Notice of Proposed Rule

[HYPERLINK "https://flrules.org/gateway/department.asp?id=62" \t "department"]
RULE NOS.:RULE TITLES:
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.010" \t "ruleNo"]Intent, Purpose, and Implementation
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.020" \t "ruleNo"]Regulated Activities
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.030" \t "ruleNo"]Definitions
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.040" \t "ruleNo"]Procedures for Review and Agency Action on Exemption Requests
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.050" \t "ruleNo"]Individual Permits
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.051" \t "ruleNo"]Application for an Individual Permit
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.052" \t "ruleNo"]Processing of Individual Permit Applications
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[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.060" \t "ruleNo"]Public Notice
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.070" \t "ruleNo"]Water Quality and Coastal Zone Consistency Review
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.080" \t "ruleNo"]Modification, Suspension, or Revocation of Permits
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[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.140" \t "ruleNo"]Mitigation Banks
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.160" \t "ruleNo"]Use of Formal Determinations
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.200" \t "ruleNo"]Policy and Purpose of General Permits
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.201" \t "ruleNo"]Conditions for General Permits
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.210" \t "ruleNo"]General Permit for Maintenance or Removal
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.211" \t "ruleNo"]General Permit for Fish and Wildlife Harvesting, Enhancement, and Attraction Devices
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.212" \t "ruleNo"]General Permit for Scientific Measurement Devices
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.213" \t "ruleNo"]General Permit for Survey Activities
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.214" \t "ruleNo"]General Permit for Outfall and Intake Structures
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.215" \t "ruleNo"]General Permit for Utility Line Activities
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.216" \t "ruleNo"]General Permit for Bank Stabilization
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.217" \t "ruleNo"]General Permit for Linear Transportation Projects

[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.218" \t "ruleNo"] General Permit for Return Water from Upland Contained Disposal Areas
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.219" \t "ruleNo"] General Permit for Hydropower Projects
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.220" \t "ruleNo"] General Permit for Minor Activities
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.221" \t "ruleNo"] General Permit for Response Operations for Oil or Hazardous Substances
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.222" \t "ruleNo"] General Permit for Removal of Vessels
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.223" \t "ruleNo"] General Permit for Approved Categorical Exclusions
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.224" \t "ruleNo"] General Permit for Structural Activities
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.225" \t "ruleNo"] General Permit for Aquatic Habitat Restoration, Enhancement, and Creation Activities
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.226" \t "ruleNo"] General Permit for Specific Reversion Activities
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.227" \t "ruleNo"] General Permit for Residential Developments
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.228" \t "ruleNo"] General Permit for Moist Soil Management for Wildlife
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.229" \t "ruleNo"] General Permit for Maintenance of Existing Flood Control Facilities
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.230" \t "ruleNo"] General Permit for Completed Federal Enforcement Actions
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.231" \t "ruleNo"] General Permit for Temporary Construction, Access, and Dewatering
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.233" \t "ruleNo"] General Permit for Boat Ramps
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.234" \t "ruleNo"] General Permit for Emergency Watershed Protection and Rehabilitation
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.235" \t "ruleNo"] General Permit for Cleanup of Hazardous and Toxic Waste
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.236" \t "ruleNo"] General Permit for Commercial and Institutional Developments
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.237" \t "ruleNo"] General Permit for Agricultural Activities
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.238" \t "ruleNo"] General Permit for Reshaping Existing Drainage Ditches
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.239" \t "ruleNo"] General Permit for Recreational Facilities
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.240" \t "ruleNo"] General Permit for Stormwater Management Facilities
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.241" \t "ruleNo"] General Permit for Mining Activities
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.242" \t "ruleNo"] General Permit for Repair of Uplands Damaged by Discreet Events
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.243" \t "ruleNo"] General Permit for Activities in Ditches

