.
- 1691 (2) This general permit does not authorize:
- 1692 (a) The cultivation of a nonindigenous species unless that species has been previously cultivated
- 1693 in the waterbody;
- 1694 (b) The cultivation of an aquatic nuisance species as defined in the Nonindigenous Aquatic Nuisance Prevention
- 1695 and Control Act of 1990;
- 1696 (c) Attendant features such as docks, piers, boat ramps, stockpiles, or staging areas, or the deposition of shell
- 1697 material back into jurisdictional waters as waste;
- 1698 (d) Activities that directly affect more than 1/2-acre of submerged aquatic vegetation beds in project areas that
- 1699 have not been used for commercial shellfish aquaculture activities during the past 100 years;
- 1700 (e) Placement of materials for Live Rock culture; or
- 1701 (f) Harvesting of Live Rock.
- 1702 (3) This general permit is subject to the following condition:
- 1703 (a) To prevent introduction of aquatic nuisance species, no material that has been taken from a different
- 1704 waterbody may be reused in the current project area, unless it has been treated in accordance with the applicable
- 1705 regional nuisance species management plan.
- 1706 (4) The permittee must submit a pre-construction notification to the Agency if:
- 1707 (a) The activity will include a species that has never been cultivated in the waterbody;
- 1708 (b) The activity occurs in a project area that has not been used for commercial shellfish aquaculture activities
- 1709 during the past 100 years;
- 1710 (c) The activity will occur within critical habitat for the smalltooth sawfish; or
- 1711 (d) The activity will occur in waters accessible to sea turtles, smalltooth sawfish, Gulf sturgeon, or shortnose
- 1712 sturgeon. If any of these species occurs, the permittee will follow the “Sea Turtle and Smalltooth Sawfish
- 1713 Construction Conditions” ([link](#)).
- 1714 (5) If pre-construction notification is required, the permittee must include the following with the notification:
- 1715 (a) A map showing the boundaries of the project area(s), with latitude and longitude coordinates for each corner
- 1716 of each project area;
- 1717 (b) The name(s) of the species that will be cultivated during the period this general permit is in effect;
- 1718 (c) Whether canopy predator nets will be used;

- 1719 (d) Whether suspended cultivation techniques will be used; and
1720 (e) General water depths in the project area(s) (a detailed survey is not required).
1721 (f) A description of all species and culture activities the operator expects to undertake in the project area or
1722 group of contiguous project areas during the effective period of this general permit.
1723 (6) If an operator intends to undertake unanticipated changes to the commercial shellfish aquaculture operation
1724 during the effective period of this general permit, and those changes require authorization under this Chapter, the
1725 operator must contact the Agency to request a modification of the general permit verification; a new pre-
1726 construction notification does not need to be submitted.
1727 (7) No more than one pre-construction notification per project area or group of contiguous project areas shall be
1728 submitted for the commercial shellfish operation during the effective period of this general permit.

1729 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1730 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1731 *373.422, 373.423, 373.429 FS. History – New _____.*

1732
1733 **62-331.242 General Permit for Land-Based Renewable Energy Generation Facilities**

- 1734 (1) This general permit authorizes the following activities:
1735 (a) Dredging or filling in non-tidal assumed waters for the construction, expansion, or modification of land-
1736 based renewable energy production facilities, including attendant features.
1737 1. Such facilities include infrastructure to collect solar (concentrating solar power and photovoltaic), wind,
1738 biomass, or geothermal energy.
1739 2. Attendant features may include, but are not limited to roads, parking lots, and stormwater management
1740 facilities within the land- based renewable energy generation facility.
1741 (2) This general permit does not authorize:
1742 (a) Dredging or filling in non-tidal wetlands adjacent to tidal waters.
1743 (b) Activities within Golden Gate Estates, south of Alligator Alley in Collier County.
1744 (c) Activities within the Belle Meade South bounded by I-75 to the north, CR 951 to the west, Miller Canal to
1745 the east, and U.S. 41 to the south in Collier County.
1746 (3) The activities are subject to the following conditions:
1747 (a) The activity must not cause the loss of greater than 1/2-acre of non-tidal jurisdictional waters.
1748 (b) The activity must not cause the loss of more than 300 linear feet of stream bed, unless for intermittent and
1749 ephemeral stream beds the Agency waives the 300 linear foot limit by making a written determination concluding
1750 that the activity will result in no more than minimal adverse environmental effects.
1751 (c) The loss of stream bed plus any other losses of jurisdictional waters caused by the activity cannot exceed
1752 1/2-acre.
1753 (d) Projects must comply with the USFWS Land-Based Wind Energy Guidelines
1754 (https://www.fws.gov/ecological-services/es-library/pdfs/WEG_final.pdf), [https://www.fws.gov/ecological-](https://www.fws.gov/ecological-services/es-library/pdfs/WEG_final.pdf)
1755 [services/es-library/pdfs/WEG_final.pdf](https://www.fws.gov/ecological-services/es-library/pdfs/WEG_final.pdf)).
1756 (4) The permittee must submit a pre-construction notice to the Agency prior to commencing the activity if the
1757 activity results in the loss of greater than 1/10- acre of jurisdictional waters.
1758 (5) Utility lines constructed to transfer the energy from the land-based renewable energy generation facility to a
1759 distribution system, regional grid, or other facility are generally considered to be linear projects and each separate
1760 and distant crossing of a waterbody is eligible for treatment as a separate single and complete linear project. Those
1761 utility lines may be authorized by general permit 62-331.215, F.A.C.
1762 (6) For any activity that involves the construction of a wind energy generating structure, solar tower, or
1763 overhead transmission line, a copy of the notice and general permit verification will be provided to the Department
1764 of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

1765 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1766 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1767 *373.422, 373.423, 373.429 FS. History – New _____.*

1768
1769 **62-331.243 General Permit for Water-Based Renewable Energy Generation Pilot Projects**

- 1770 (1) This general permit authorizes the following activities:
1771 (a) Dredging or filling in assumed waters for the construction, expansion, modification, or removal of water-
1772 based wind, water-based solar, wave energy, or hydrokinetic renewable energy generation pilot projects and their
1773 attendant features.

1774 1. Attendant features may include, but are not limited to, land-based collection and distribution facilities,
1775 control facilities, roads, parking lots, and stormwater management facilities.
1776 2. For the purposes of this general permit, the term “pilot project” means an experimental project where the
1777 water-based renewable energy generation units will be monitored to collect information on their performance
1778 and environmental effects at the project site.
1779 (2) This general permit is subject to the following conditions:
1780 (a) The activity must not cause the loss of greater than 1/2-acre of jurisdictional waters, including the loss of
1781 more than 300 linear feet of stream bed, unless for intermittent and ephemeral stream beds when the Agency waives
1782 the 300 linear foot limit by making a written determination concluding that the activity will result in no more than
1783 minimal adverse environmental effects.
1784 (b) The loss of stream bed plus any other losses of jurisdictional waters caused by the general permit activity
1785 cannot exceed 1/2-acre.
1786 (c) For each single and complete project, no more than 10 generation units (e.g., wind turbines, wave
1787 energy devices, or hydrokinetic devices) are authorized.
1788 (d) For floating solar panels each single and complete project cannot exceed 1/2- acre in water surface area
1789 covered by the floating solar panels.
1790 (e) Upon completion of the pilot project, the generation units, transmission lines, and other structures or fills
1791 associated with the pilot project must be removed to the maximum extent practicable unless they are authorized by a
1792 separate authorization under this Chapter.
1793 1. Completion of the pilot project will be identified as the date of expiration of the Federal Energy
1794 Regulatory Commission (FERC) license, or the expiration date of the general permit authorization if no FERC
1795 license is required.
1796 (3) This general permit is not applicable within Designated Critical Resource Waters or other state and federally
1797 managed areas such as marine sanctuaries, Habitat Areas of Particular Concern (HAPC), aquatic preserves, and
1798 parks.
1799 (4) The permittee must submit a pre-construction notification to the Agency prior to commencing the activity.
1800 (5) Utility lines constructed to transfer the energy from the land-based collection facility to a distribution
1801 system, regional grid, or other facility are generally considered to be linear projects and each separate and distant
1802 crossing of a waterbody is eligible for treatment as a separate single and complete linear project. Those utility lines
1803 may be authorized by general permit Rule 62-331.215, F.A.C. or another authorization under this Chapter.
1804 (6) An activity that is located on an existing locally or federally maintained U.S. Army Corps
1805 of Engineers project requires separate approval from the Chief of Engineers or District Engineer
1806 under 33 U.S.C. 408. The permittee is responsible for obtaining such approval separately from the Corps.
1807 *Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373.4145, 373.4146(2), 403.805(1)*
1808 *FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416,*
1809 *373.422, 373.423, 373.429 FS. History – New _____.*

**MEMORANDUM OF AGREEMENT BETWEEN
THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

I. GENERAL

A. Purpose

This Memorandum of Agreement (hereinafter "Agreement") between the Florida Department of Environmental Protection (DEP) and Region IV of the United States Environmental Protection Agency (EPA) defines the federal and state roles in carrying out the policies, regulations, and procedures necessary to administer the permit program established pursuant to Section 404 of the Clean Water Act (CWA), Title 33 of the United States Code (U.S.C.), § 1251 *et seq.* (hereinafter "State 404 Permit Program"), and to facilitate program coordination between DEP and EPA. DEP does not exercise jurisdiction over Indian country, as that term is defined in 18 U.S.C. § 1151, and will not be seeking such authority through this Agreement. This Agreement does not create any substantive standards relating to any aspect of the 404 Permit Program or impose any legal obligations on the public and does not alter applicable provisions of Section 401 of the CWA.

B. Authorities

DEP shall administer and enforce the State 404 Permit Program in accordance with those state laws and administrative rules that EPA has defined as components of the federally authorized State 404 Permit Program in the State of Florida (40 C.F.R. § 233.7X), and in accordance with Section 404 State Program Regulations (40 C.F.R. Part 233), the CWA, Section 404(b)(1) Guidelines (40 C.F.R. Part 230, Section 404(b)(1) Guidelines for Specifications of Disposal Sites for Dredged or Fill Material) (hereinafter "404(b)(1) Guidelines"), and provisions contained in this Agreement and the Memorandum of Agreement between DEP and the United States Army Corps of Engineers (Corps).

C. Effective Date and Revisions

(1) This Agreement shall be executed by DEP and EPA and shall take effect at the time of EPA approval of the State 404 Permit Program, which shall be the effective date published in the Federal Register.

(2) DEP and EPA agree to maintain a high level of cooperation and coordination and to work in partnership to assure successful and effective administration of the State 404 Permit Program.

(3) Nothing in this Agreement shall be construed to restrict in any way EPA's authority to fulfill its oversight and enforcement responsibilities under the CWA, nor shall it restrict DEP's enforcement responsibilities under Florida law.

(4) This Agreement, and procedures established in conformance with it, shall be reviewed periodically by DEP and EPA. Either party may request in writing an amendment or modification to the Agreement. Amendments and modifications to this Agreement shall be in writing and shall be effective upon completion of the process outlined in 40 C.F.R. § 233.16.

(5) At least ten percent (10%) of the projects that have been issued a permit under the State 404 Program shall be reviewed by EPA and the Corps every twelve months for consistency with the criteria and conditions of the project's permit, and the project's consistency with state and federal policy and standards concerning the 404 Program. The findings will be made available to DEP and to the public annually.

~~(4)(6)~~

~~(5)(7)~~ This Agreement, and any amendments and modifications thereto, shall remain in effect until the State 404 Permit Program authorization is modified in a manner that would affect this Agreement or withdrawn by EPA pursuant to 40 C.F.R. § 233.53(b) or is voluntarily transferred by DEP to the Corps according to the criteria and procedures established in 40 C.F.R. § 233.53(a).

D. Confidentiality

(1) All of the information EPA transfers to DEP will be provided subject to the procedures and limitations of 40 C.F.R. § 233.3 and applicable Florida law.

(2) Any information obtained or used in the administration of the State 404 Permit Program shall be available to EPA without restriction. If information has been submitted to DEP under a claim of confidentiality, DEP must inform EPA of such a claim. All information submitted by DEP subject to a claim of confidentiality shall be treated in accordance with the procedures of 40 C.F.R. Part 2, 40 C.F.R. § 233.3(c), and applicable Florida law.

E. Computing Time Periods

In computing any period of time prescribed by this Agreement, the day on which the designated period of time begins shall not be included. Saturdays, Sundays, and state and federal holidays shall be included. When a stated time expires on a Saturday, Sunday, or legal holiday, the stated time period shall be extended to include the next business day.

F. State Agreement with Corps

(1) Prior to the assumption of the 404 Permit Program by DEP, the Jacksonville District of the Corps administered the 404 Permit Program in Florida. The District

Engineer of the Jacksonville District has been delegated the authority to enter into a Memorandum of Agreement which will identify procedures for the transfer of the 404 Permit Program to DEP pursuant to CWA requirements.

(2) DEP's Memorandum of Agreement with the Corps stipulates permit processing responsibilities for activities which involve non-assumable waters, as well as transfer of permitting authority from the Corps to DEP. The Memorandum of Agreement identifies the State waters to be regulated, coordination procedures, general permit procedures, transfer of records, protection of navigation or anchorage, permitting for Corps water resource projects, and permitting for emergency work. The legal effect of the Memorandum of Agreement between DEP and the Corps is conditioned upon approval of the State 404 Permit Program.