[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.244" \t "ruleNo"] General Permit for Commercial Shellfish Aquaculture Activities
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.245" \t "ruleNo"] General Permit for Land-Based Renewable Energy Generation Facilities
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.246" \t "ruleNo"] General Permit for Water-Based Renewable Energy Generation Pilot Projects
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.247" \t "ruleNo"] General Permit for Removal of Low-Head Dams
[HYPERLINK "https://flrules.org/gateway/ruleNo.asp?id=62-331.248" \t "ruleNo"] General Permit for Florida Department of Transportation and Florida's Turnpike Enterprise
PURPOSE AND EFFECT: Section 404 of the Clean Water Act (404) provides states the option of assuming administration of the federal dredge and fill permit program in certain waters. By obtaining 404 assumption, Florida will be able to provide a streamlined permitting procedure where an applicant will come to the state to obtain both the Environmental Resource Permitting and 404 authorizations. This will advance the objectives of the federal Clean Water Act and the environmental laws of the State of Florida, while also avoiding duplication and overlap of federal and state requirements, providing greater certainty to the regulated community and other stakeholders, conserving governmental resources, and affording the State of Florida greater stewardship responsibilities over natural resources within Florida while also complying with federal law.
SUMMARY: Chapter 62-331, F.A.C., was created to implement the State 404 Program by including requirements of federal law that are not already addressed in existing state regulations for dredge and fill permitting. The creation of this rule includes a State 404 Program Handbook as well as new forms to be incorporated by reference. The proposed rule creation also includes definitions, procedures for review and agency action on exemption requests, processes for Individual Permits, public notice requirements, procedures regarding mitigation banking, and procedures and descriptions for General Permits created to correspond to the federal Nationwide Permits as granted by the United States Army Corps of Engineers. This rule will have a delayed effective date. The effective date of the rule will be the effective date of assumption, which is the date identified by EPA as published in the Federal Register.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:
The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of $200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the Agency. The SERC finds that the rules would result in an overall cost savings due to the elimination of duplicative requirements and a reduction in permit processing time at the state level. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Information known to the agency regarding costs of preparation of submittals required by the rules, and based on the extensive expertise and experience of agency staff, it was determined that a SERC was necessary but the rule amendments will not require legislative ratification.
Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.
RULEMAKING AUTHORITY: [HYPERLINK "https://flrules.org/gateway/cfr.asp?id=373.026,%20373.043,%20373.118,%20373.4131,%20373.4135,%20373.414,%20373.4145,%20373.4146,%20373.421,%20380.23,%20403.061,%20403.0877,%20403.805,%20FS" \t "cfr"].
LAW IMPLEMENTED: [HYPERLINK "https://flrules.org/gateway/cfr.asp?id=373.026,%20373.042,%20373.109,%20373.117,%20373.118,%20373.119,%20373.129,%20373.136,%20373.409,%20373.413,%20373.4131,%20373.4132,%20373.4135,%20373.4136,%20373.414,%20373.4141,%20373.4142,%20373.4144,%20373.4145,%20373.4146,%20373.416,%20373.418,%20373.421,%20373.422,%20373.4211,%20373.423,%20373.426,%20373.428,%20373.429,%20373.439,%20373.441,%20380.23,%20403.0877,%20668.003,%20668.004,%20668.50,%20704.06,%20FS" \t "cfr"].
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Heather Mason, 2600 Blair Stone Road, Tallahassee, Mail Station 3500, Florida 32399, (850)245-8480, Heather.Mason@FloridaDEP.gov.. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Heather Mason, 2600 Blair Stone Road, Tallahassee, Mail Station 3500, Florida 32399, 850-245-8480, Heather.Mason@FloridaDEP.gov.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-331.010 Intent, Purpose, and Implementation

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

(2) The State 404 Program governs all dredging and filling in waters of the United States regulated by the State under section 404(g)-(l) of the Clean Water Act (CWA), 33 U.S.C §§ 1344(g)-(l) (2018), incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX) ("assumed waters" or "state-assumed waters"), and will be implemented in conjunction with the environmental resource permitting (ERP) program established in Part IV of Chapter 373, F.S.

(3) The State wetland delineation methodology in Chapter 62-340, F.A.C., shall be used to determine the boundary of state-assumed waters. Agency staff shall document the boundary of state-assumed waters using Form 62-330.201(1), "Chapter 62-340, F.A.C., Data Form" (effective date), incorporated by reference in subsection 62-330.201(1), F.A.C., and as described in Section 7.1 of Applicant's Handbook Volume I (hereinafter "Volume I") (effective date), incorporated by reference in paragraph 62-330.010(4)(a), F.A.C. (https://www.flrules.org/gateway/reference.asp?No=Ref-XXXXX).

(4) The term "Agency" applies to the Department or a Water Management District, as applicable, throughout this Chapter.

(5) This Chapter is used in conjunction with Chapter 62-330, F.A.C., Volume I and the State 404 Program Applicant's Handbook (hereinafter "404 Handbook"), incorporated by reference herein (effective date) (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX).

(6) A State 404 Program permit ("permit") is not an authorization under Chapter 62-330, F.A.C., and shall be reviewed as a separate authorization.