G. State Agreements with Other Agencies

The State may enter into agreements with other agencies, including, but not limited to, the United States Fish and Wildlife Service (USFWS). To the extent any of these agreements or parts of these agreements are inconsistent with the requirements of the CWA, implementing regulations, or other assumption related statutes or implementing regulations, the agreement or that part of the agreement will not become part of the assumed program. Any revisions to the State 404 Permit Program must comply with the procedures laid out in 40 C.F.R. § 233.16.

II. PERMIT APPLICATION REVIEW AND PERMIT ISSUANCE

A. Lead Agency Responsibility for State 404 Permit Program

(1) DEP will be the lead agency in Florida for administering the State 404 Permit Program for waters assumed consistent with the Memorandum of Agreement between DEP and the Corps. DEP shall administer the State 404 Permit Program as approved by EPA using this Agreement, applicable state and federal laws, and any separate working agreement which shall be entered into with EPA as necessary for full administration of the State 404 Permit Program. The strategies and priorities for permit review, compliance monitoring and enforcement of permits, and unauthorized discharges of dredged or fill material into waters of the United States over which DEP has assumed jurisdiction under the State 404 Permit Program shall be established by DEP and shall be reviewed annually by EPA. This does not preclude EPA from initiating independent or parallel enforcement action in accordance with Sections 309 and 404(n) of the CWA.

(2) DEP may delegate the State 404 Permit Program to State governmental agencies in Florida but will maintain oversight and will retain the ability to revise or rescind permits issued by the delegated entities. If DEP proposes to delegate all or part of the State 404 Permit Program, such delegation is not effective until the Regional Administrator approves the delegation pursuant to 40 C.F.R. § 233.16.

B. Waiver of Review

(1) Pursuant to Section 404(k) of the CWA and 40 C.F.R. § 233.51, EPA waives the requirements of Section 404(j) and the regulations adopted thereunder regarding federal review of DEP permit applications for all but the following categories of permits:

- a. Draft general permits;
- b. Discharges with reasonable potential for affecting endangered or threatened species as determined by USFWS;
- c. Discharges with reasonable potential for adverse impacts on waters of another state or tribe;
- d. Discharges known or suspected to contain toxic pollutants in toxic amounts (Section 101(a)(3) of the CWA) or hazardous substances in reportable quantities (Section 311 of the CWA);
- e. Discharges located in proximity of a public water supply intake;
- f. Discharges within critical areas established under state or federal law, including but not limited to national and state parks; fish and wildlife sanctuaries or refuges; national and historical monuments; wilderness areas and preserves; sites identified or proposed under the National Historic Preservation Act; and components of the National Wild and Scenic Rivers System;
- g. Discharges impacting compensatory mitigation sites, including mitigation banks, in lieu fee program sites, and permittee responsible mitigation sites; and
- h. Discharges impacting sites that are owned or managed by federal entities, and activities by an applicant that is a federal entity.

(2) EPA may terminate waiver of the review of categories of permit applications outlined in this Agreement pursuant to 40 C.F.R. § 233.51(a).

(3) EPA may request review of specific permit actions within 30 days of receipt by sending DEP written notice.

(4) DEP may, at the agency's discretion, request EPA review of specific projects that would otherwise not require EPA oversight.

C. Coordination with Other States and Tribes

(1) Whenever DEP receives an application for a permit that has a reasonable potential to impact the waters of the states of Alabama or Georgia, or waters within "Indian country," as that term is defined at 18 U.S.C. § 1151, DEP shall transmit a copy of the public notice to the potentially impacted state or federally recognized tribe (per the list published annually by the Secretary of the Interior pursuant to § 104 of the Federally Recognized Indian

Tribe List Act of 1994 (Pub. L. No. 103-454, 108 Stat. 4791, 4792)) and to EPA. EPA shall assist in the identification of regulatory contacts in these other states and tribes.

a. The potentially impacted state or tribe shall provide comments to DEP within 30 days of the date of the public notice regarding the potential impact of the proposed project.

b. DEP shall consider the comments and concerns of the potentially impacted state or tribe when making a decision on the application and shall provide a copy of the final permit decision to a state or tribe that provides comments. If DEP does not accept these recommendations, DEP shall notify the Regional Administrator prior to permit issuance in writing of his/her failure to accept the recommendations together with reasons for so doing. The Regional Administrator shall then have the time provided for in 40 C.F.R. § 233.50(d) to comment upon, object to, or make recommendations with respect to a permit application.

c. Pursuant to 40 C.F.R. § 233.50, EPA may object to the issuance of a State 404 permit by DEP if it finds that the proposed project would fail to comply with the 404(b)(1) Guidelines due to the impact on waters of another state or waters within “Indian country,” as that term is defined at 18 U.S.C. § 1151. In this instance, DEP shall proceed as specified in Section 404(j) of the CWA and Section D of this Agreement.

(2) Both EPA and DEP agree that this Agreement does not waive any legal claims, rights, or positions that the United States or DEP have over what constitutes “Indian country,” as statutorily defined at 18 U.S.C. 1151.

D. Permit Processing and Federal Comment

(1) DEP shall promptly submit public notices, via weblink, providing EPA access to complete permit applications in the categories identified in Section II.B.(1) of this Agreement for review and coordination in accordance with Section 404(j) of the CWA and 40 C.F.R. Part 233, Subpart F.

(2) Material submitted to EPA, which may be forwarded by electronic means, shall include:

a. A copy of the public notice for any complete permit application received by DEP, except those for which permit review has been waived under this Agreement. Any supplemental or additional materials submitted to DEP, including but not limited to information on project alternatives, environmental assessment, or mitigation plans, shall also be forwarded promptly to EPA. Whenever requested by EPA, DEP shall supply copies of public notices for permit applications, or supplemental materials, even for projects for which permit review has been waived.

b. A copy of each draft general permit whenever the State intends to issue a general permit that affects State assumed waters, including minor project categories defined under State law.

c. For permit applications that are subject to federal review, and for draft general permits, notification of when DEP takes a significant permit action.

d. A copy of every permit issued and a copy of any denial of a permit.

e. A copy of DEP's response to comments or recommendations made by another state or tribe if DEP does not accept such recommendations.

(3) EPA shall, not later than 30 calendar days from the date of receipt of a permit application or draft general permit from DEP, notify DEP if EPA does not intend to review the permit application or draft general permit.

(4) EPA shall coordinate review with the Corps, USFWS, and National Marine Fisheries Service (NMFS), and submit comments to DEP in accordance with the requirements of, and in the timeframes specified in, Section 404(j) of the CWA and its implementing regulations. However, EPA shall make every attempt to provide comments or objections within the timeframe specified in Florida law, to the extent that the timeframe does not conflict with federal law. DEP shall notify EPA of DEP's decision deadlines for each application or draft general permit.