(7) Where there are conflicts between this Chapter and other state rules and statutes, this Chapter will control with regard to the State 404 Program (See section 8.4 of the 404 Handbook).

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

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

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

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

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

(11) Agency actions under this Chapter are state actions subject to the provisions of Sections 120.569 and 120.57, F.S., except as otherwise provided in Section 373.4146(5), F.S. (See sections 5.1 and 5.3.3 of the 404 Handbook).

(12) An authorization or exemption under this Chapter does not relieve the applicant from the need to obtain any other state, federal, or local authorizations that may be required for the project. (See 404 Handbook section 1.3 for guidance).

(13) Notwithstanding any of the provisions of this Rule, to the extent EPA recognizes or authorizes partial assumption for state 404 programs, nothing in this Chapter would restrict or prohibit the State of Florida from amending the State 404 program, in accordance with federal law, to accommodate partial assumption.

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

62-331.020 Regulated Activities

(1) A permit under this Chapter is not required for the activities described in 40 CFR § 232.3 as of July 1, 2019, incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX), and in Appendix B of the 404 Handbook, subject to the limitations described therein.

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

(3) The following types of permits are available:

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

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

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

62-331.030 Definitions

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

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

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

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

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

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

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

62-331.050 Individual Permits

(1) An individual permit is required for activities within state-assumed waters if they do not qualify for an exemption under subsection 62-331.020(1), F.A.C., or a general permit under Rules 62-331.200 through 62-331.248, F.A.C.

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

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

(b) Submitted in accordance with section 4.3 of the 404 Handbook and section 4.4 of Volume I; and

(c) Reviewed and acted on in accordance with Rule 62-331.052, F.A.C., Rule 62-331.053, F.A.C., and sections 5.0 through 8.5 of the 404 Handbook.

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

62-331.051 Application for an Individual Permit

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

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

(2) All activities which the applicant plans to undertake which are reasonably related to the same project shall be included in the same permit application. Projects that will take longer than five years to complete shall follow the long-term conceptual planning process in 404 Handbook section 5.3.2.

(3) In addition to the information described in subsection (1), above, the applicant will be required to provide additional information as necessary to assist in the evaluation of the application. Such additional information may include environmental data and information on alternate methods and sites as necessary for the preparation of the required environmental documentation. Further, such additional information shall include data and information necessary for purposes of reviewing impacts to state and federal listed species, including compliance with any applicable requirements resulting from consultation with, or technical assistance by, the Florida Fish & Wildlife Conservation Commission, the U.S. Fish & Wildlife Service, and the National Marine Fisheries Service for purposes of the State 404 Program.

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

62-331.052 Processing of Individual Permit Applications

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

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

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

(c) The Agency may request additional information as necessary during its review of any information that the Agency receives during the public comment period, at a public meeting, or during federal review.

(2) Within 10 days of the Agency determining that an application is administratively complete pursuant to subsection 62-331.060(1), F.A.C., the Agency shall provide public notice as described in subsection 62-331.060(2),

F.A.C. In addition, the Agency shall send a copy of the public notice to EPA for those projects that EPA reviews, in accordance with section 5.2.5 of the 404 Handbook.

(3) For those projects that are subject to federal review in accordance with section 5.2.5 of the 404 Handbook:

(a) If the EPA does not comment on, provide notice to the Agency of its intent to comment on, object to, make recommendations with respect to, or notify the Agency that it is reserving its right to object to, a permit application within 30 days of the date EPA receives the notice, the Agency shall make a final permit decision within 60 days after either the close of the public comment period described in subsection 62-331.060(3), F.A.C., or the project is declared technically complete, whichever occurs later.

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

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

(b) If the EPA intends to comment on, object to, or make recommendations with respect to a permit application, or if EPA does not wish to comment but wishes to reserve the right to object based on any new information brought out by the public during the comment period or at a public meeting, EPA shall notify the Agency of its intent within 30 days of receipt of the public notice or the Agency's notice to EPA of failure to accept the recommendations of an affected state or tribe. Once the Agency is notified by EPA, or if the Agency fails to accept the recommendations of an affected state or tribe and EPA must review the reasons for failing to accept the recommendations, the following procedures shall apply:

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

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

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

4. If EPA does not hold a public meeting under subparagraph 3., above, the Agency shall, within 90 days of receipt of the objection or requirement for a permit condition, either issue the permit revised to satisfy EPA's objections or notify EPA of its intent to deny the permit.