(5) DEP shall respond to any such comments or objections received from EPA in the manner specified in Section 404(j) of the CWA and 40 C.F.R. Part 233. DEP shall provide a copy of a draft permit that satisfies the Regional Administrator's objection or requirement for a permit condition, or DEP shall provide its intent to deny the permit application to EPA as provided by Section 404(j) of the CWA and 40 C.F.R. Part 233.

(6) If DEP does not resolve an objection or requirement for a permit condition, and DEP does not deny a State Environmental Resource Permit (ERP), then the State ERP shall not provide authorization under Section 404 of the CWA, and the applicant shall be notified of this fact in writing.

(7) DEP shall contact EPA, the Corps, USFWS, and NMFS to solicit comments pertaining to issuance of an emergency permit as soon as possible after the emergency permit is requested, but no later than the day of issuance of the emergency permit. DEP shall send a copy of the written emergency permit to the EPA.

E. Coordination of Mitigation Banking

(1) DEP and EPA agree that mitigation banking projects shall be subject to review by an Interagency Review Team (IRT). The IRT shall be chaired by DEP, or its delegate,

except where the mitigation bank, including any part of the proposed service area, is in an area where the Corps retains Section 404 jurisdiction, in which case DEP may invite the Corps as co-chair of the IRT.

- (2) EPA may participate on the IRT at EPA's discretion.

III. COMPLIANCE MONITORING AND ENFORCEMENT

A. EPA will continue to directly implement its authority for the 404 Permit Program in "Indian country," as that term is defined at 18 U.S.C. § 1151, including conducting necessary compliance monitoring and enforcement actions for activities and sites located on Indian country.

B. EPA will retain responsibility for any pending enforcement actions undertaken by EPA prior to the date of EPA's approval of the State 404 Permit Program. DEP shall have primary responsibility for compliance monitoring and enforcement of the State 404 Permit Program. DEP will take timely and appropriate enforcement action against persons in violation of permit conditions of permits issued pursuant to the State 404 Permit Program and against persons conducting unauthorized discharges of dredged or fill material into waters of the United States over which DEP has assumed jurisdiction under the State 404 Permit Program.

C. DEP shall notify EPA of the status of compliance and enforcement actions through submission of an annual report described in Section IV.B. of this Agreement.

D. EPA may request the opportunity to review any compliance and enforcement record. DEP shall provide to EPA a copy of the file when requested.

E. DEP shall coordinate with EPA when a violation is identified that is within the permit and discharge categories in Section II.B.(1) of this Agreement. DEP shall provide a summary of the unauthorized activity and inform EPA of the status of the file as enforcement actions are taken, including any decision to accept an after-the-fact permit application. In the event that an after-the-fact permit application is accepted, DEP shall follow the permit review procedures set forth in this Agreement, the CWA and its implementing regulations.

F. DEP may refer information regarding possible or alleged violations to EPA and may request that EPA consider initiating a parallel or independent enforcement action. Such circumstances include, but are not limited to:

- (1) Violations that have or have a reasonable potential to have direct impacts on waters of a tribe or another state;
- (2) Major or repeat offenses; and

(3) Violations that have, or will potentially have, major adverse resource impacts or impacts on special federal resources, such as federally listed threatened or endangered species.

G. EPA may initiate independent or parallel enforcement action in accordance with Sections 309 and 404(n) of the CWA.

H. If DEP proposes to resolve a compliance or enforcement issue through a consent agreement (administrative or judicial), and where the impact of the violation is such that federal review would not be waived as described in Section II.B.(1) of this Agreement, DEP shall provide EPA 30 days to review and comment on the draft consent agreement prior to signature. If EPA objects to a provision of the draft consent agreement, the executed consent agreement implementing that provision shall not constitute authorization under Section 404 of the CWA. DEP shall provide a copy of the executed consent agreement and any after-the-fact State 404 permits to EPA.

I. DEP shall provide for public participation in the State 404 Permit Program enforcement process pursuant to 40 C.F.R. § 233.41(e)(2).

J. Prior to proceeding with federal enforcement action against a possible or alleged State 404 Permit Program permit violator or unauthorized discharge, and for purposes of providing notice only, EPA shall inform DEP that federal enforcement action is to be initiated. This notification shall be made to the Secretary of DEP or his/her designee. It is expected that preliminary staff discussions will take place between EPA and DEP representatives before initiation of federal enforcement action.

K. When a violation is identified that may affect the waters of tribes and/or other states, DEP shall provide a summary of the violation and inform the tribes and/or other states of the status of the file as enforcement actions are taken, including any decision to accept an after-the-fact permit application.

IV. PROGRAM MAINTENANCE

A. Program Review and Oversight

EPA may, in accordance with Section 404(i) of the CWA, conduct periodic evaluations of the State 404 Permit Program.

B. Reporting

(1) DEP shall submit to EPA an annual report evaluating Florida's administration of the State 404 Permit Program, identifying problems the State has encountered in administration of its program, and recommendations for resolving these problems. The report shall include:

a. An assessment of the cumulative impact of the State 404 Permit Program on the integrity of state regulated waters.

b. A summary of the number and nature of individual and general permits issued, modified, or denied during the year, and permits not yet processed.

c. A summary of the number and nature of violations or suspected violations identified and the nature of enforcement actions taken.

d. An estimate of the extent of total impact to state regulated waters from individual and general permits.

e. A summary of any significant changes in program operations or procedures.

f. Other information of particular concern or interest.

(2) Within 60 days of receipt of the draft annual report, EPA will complete review of the report and transmit comments, questions, or requests for additional information to DEP.

(3) DEP may modify the report to address the comments of EPA. The final report shall be made available to the public.

(4) The period for the annual report shall be the State fiscal year ending June 30th, and the report shall be submitted to EPA by September 30th of each year.

C. Modifications

(1) DEP shall promptly notify EPA of any proposed or actual change to DEP's statutory or regulatory authority or any other modifications which are significant to administration of the State 404 Permit Program, including, but not limited to:

a. An action by the State Legislature to strike down or limit State authorities, or that contemplates cessation of the administration of the Section 404 Permit Program by the State of Florida.

b. An action by a State court striking down or limiting State authorities.

c. Revision of the State's legal authorities needed to maintain consistency with changes to applicable federal regulations.

d. Proposed transfer of the program in whole or in part to another State agency.

(2) In response to notification of a change in the State 404 Permit Program in accordance with paragraph (1), EPA shall inform DEP in writing of specific concerns regarding State authority and shall provide the State an opportunity to make any necessary program corrections in accordance with 40 C.F.R. § 233.16(d).

(3) Whenever EPA has reason to believe that circumstances have changed with respect to the State 404 Permit Program, EPA may request, and DEP shall provide, documentation or information as necessary to evaluate State 404 Permit Program compliance with the requirements of the CWA and its implementing regulations.

(4) If DEP determines that it will no longer administer the State 404 Permit Program, DEP shall provide notice to EPA and the Corps not less than 180 days prior to cessation of program operation, and shall arrange for transfer of all program materials to the Corps.