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

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

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

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

(I) Issue a permit that includes the required permit condition and/or otherwise satisfies EPA's objection;

(II) Notify EPA of its intent to deny the permit; or

(III) Notify EPA and the applicant that the Agency intends to take no action, in which case, the Corps shall process the section 404 authorization.

Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4135, 373.414(9), 373.4145, 373.4146(2), 403.805(1) FS. Law Implemented 373.042, 373.409, 373.413, 373.4131, 373.4132, 373.4135, 373.4136, 373.414, 373.4141, 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

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

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

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

1. Activities which do not involve dredging or filling in state-assumed waters;

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

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

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

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

(2) The activity shall not significantly adversely affect the aesthetics of the aquatic ecosystem as they apply to the quality of life enjoyed by the general public and property owners as described in section 8.3.2 of the 404 Handbook.

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

(a) When the project is inconsistent with the requirements of this Chapter and the 404 Handbook, including when the project:

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

2. Causes or contributes to violations of any applicable water quality standard within other states or Tribal lands;

3. Violates any applicable toxic effluent standard or prohibition under section 307 of the CWA, 33 U.S.C. § 1317 (2018), incorporated herein https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX), or state law;

4. Jeopardizes the continued existence of endangered or threatened species, or results in the likelihood of the destruction or adverse modification of a habitat which is determined by the Secretary of Interior or Commerce, as appropriate, to be a critical habitat for endangered or threatened species. Compliance with any requirements resulting from consultation with, or technical assistance by, the Florida Fish & Wildlife Conservation Commission, the U.S. Fish & Wildlife Service, and the National Marine Fisheries Service for purposes of the State 404 Program shall be determinative for purposes of evaluating violations of this subparagraph. If an exemption has been granted by the Endangered Species Committee, the terms of such exemption shall apply in lieu of this subparagraph;

5. Violates any requirement imposed by the Secretary of Commerce to protect any area designated as a marine sanctuary.

6. Causes or contributes to significant degradation of wetlands or other surface waters. Effects contributing to significant degradation considered individually or collectively, include:

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

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

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

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

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

(c) When there does not exist sufficient information to make a reasonable judgement as to whether the proposed activity will comply with the requirements of this Chapter;

(d) When the EPA has objected to issuance of the permit and the objection has not been resolved, or placed a requirement for a permit condition that has not been addressed, as described in paragraph 62-331.052(3)(b), F.A.C.;

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

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

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

62-331.054 General Conditions for Individual Permits

(1) Individual permits shall contain the general conditions for individual permits in subsection 62-330.350(1), F.A.C., as applicable, and any specific conditions necessary to assure that the activities will be conducted in compliance with this Chapter, and in a manner which minimizes adverse impacts upon the physical, chemical, and biological integrity of wetlands or other surface waters, such as requirements for mitigation requirements and protection measures for listed species or historical resources. The general conditions in subsection 62-330.350(1), F.A.C., shall be modified to contain applicable references to the rules of this Chapter, where necessary.

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

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

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

(c) The permittee shall timely notify the Agency of any expected or known actual noncompliance.

(d) Upon Agency request, the permittee shall provide information necessary to determine compliance status, or whether cause exists for permit modification, revocation, or termination.

(e) Inspection and entry. The permittee shall allow the Agency, upon presentation of proper identification, at reasonable times to:

1. Enter upon the permittee's premises where a regulated activity is located or where records must be kept under the conditions of the permit,

2. Have access to and copy any records that must be kept under the conditions of the permit,

3. Inspect operations regulated or required under the permit, and

4. Sample or monitor, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

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

62-331.060 Public Notice

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

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

(b) Name(s) and address(es) of owners of property adjoining the property where the activity is proposed to occur;

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

(d) A complete description of the activity including necessary drawings, sketches, or plans sufficient for public notice; the location, purpose, and intended use of the proposed activity; the long-term conceptual plan described in 404 Handbook, section 5.3.2, if applicable; scheduling of the activity; the location and dimensions of adjacent structures; and a list of authorizations required by other agencies including federal, interstate, state, or local agencies for the work, including all approvals received or denials already made;

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

(f) A summary of proposed wetland and other surface water impacts and compensatory mitigation including acres, habitat type, and Uniform Mitigation Assessment Method (UMAM) score developed pursuant to Chapter 62-345, F.A.C., for each assessment area;

(g) The alternatives analysis required by subsection 62-331.053(1), F.A.C.; and

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

(i) Any other information relevant to the project that would significantly assist the public and commenting agencies in reviewing, understanding, and commenting on the proposed project, including information needed for review of impacts to state or federal listed species.