(5) EPA shall promptly notify DEP of any changes required to the State 404 Permit Program due to a modification to any applicable federal statute or regulation.

V. SIGNATURES

Florida Department of Environmental Protection

Date: _____

By: _____

United States Environmental Protection Agency Region IV

Date: _____

By: _____

DRAFT

**MEMORANDUM OF AGREEMENT BETWEEN
THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND THE UNITED STATES DEPARTMENT OF THE ARMY**

I. GENERAL

A. Purpose and Authority

(1) Section 404 of the Clean Water Act (CWA), 33 U.S.C. § 1344, authorizes the Secretary of the Army, acting through the Chief of Engineers, to regulate the discharge of dredged or fill material into waters of the United States. The South Atlantic Division of the United States Army Corps of Engineers (Corps), acting through the Jacksonville District, currently administers the Section 404 program in the State of Florida.

(2) Section 404(g) of the CWA, 33 U.S.C. § 1344(g), authorizes states, with approval from the United States Environmental Protection Agency (EPA), to assume authority to administer Section 404 of the CWA over certain waters of the United States. The EPA has promulgated regulations at 40 C.F.R. Part 233 outlining, among other things, its requirements for approving a state program.

(3) The State of Florida (State) is submitting its program for the assumption of the Section 404 program in compliance with the above-cited authorities. This Memorandum of Agreement (hereinafter "Agreement") between the State and the Corps fulfills the requirements of 40 C.F.R. § 233.14.

(4) The Florida Department of Environmental Protection (DEP), pursuant to Part IV of Chapter 373, Florida Statutes, is authorized to issue permits for regulated activities conducted in State regulated waters, including the discharge of dredged and fill material. The Secretary of DEP is given the authority to issue permits pursuant to Part IV of Chapter 373, Florida Statutes, and is the State official charged with administering the State 404 Program when assumed in accordance with 40 C.F.R. Part 233.

B. Effective Date and Revisions

(1) This Agreement shall be executed by DEP and the Corps and shall take effect at the time of EPA approval of the State 404 Program, which shall be the effective date published in the Federal Register.

(2) DEP and the Corps agree to maintain a high level of cooperation and coordination and to work in partnership to assure successful and effective implementation of Section 404 of the CWA.

(3) This Agreement, and procedures established in conformance with it, shall be reviewed periodically, or at least once every twelve months, by DEP and the Corps. Either

party may request in writing an amendment or modification to the Agreement. Amendments and modifications shall be in writing and shall be effective upon the signature of both parties and approval by EPA.

(4) At least ten percent (10%) of the projects that have been issued a permit under the State 404 Program shall be reviewed by EPA and the Corps every twelve months for consistency with the criteria and conditions of the project's permit, and the project's consistency with state and federal policy and standards concerning the 404 Program. The findings will be made available to DEP and to the public annually.

~~(3)~~ —

~~(4)~~(5) This Agreement, and any amendments and modifications thereto, shall remain in effect until the State 404 Program authorization is modified in a manner that would affect this Agreement or is withdrawn by EPA pursuant to 40 C.F.R. § 233.53(b) or is voluntarily transferred by DEP to the Corps according to the criteria and procedures established in 40 C.F.R. § 233.53(a).

~~(5)~~(6) In the event DEP proposes to transfer all or part of the State 404 Program to another State agency in accordance with 40 C.F.R. § 233.16, a new Memorandum of Agreement between the Corps and that State agency will be required.

II. WATERS TO BE RETAINED

TBD.

III. JOINT COORDINATION PROCEDURES

A. DEP and the Corps agree that when an application is received by either party, the application will be screened to determine if the proposed activity will occur within Corps retained waters, as identified in section III, above. The Corps will provide a retained-waters GIS layer to DEP. When a proposed activity falls within the GIS layer, DEP will forward the application to the Corps for a jurisdictional determination and advise the applicant to contact the Corps. Likewise, when a proposed activity falls outside the retained waters as shown in the GIS layer, the Corps will forward the application to DEP and advise the applicant to contact DEP.

B. For applications where both the Corps and DEP have Section 404 permitting authority due to the presence of both retained and assumable waters, the Corps will process the application for the retained waters and DEP will process the application for the assumed waters using the retained-waters GIS layer. DEP and the Corps may pursue joint public noticing or joint processing for such projects.

C. In accordance with Section 10 of the Rivers and Harbors Act (RHA), the Corps has regulatory jurisdiction over all obstructions and alterations of navigable waters of the United States, the construction of any structures in or over navigable waters of the United States, and any work affecting the course, location, condition, or capacity of navigable waters of the United

States as defined in 33 C.F.R. Part 329. This includes permit authority under Section 10 of the RHA for those waters based solely on historic use (Section 10 historic waters) (**Attachment X**). While the Corps retains Section 10 authority over Section 10 historic waters, upon the effective date of this Agreement, the State assumes responsibility for Section 404 authority over Section 10 historic waters, and discharges of dredged or fill material in Section 10 historic waters will require a permit from the Corps and DEP.

D. In areas where DEP has Section 404 permitting authority and the Corps has Section 10 permitting authority, DEP and the Corps agree to establish procedures to inform the public and maximize coordination as practicable. Within five days of receipt of an application under the State 404 Program for work in Section 10 historic waters, DEP agrees to provide the Corps a copy of the application. Additional coordination procedures between the Corps and DEP may include pre-application meetings, field visits, mitigation coordination, and enforcement and compliance coordination.

IV. EXISTING PERMITS AND PENDING PERMIT APPLICATIONS

A. Individual Permits

(1) The time limit for completing work authorized under a Department of the Army individual permit issued prior to the date of assumption for regulated activities in assumable waters (e.g., construction or placement of fill) will remain the expiration date stated in the permit instrument. In the event work is not completed by the expiration date, requests for authorization of uncompleted work shall be made to DEP for evaluation under the State 404 Program after the date of assumption.

(2) Requests for modifications of unexpired permits within assumed waters shall be made to the Corps after the date of assumption. The Corps shall review the request to determine whether the modification is likely to result in a significant increase in scope, in which case the Corps shall transfer the application to DEP for evaluation under the State 404 Program. General and special conditions of Department of the Army permits are effective indefinitely and any request to modify special conditions shall be made to the Corps.

B. General Permits

The time limit for completing the work under a Department of the Army general permit verified prior to the date of assumption for regulated activities in assumable waters will remain the expiration date stated in the permit and regulation. Requests for modifications of work verified under a general permit prior to expiration and after the date of assumption shall be made to DEP for evaluation under the State 404 Program. Work authorized by general permits verified prior to the date of State assumption in assumable waters shall remain in effect for the purposes of Section 404 after State assumption. These verifications shall continue to be effective for the original duration established by the Corps to include twelve months after expiration if work has commenced or is under contract to commence. After assumption, activities previously subject to

a general permit and occurring within waters assumed by the State shall require a permit under the State 404 Program.