(2) Public notice shall be prepared in accordance with section 5.3.1 of the 404 Handbook and provided as follows:

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

1. The applicant;

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

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

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

5. All persons, other than those listed above, who have specifically requested copies of public notices. The Agency may require the use of an existing online notification system to request and receive such notices, except where the requestor asks to be notified by an alternative method because of a technical or financial hardship.

6. The Seminole Tribe of Florida Environmental Resource Management Department (ERMD) for any activity that is within six miles of the Seminole Tribe of Florida's Big Cypress or Brighton Reservations; within two miles of the Seminole Tribe of Florida's Immokalee, Lakeland, or Fort Pierce Reservations; within one mile of the Seminole Tribe of Florida's Tampa, Coconut Creek, or Hollywood Reservations; within the Seminole Tribe's reserved rights areas, including but not limited to: within Big Cypress National Preserve; within Big Cypress National Preserve addition lands; within Everglades National Park; within Rotenberger Wildlife Management Area; or within Water Conservation Area 3-A.

7. The Seminole Tribe of Florida's Tribal Historic Preservation Office (THPO) for activities in the State of Florida.

8. The Miccosukee Tribe of Indians of Florida for any activity that is within two miles of the Miccosukee Federal Reservation; Miccosukee Reserve Area; Krome Avenue, Dade Corners, Cherry Ranch, or Sherrod Ranch

Reservations; and Coral Way, Lambick, or Sema Trust Properties. Also for any activity within the Miccosukee Tribe's reserved rights areas, including but not limited to: within Big Cypress National Preserve; within Big Cypress National Preserve addition lands; within Everglades National Park; within Rotenberger Wildlife Management Area; or within Water Conservation Area 3-A.

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

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

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

(a) 30 days; or

(b) 15 days for the following projects:

1. Mosquito control activities including rotary ditching;

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

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

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

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

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

c. Wetlands in Areas of Critical State Concern;

d. Timicuan Ecological and Historical Preserve in Duval County;

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

f. The Florida Keys.

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

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

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

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

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

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

(6) The Agency shall consider all comments received in response to the public notice, and public meeting if a meeting is held. All comments, as well as the record of any public meeting, shall be made part of the official record on the application.

(7) Revocation or suspension of permits shall be subject to the review process in subsection 62-331.052(3), F.A.C.

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

62-331.070 Water Quality and Coastal Zone Consistency Review

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

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

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

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

62-331.080 Modification, Suspension, or Revocation of Permits

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

(1) The following shall be processed as minor modifications. Any activity not covered below shall be processed as a major modification:

(a) Correction of typographical errors;

(b) Requiring more frequent monitoring or reporting by permittee;

(c) Changing ownership or operational control of a project or activity where the Agency determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Agency;

(d) Minor modifications of project plans that do not significantly change the character, scope, and/or purpose of the project or result in significant change in environmental impact. The Agency shall use the factors in section 6.2.1(d) of Volume I, as applicable, to determine whether the modification will be considered minor;

(e) Extending the term of an individual permit, so long as the modification does not extend the term of the permit beyond 5 years from its original effective date and does not result in any increase in the amount of material to be dredged or used as fill.

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

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

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

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

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

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

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

(3) Extensions of permits.

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

(b) General permits shall not be extended.

(4) Public notice.

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

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

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

Rulemaking Authority 373.026(7), 373.043, 373.4145, 373.4146(2), 403.805(1) FS. Law Implemented 373.4146, 373.429 FS. History – New _____.

62-331.090 Duration of Permits

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

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

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

Rulemaking Authority 373.026(7), 373.043, 373.4145, 373.4146(2), 403.805(1) FS. Law Implemented 373.4146(5) FS. History – New _____.

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

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

(2) If the permittee sells the property associated with a general permit verification, the permittee shall transfer the general permit verification to the new owner by submitting a completed Form 62-331.100(1) – "Transfer of State 404 Program General Permit Verification", incorporated by reference herein (effective date) (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX), within 30 days of the sale, to the Agency that processed the original notice.

Rulemaking Authority 373.026(7), 373.043, 373.4145, 373.4146(2), 403.805(1) FS. Law Implemented 373.4131, 373.4135, 373.4136, 373.4145, 373.4146, 373.416, 373.426 FS. History – New _____.