C. Records Transfer

Upon notification of program approval from EPA, the Corps will transfer to DEP any pending Section 404 program permit application files within the area of State assumed waters including requests for mitigation banks and in lieu fee programs where the mitigation bank, in lieu fee project, or service area includes State assumed waters. Upon request by DEP, the Corps will provide copies of any permits for purposes of issuing new permits. Transfer methods shall be mutually agreed upon by DEP and the Corps.

V. REVIEW OF APPLICATIONS FOR STATE PROGRAM PERMITS

A. RHA Projects

The Corps reserves the right to review applications for permits to be issued under the State 404 Program for projects which may substantially impair the anchorage and navigation of navigable waters of the United States as defined by the RHA and the Corps' RHA implementing regulations at 33 C.F.R. Part 329, and projects involving discharges which could have an impact upon existing or proposed Corps projects.

B. Federal Projects

In accordance with Section 14 of the RHA (33 U.S.C. Part 408) (Section 408), the Corps has the authority to review requests for modification of Federal projects by non-Federal interests. Within five days of receipt, DEP agrees to provide the Corps a copy of all applications for activities that would modify, alter, or build upon an existing Federal project. Existing Federal projects are identified in Attachment X, which will be updated as necessary. Within five days of receipt from DEP, the Corps will notify DEP if the Corps' permission is required pursuant to Section 408, in which case the State agrees to either delay any final actions until Section 408 permission is granted or include a special condition in the permit requiring Section 408 permission prior to construction.

C. Emergency Permits

In accordance with 40 C.F.R. § 233.22(d), DEP shall contact the Corps to solicit comments pertaining to issuance of an emergency permit as soon as possible after the emergency permit is requested, but no later than the day of issuance of the emergency permit.

VI. COORDINATION OF MITIGATION BANKING

A. Interagency Review Team

DEP and the Corps agree that mitigation banking projects and in lieu fee programs, including service areas, wholly or partially within State assumed waters, shall be subject to review by an Interagency Review Team (IRT), consistent with the 404(b)(1) Guidelines, Subpart J. The IRT for such projects shall be co-chaired by DEP, or its delegate, and the Corps. EPA may participate on the IRT at EPA's discretion.

B. Corps Approval of Mitigation Banks Authorized under State 404 Program

The Corps may sign a mitigation bank or in-lieu fee program instrument approved under the State 404 Program to indicate that the Corps approves the use of the mitigation bank or in-lieu fee program to provide compensatory mitigation, as appropriate, for federally-issued Section 404 permits.

VII. ENFORCEMENT

A. After the date of State assumption, the Corps will continue to perform compliance on all permits, mitigation banks, and in lieu fee projects / programs issued and approved prior to the date of State assumption.

B. The Corps will not be responsible for enforcing against unauthorized discharges of dredged and fill material in violation of the CWA which occur in waters assumed by the State after the effective date of this Agreement.

C. The Corps will retain those ongoing enforcement actions (unauthorized activities and noncompliance with permitted activities) in waters assumed by the State for violations which occurred and have not been resolved prior to the effective date of this Agreement. If there is an unusual circumstance concerning a violation, the parties to this Agreement may discuss the Corps transferring the case to DEP to pursue resolution of a violation. For those instances where the Corps resolves the enforcement action in assumed waters after the date of State assumption, the Corps will provide DEP a copy of the consent decree or settlement agreement. DEP will be responsible for issuing any after-the-fact permit, or any modification of an existing permit with a significant increase in scope for discharges in assumed waters for those cases retained and resolved by the Corps.

VIII. COMMUNICATION BETWEEN PARTIES

A. Communication and record sharing between the parties of this Agreement may be accomplished through electronic means.

B. Following execution of this Agreement, DEP and the Corps will meet to discuss issues related to State assumption. Such meetings will be held on a biweekly basis during the first six months of State assumption in order for the Corps and DEP to ensure effective coordination for those projects involving assumable and retained waters, pending actions transferred to the state, ongoing enforcement actions, and requests for modifications of permits.

*****DRAFT DELIBERATIVE. DO NOT RELEASE UNDER FOIA. NOTHING CONTAINED HEREIN SHALL BE CONSTRUED AS CREATING ANY RIGHTS OR BINDING EITHER PARTY*****

DRAFT

DRAFT DELIBERATIVE. DO NOT RELEASE UNDER FOIA. NOTHING CONTAINED HEREIN SHALL BE CONSTRUED AS CREATING ANY RIGHTS OR BINDING EITHER PARTY

IX. SIGNATURES

Florida Department of Environmental Protection

Date: _____

By: _____

Department of the Army

Date: _____

By: _____

DRAFT

ATTACHMENT (to be referenced in waters to be retained section)

Jacksonville District Navigable Waters Lists

In Florida, Puerto Rico, and the U.S. Virgin Islands, the U.S. Army Corps of Engineers, Jacksonville District, exercises section 10 (of the Rivers and Harbors Act of 1899) regulatory jurisdiction over the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea. Additionally, all or portions of tributaries to the above waters may also be subject to section 10 authority. However, complete lists of all rivers, streams, creeks, ponds, and lakes subject to Corps section 10 authority are not available. Below are lists of waters over which the Jacksonville District currently exercises regulatory jurisdiction under the authority of both section 10 of the Rivers and Harbors Act of 1899 and section 404 of the Clean Water Act on all or a portion of the listed water. The absence of a water on these lists does not mean it or a portion of it is not a navigable water. Likewise, the inclusion of a water on these lists is not meant to imply that the water is subject to section 10 authority in its entirety. All waters subject to the ebb and flow of the tide (tidal action) are navigable waters of the US, and many of the waters listed below have some portion that is subject to the ebb and flow of the tide. Inquiries concerning Department of the Army Permit requirements on these and other tributary streams and lakes not listed below should be submitted on a case-by case basis to the Regulatory Division, Jacksonville District.

The section 10 waters lists (below) from the Jacksonville District were compiled from multiple approved and draft navigability studies conducted during the 1970s and 1980s, and from local knowledge of tidally influenced waters. The District makes no claim that these lists are complete or completely accurate. These lists are for regulatory reference purposes only. They are not a substitute for a jurisdictional determination (JD). It is imperative that you contact the appropriate Regulatory Permit Section for a determination on whether the Corps is able to ascertain if a particular project falls within or outside of section 10 authority.

STATE OF FLORIDA

Rivers and Creeks

Acosta Creek	Bessey Creek	Bowlees Creek
Alafia River	Big Davis Creek	Box Branch
Alapaha River	Big Fishweir Creek	Boynton Canal
Alapahoochee River	Big Juniper Creek	Braden River
Alaqua Creek	Big Marco River	Bradley Creek
Alexander Springs Creek	Big Mud Creek	Bray Creek
Alligator Creek	Big Mulberry Branch	Brick-Alligator Lake Canal
Alligator Lake-Lake Gentry Canal	Billy Creek	Britt Creek
Amelia River	Black Creek	Broad River
Anclote River	Black Creek (Walton County)	Brothers River
Apalachicola River	Black Water Creek	Broward Creek
Arlington River	Blackwater River	Broward River
Aucilla River	Blind Creek	Browns Creek
Axle Creek	Blockhouse Creek	Buck Creek
Banana River	Blounts Branch	Buckhorn Creek
Barrentine Creek	Blue Creek	Bull Creek
Barron River	Blue Hole Creek	Bulow Creek
Basin Creek	Blue Springs Run	Bumble Bee Creek
Bayou Marcus Creek	Bluff Branch	Burnt Mill Creek
Bear Creek	Boathouse Creek	Butcher Pen Creek
Bear Creek (Bay County)	Bogey Branch	Butler Creek
Belcher Canal	Boggy Creek	C-15 Canal
Bells River	Bonnet Creek	C-17 Canal
	Botts Creek	C-18 Canal

DRAFT DELIBERATIVE. DO NOT RELEASE UNDER FOIA. NOTHING CONTAINED HEREIN SHALL BE CONSTRUED AS CREATING ANY RIGHTS OR BINDING EITHER PARTY

C-23 Canal	Deer Creek	Hillsborough River
C-24 Canal	Depot Creek	Hitchens Creek
C-51 Canal	Dillaberry Branch	Hog Creek
Cabbage Creek	Doctors Lake	Hogan Creek
Callaway Creek	Dog Branch	Hogpen Creek
Caloosahatchee River	Drummond Creek	Holiday Harbor
Camp Branch	Dunns Creek	Holmes Creek
Caney Branch	Durbin Creek	Holmes Creek (Jackson County)
Canoe Creek	East Bay River	Hominy Branch
Capo Creek	East Creek	Homosassa River
Carpenters Creek	East River	Honey Creek
Carrabelle River	Eau Gallie River	Hontoon Dead River
Casa Cola Creek	Econfina Creek	Hopkins Creek
Cat Creek	Econfina River	Horseshoe Creek
Cedar Creek	Econlockhatchee River	Hospital Creek
Cedar Point Creek	Egans Creek	Howard Creek
Cedar River	Eight Mile Creek	Hudson Bayou
Cemetery Creek	Elbow Branch	Hulett Branch
Chassahowitzka River	Elbow Creek	Huston River
Chatham River	Eleven Mile Creek	Ichetucknee River
Chattahoochee River	Eph Creek	Imperial River
Chicopit Bay	Escambia River	Inconstation Creek
Chipola River	Esterio River	Indian Creek
Choctawhatchee River	Etonia Creek	Indian Creek
Christopher Creek	Fakahatchee River	Indian River
Clapboard Creek	Fenholloway River	Indian River North
Clark Creek	Fish Creek	Istokpoga Creek
Clarkes Creek	Fisheating Creek	Jackson Canal
Clear Creek -	Fishing Creek	Jackson Creek
Cocohatchee River	Fitzpatrick Creek	Jackson River
Coldwater Creek	Five Mile Creek	Joe River
Coon Lake-Lake Lizzie Canal	Flora Branch	Johnson Creek
Coral Gables Waterway	Forked Creek	Johnson Creek (Gulf County)
Cormorant Creek	Fort George River	Johnson Slough
Cow Creek	Fourmile Creek	Jolly River
Cowhead Creek	Fox Cut	Jones Creek
Cracker Branch	Frazier Creek	Jones Swamp Creek
Cradle Creek	Garden Creek	Julington Creek
Craig Creek	Get Out Creek	Juniper Creek
Crane Creek	Ginhouse Creek	Karen Canal
Crooked Creek	Goodbys Creeks	Kendall Creek
Crooked Creek (Martin County)	Governor Creek	Kentner Creek
Crooked River	Graham Creek	Kentucky Branch
Crooked River (Franklin County)	Grog Branch	Kissimmee River
Cross Creek	Guano River	Krueger Creek
Cross Florida Barge Canal	Gulley Creek	L-40 Canal
Crystal River	Haines Creek	L-8 Canal
Cunningham Creek	Half Creek	Lafayette Creek
Cut Creek	Halifax River	Lake Ajay-Fells Cove Canal
Cypress Creek	Hannah Mills Creek	Lake Apopka-Beauclerc Canal
Danforth Creek	Harney River	Lake Ashby Canal
Dania Cut-off canal	Harrison Creek	Lake Center-Coon Lake Canal
Days Creek	Harry's Creek	Lake Griffin-Yale Canal
Dead River (Kissimmee River)	Hatchett Creek	Lake Hart-Ajay Canal
Dead River (Lake County, Florida)	Hatchineha Canal	Lake Joel-Myrtle Canal
Dead River (Wakulla County)	Haulover Creek	Lake Joel-Trout Canal
Dean Dead River	Haw Creek	Lake Lizzie-Alligator Canal
DeBlieu Creek	Haynes Creek	Lake Marion Creek
Deep Bottom Creek	Henderson Creek	Lake Mary Jane-Hart Canal
Deep Creek	Highland Park Run	Lake Myrtle-Mary Jane Canal
	Hillsboro Canal	Lake Okeechobee Rim Canal
	Hillsboro River	

*****DRAFT DELIBERATIVE. DO NOT RELEASE UNDER FOIA. NOTHING CONTAINED HEREIN SHALL BE CONSTRUED AS CREATING ANY RIGHTS OR BINDING EITHER PARTY*****

Lake Okeechobee Waterway
Lake Preston-Myrtle Canal
Lake Worth Lagoon
Lanceford Creek
Lehigh Canal
Leitner Creek
Little Black Creek
Little Cedar Creek
Little Clapboard Creek
Little Double Creek
Little Econlockhatchee River
Little Fishweir Creek
Little Juniper Creek
Little Manatee River
Little Mud Creek
Little Pottsburg Creek
Little River (Biscayne Bay)
Little River (Ochlockonee River)
Little Rocky Creek
Little Saint Marys River
Little Trout River
Little Wekiva River
Little Withlacoochee River
Lofton Creek
Lolly Creek
Long Branch
Long Creek
Lopez River
Lostmans River
Lower Sister Creek
Loxahatchee River
Lumber Creek
Mainard Branch
Manatee Creek
Manatee River
Marshall Creek
Mason Branch
Matanzas River
McCoys Creek
McCullough Creek
McGirts Creek
McQueen Creek
Miami Canal
Miami River
Middle River
Middle River (South and North Fork)
Mill Branch
Mill Log Creek
Mills Creek
Moccasin Branch
Moccasin Slough
Moncrief Creek
Monroe Canal
Moore's Creek
Moore's Creek (Martin County)
Morris Dead River
Morrison Creek
Moses Creek
Moultrie Creek
Mud Creek
Murphy Creek