62-331.110 Emergency Field Authorizations

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

(2) The entity requesting an emergency field authorization shall complete an "State 404 Program Emergency Field Authorization", Form 62-331.110(1), F.A.C, (effective date), incorporated by reference herein (https://www.flrules.org/gateway/reference.asp?No=Ref-XXXXX). A copy of this form may be obtained from the Agency, as described in subsection 62-331.010(8), F.A.C. The activity authorized by the emergency field authorization may commence upon written approval by the Agency's field representative. The recipient of an emergency field authorization is responsible for compliance with all the terms and conditions of the authorization.

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

(4) The emergency field authorization may be terminated at any time, effective immediately upon the Agency notifying the permittee of the termination either orally or in writing, if the Agency determines that termination is necessary to protect human health or the environment. If oral termination is given, the Agency shall follow up with a written termination within five business days.

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

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

(7) The Agency shall consult with EPA, the Corps, FWS, and NMFS about 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.

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

62-331.120 Fees

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

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

62-331.130 Compensatory Mitigation

Compensatory mitigation shall be considered only after the requirements of Rule 62-331.053(1), F.A.C., have been met. Compensatory mitigation required for authorizations or compliance actions under this Chapter shall be conducted in accordance with section 10.3 of Volume I, section 8.5 of the 404 Handbook, and this section:

(1) Mitigation Hierarchy. The preferential hierarchy in the 404 Handbook section 8.5.1 shall be followed when compensatory mitigation is required for authorizations and compliance actions.

(2) Mitigation proposals other than the purchase of mitigation bank or in-lieu fee program credits shall include an adaptive management plan. The plan shall include information about the party or parties responsible for implementing adaptive management measures, including the information required in Volume I, section 10.3.1.2.1.

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

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

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

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

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

(5) Compensatory mitigation for Florida Department of Transportation (FDOT) projects, proposed in accordance with Section 373.4137, F.S., shall be consistent with this Chapter to be used for State 404 Program permits.

(6) Compensatory mitigation for mining in the Miami-Dade County Lake Belt Area requiring a State 404 permit conducted in accordance with Section 373.41492, F.S. shall be consistent with this Chapter to be used for State 404 Program permits. Activities authorized by the permit cannot commence until the specific compensatory mitigation project for which the mitigation funds will be used are identified and approved by the Lake Belt Mitigation Committee.

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

62-331.140 Mitigation Banks and In-Lieu Fee Programs

(1) Mitigation banks and in-lieu fee program instruments shall be reviewed and processed by the Corps in accordance with federal law. However, the Agency shall be responsible for issuing any permits required for dredge or fill activities needed to implement the mitigation bank or in-lieu fee program within state-assumed waters.

(2) Federal mitigation bank and in-lieu fee credits shall be acceptable to provide compensatory mitigation for State 404 Program permits, where appropriate. (See 404 Handbook, section 8.5.1).

(3) A designated representative of the Agency shall serve as a member of the Interagency Review Team.

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

62-331.160 Use of Formal Determinations

A valid formal determination completed in accordance with subsection 62-330.201(2), F.A.C., and Applicant's Handbook I, section 7.2 shall be accepted in an application for a permit.

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

62-331.200 Policy and Purpose of General Permits

(1) The general permits apply to those activities that do not otherwise qualify for an exemption under subsection 62-331.020(1), F.A.C., and that qualify under the general permit requirements in this section and in Rules 62-331.201 through 62-331.248, F.A.C.

(2) General permits authorize activities that, if conducted consistent with the permit requirements, will cause only minimal individual and cumulative adverse environmental effects. Compensatory mitigation shall be required, when necessary, to offset impacts authorized under a general permit, unless the general permit specifically states otherwise. Any required compensatory mitigation must comply with provisions in Rule 62-331.130, F.A.C., and section 8.5 of the 404 Handbook.

(3) If required, notice of intent to use the general permit shall be given pursuant to subsection 62-330.402(1), F.A.C., and section 4.3 of the 404 Handbook, and acted upon in accordance with subsection 62-330.402(4), F.A.C., section 5.0 of the 404 Handbook, and this section. Submittal of a notice of intent to the Agency is required if:

(a) Indicated in the general permit;

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

(c) The project is in state-assumed waters accessible to any state or federal listed species;

(d) The activity is adjacent to the river segments identified in the Nationwide Rivers Inventory: https://www.nps.gov/ncrc/programs/rtca/nri/index.html;

(e) The activity is in the Florida Keys;

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

(g) The project is adjacent to Tribal lands;

(h) The project is within six miles of the Seminole Tribe of Florida's Big Cypress or Brighton Reservations; within two miles of the Seminole Tribe of Florida's Immokalee, Lakeland, or Fort Pierce Reservations; within one mile of the Seminole Tribe of Florida's Tampa, Coconut Creek, or Hollywood Reservations; within the Seminole Tribe's reserved rights areas, including but not limited to: within Big Cypress National Preserve; within Big Cypress National Preserve addition lands; within Everglades National Park; within Rotenberger Wildlife Management Area; or within Water Conservation Area 3-A;

(i) The Miccosukee Tribe of Indians of Florida for any activity that is within two miles of the Miccosukee Federal Reservation; Miccosukee Reserve Area; Krome Avenue, Dade Corners, Cherry Ranch, or Sherrod Ranch Reservations; and Coral Way, Lambick, or Sema Trust Properties. Also for any activity within the Miccosukee Tribe's reserved rights areas, including but not limited to: within Big Cypress National Preserve; within Big Cypress National Preserve addition lands; within Everglades National Park; within Rotenberger Wildlife Management Area; or within Water Conservation Area 3-A; or

(j) The State Historic Preservation Office (SHPO) determines that the Florida Master Site File (FMSF) includes a historic property within 50 meters of the project area that is listed on, determined to be eligible for listing on, or

potentially eligible for listing on the National Register of Historic Places. To obtain this determination, any person who intends to use a general permit that does not otherwise require notice shall contact the FMSF to conduct a historic properties search. The applicant shall provide the FMSF with a description of project area, project area map, and Section/Township/Range and/or latitude/longitude coordinates to sitefile@dos.myflorida.com or contact the FMSF office at (850) 245-6440.

1. Where the FMSF Report for the property (or all properties if more than one) shows the SHPO Evaluation ('SHPO Eval' column) to be "Not Eligible" and also shows the property(ies) are not listed or proposed for listing on the National Register of Historic Places ('NR Status' column), and notice is not otherwise required under this section, then submittal of a notice of intent is not required.

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

(4) Each permittee who receives a general permit verification letter under this Chapter must submit a completed Form 62-331.200(1) – "Certification of Compliance with a State 404 Program General Permit", incorporated by reference herein (effective date) (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX), within 30 days of completion of the authorized activity, or the implementation of any required compensatory mitigation, whichever is later.

(5) General permits shall expire five years from the date the general permit becomes effective in rule. If the general permits are not renewed before the expiration date, an individual permit will be required for the activities.

(6) The Agency shall have discretionary authority to require any person authorized under a general permit to apply for an individual permit where sufficient cause exists. Sufficient cause includes concerns for the aquatic environment; concerns regarding individual, secondary, and cumulative impacts; and compliance with the conditions in Rule 62-331.201, F.A.C., below.

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

62-331.201 Conditions for General Permits

(1) General permits shall be subject to the conditions in subsections (2) and (3), below, and the general conditions for all general permits in Rule 62-330.405, F.A.C., except subsections 62-330.405(7) and (10), F.A.C. The Agency may revise the general conditions in Rule 62-330.405, F.A.C. to include references to applicable rules under this Chapter, as necessary.

(2) When a project requires submittal of a notice of intent to use a general permit, the Agency shall impose specific conditions as necessary to assure that the activities will be conducted in compliance with this Chapter, and in a manner which minimizes adverse impacts upon the physical, chemical, and biological integrity of wetlands or other surface waters, such as mitigation, monitoring, reporting, or recordkeeping requirements and protection measures for listed species or historical resources.

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

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

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

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

(d) Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by general permits in Rule 62-331.211 or 62-331.244,

F.A.C., or is a shellfish seeding or habitat restoration activity authorized by the general permit in Rule 62-331.225, F.A.C.

(e) Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or fill must be free from toxic pollutants in toxic amounts as listed in section 307 of the CWA, which is incorporated by reference in subparagraph 62-331.053(3)(a)3., F.A.C., or state law.

(f) Water Supply Intakes. No activity may occur within 1000 feet of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

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

(h) Single and Complete Project. The activity must be a single and complete project. The same general permit cannot be used more than once for the same single and complete project. (See 404 Handbook, section 3.2.1).

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

(j) Tribal Rights. No general permit activity may cause more than minimal adverse effects on tribal rights (including treaty rights, settlement rights, or rights reserved under state or federal law), protected tribal resources (including cultural or burial resources off reservation), tribal waters, or to tribal lands.