Myakka River
Myakkahatchee Creek
Nassau River
New Castle Creek
New River (Broward County)
New River (Collier County)
New River (Franklin County)
New River (Pasco County)
New River (Union/Bradford County)
New River Canal off LO
New Rose Creek
Nichols Creek
Ninemile Creek
NN Creek
Norris Dead River
North Fork St. Lucie River
North New River Canal
Ochlockonee River
Ocklawaha River
Old Channel
Oldfield Creek
Oleta River
Open Creek
Orange Creek
Orange Grove Branch
Orange River
Ortega River
Pablo Creek
Paines Branch
Palatlakaha River
Palm River
Payne Creek
Pea River
Peace River
Pecks Branch
Pellicer Creek
Perdido River
Peters Branch
Peters Creek
Phelps Creek
Philippi Creek
Pine Barren Creek -
Pine Log Creek
Pinhook River
Pithlachascotee River
Plummer Creek
Polly Creek
Poncho Creek
Pond Creek
Poppleton Creek
Porpoise Creek
Pottsburg Creek
Puckett Creek
Pumpkin Hill Creek
Rainbow River
Red House Branch
Reedy Creek
Ribault River
Rice Creek
Robinson Creek
Rock Springs Run

Rocky Creek
Rocky Creek (Okaloosa/Walton)
Rodgers River
Rosalie Creek
Rushing Branch
Saint Sebastian River
Salt Creek
Salt Creek (Dixie County)
Salt Run
Salt Springs Run
San Carlos Creek
San Julian Creek
San Sebastian River
Sand Beach Branch
Sandy Creek
Sandy Run
Santa Fe River
Saul Creek
Sawpit Creek
Scipio Creek
Scoggin Creek
Shad Creek
Shark River
Shell Creek
Shingle Creek
Shipyard Creek
Shired Creek
Shoal River
Short Canal
Silver Glenn Springs Run
Silversmith Creek
Simms Creek
Simpson Creek
Sink Creek
Sisters Creek
Six Mile Creek
Sixteen Mile Creek
Smith Creek (Flagler)
Smith Creek (St. Johns)
Snake Creek
Snell Creek
Soap Creek
Soldier Creek
Soldier Creek (Escambia County)
Sombrero Creek
Sopchoppy River
South Amelia River
South Fork Black Creek
South Fork St. Lucie River
South Port Canal
Spring Creek
Spring Garden Creek
Spring Warrior Creek
Spruce Creek
St Francis Dead River
St. Cloud Canal
St. Johns River
St. Lucie Canal
St. Lucie River
St. Marks River
St. Marys River

*****DRAFT DELIBERATIVE. DO NOT RELEASE UNDER FOIA. NOTHING CONTAINED HEREIN SHALL BE CONSTRUED AS CREATING ANY RIGHTS OR BINDING EITHER PARTY*****

Steinhatchee River
Stokes Creek
Stranahan River
Strawberry Creek
Styles Creek
Summer Haven River
Suwannee River
Sweetwater Creek
Swimming Pen Creek
Tarpon River
Taylor Creek
Telogia Creek
Ten Mile Creek
Terrapin Creek
Thomas Creek
Thomas Mill Run
Three Otter Creek
Tiger Creek
Tocoi Creek
Tolomato River

Tomoka River
Trout -Coon Lake Canal
Trout Creek
Trout River
Turkey Creek
Turkey Creek (Okaloosa County)
Turner River
Upper Sister Creek
Waccasassa River
Wacissa River
Wakulla River
Walker creek
Wares Creek
Warf Creek
Warner Creek
Weeki Wachee River
Wekiva River
Weohyakapka Creek
West Branch
West Palm Beach Canal

West Run Cracker Branch
Wetappo Creek
Whitney River
Whittenhorse Creek
Williamson Creek
Willoughby Creek
Wills Branch
Withlacoochee River (central Florida)
Withlacoochee River (north Florida)
Woodruff Creek
Wrights Creek
Wrights Creek (Walton County)
Ximanies Creek
Yellow River
Ziegler Dead River

Lakes

Adams Lake
Alligator Lake
Blue Cypress Lake
Blue Lagoon
Brick Lake
Cherry Lake
Clark Lake
Clear Lake
Coon Lake
Crescent Lake
Cypress Lake
Dead Lakes
Deer Point Lake
Doctors Lake
Dumfoundling Bay
East Lake Tohopekaliga
Fells Cove
Horseshoe Mud Lake
Kimball Lake
Lake Ajay
Lake Apopka
Lake Ashby
Lake Beauclair
Lake Beresford
Lake Carlton
Lake Center
Lake Cone
Lake Dexter
Lake Dora
Lake Emma
Lake Eustis
Lake Florence
Lake Gentry
Lake George
Lake Griffin

Lake Harney
Lake Harris
Lake Hart
Lake Hatchineha
Lake Hell 'n Blazes also called
Lake Hellen Blazes or Lake
Helen Blazes
Lake Ida
Lake Istokpoga
Lake Jackson
Lake Jessup
Lake Jesup
Lake Joel
Lake Kissimmee
Lake Lizzie
Lake Louisa
Lake Lucy
Lake Manatee
Lake Manatee (Manatee County)
Lake Mangonia
Lake Marion
Lake Mary Jane
Lake Minnehaha
Lake Minneola
Lake Monroe
Lake Myrtle
Lake Nellie
Lake Okeechobee
Lake Ola
Lake Osborne
Lake Poinsett
Lake Powell
Lake Preston
Lake Rosalie
Lake Rousseau

Lake Santa Fe
Lake Seminole (Gadsden, Jackson Counties)
Lake Seminole (Leon County)
Lake Seminole (Pinellas County)
Lake Susan
Lake Talquin
Lake Tarpon
Lake Thonotosassa
Lake Tohopekaliga
Lake Washington
Lake Weohyakapka
Lake Wimico
Lake Winder
Lake Woodruff
Lake Yale
Little Lake George
Little Lake Harris
Little Lake Santa Fe
Little Sawgrass Lake
Lochloosa Lake
Loughman Lake
Marco Lake
Maul Lake
Mud Lake
Orange Lake
Puzzle Lake
Rodman Reservoir
Ruth Lake
Salt Lake
Sawgrass Lake
Silver Lake
Spring Garden Lake
Stagger Mud Lake
Tick Island Mud Lake

*****DRAFT DELIBERATIVE. DO NOT RELEASE UNDER FOIA. NOTHING CONTAINED HEREIN SHALL BE CONSTRUED AS CREATING ANY RIGHTS OR BINDING EITHER PARTY*****

Tiger Lake
Trout Lake
Tsala Apopka Lake

Ward Lake
Ward Lake (Manatee County)

DRAFT