(k) Listed species. No activity is authorized under any general permit which is likely to directly or indirectly jeopardize the continued existence of an endangered or threatened species or a species proposed for such designation, or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any general permit which may affect a listed species or critical habitat, unless the Agency has consulted with, or been provided technical assistance by the Florida Fish & Wildlife Conservation Commission, the U.S. Fish & Wildlife Service, and the National Marine Fisheries Service and appropriate measures to address the effects of the proposed activity have been implemented or are required as a specific condition to the general permit.

(l) Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act, 16 U.S.C. §§ 703 – 712 (2018), incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX), and the Bald and Golden Eagle Protection Act, 16 U.S.C. §§ 668 – 668(d) (2018), incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX). The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether incidental take permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

(m) Historic Properties. In cases where the Agency determines, based on information from SHPO, that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized until a determination of "no effect" or "no adverse effect" is provided by SHPO.

(n) Manatees. In waters that are accessible to manatees, the permittee shall follow the "Standard Manatee Conditions for In-Water Work (2011)", incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX).

(o) Sea turtles, smalltooth sawfish, Gulf sturgeon, or shortnose sturgeon. In waters that are accessible to these species, the permittee shall follow the "Sea Turtle and Smalltooth Sawfish Construction Conditions" (March 23, 2006), incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX).

(p) Use of Multiple General Permits. The use of more than one general permit under this Chapter for a single and complete project is prohibited, except when the acreage loss of state-assumed waters authorized by the general permits does not exceed the acreage limit of the general permit with the highest specified acreage limit.

(q) Transfer of General Permit Verifications. If the permittee sells the property associated with the general permit verification, the permittee shall transfer the general permit verification to the new owner by submitting a completed Form 62-331.100(1) – "Transfer of State 404 Program General Permit Verification" (effective date),

incorporated by reference in subsection 62-331.100(2), F.A.C., within 30 days of the sale, to the Agency that processed the original notice.

(r) Compliance Certification. Each permittee who receives a general permit verification letter under this Chapter must submit a completed Form 62-331.200(1) – "Certification of Compliance with a State 404 Program General Permit" (effective date), incorporated by reference in subsection 62-331.200(4), F.A.C., within 30 days of completion of the authorized activity, or the implementation of any required compensatory mitigation, whichever is later.

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

(t) Noncompliance. The permittee shall timely notify the Agency of any expected or known actual noncompliance.

(u) Inspection and entry. The permittee shall allow the Agency, upon presentation of proper identification, at reasonable times to:

1. Enter upon the permittee's premises where a regulated activity is located or where records must be kept under the conditions of the permit,

2. Have access to and copy any records that must be kept under the conditions of the permit,

3. Inspect operations regulated or required under the permit, and

4. Sample or monitor, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

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

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

(x) Upon Agency request, the permittee shall provide information necessary to determine compliance status, or whether cause exists for permit modification, revocation, or termination.

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

62-331.210 General Permit for Maintenance or Removal

(1) This general permit authorizes the following activities:

(a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill, or of any currently serviceable structure or fill authorized by 33 CFR § 330.3 as of July 1, 2019, incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX), provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, requirements of other regulatory agencies, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized.

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

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

(d) The repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as

hurricanes or tornadoes, this two-year limit may be waived by the Agency, provided the permittee can demonstrate funding, contract, or other similar delays.

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

(f) Temporary structures, fills, and work, including the use of temporary mats, necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and fill, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After conducting the maintenance activity, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

(2) This general permit does not authorize:

(a) Beach restoration.

(b) New stream channelization or stream relocation projects.

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

(3) Notice of intent to use this general permit is required for activities authorized by paragraph (1)(e). The notice must include information regarding the original design capacities and configurations of the outfalls, intakes, and small impoundments.

Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.4131, 373.414(9), 373. 373.4145, 373.4146(2), 403.805(1) FS. Law Implemented 373.118, 373.129, 373.136, 373.413, 373.4131, 373.414, 373.4145, 373.4146, 373.416, 373.422, 373.423, 373.429 FS. History – New_____.

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

(1) This general permit authorizes fish and wildlife harvesting devices and activities such as pound nets, crab traps, crab dredging, eel pots, lobster traps, duck blinds, and clam and oyster digging, fish aggregating devices (for research purposes only), and small fish attraction devices.

(2) This general permit does not authorize:

(a) Artificial reefs.

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

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

(d) Placement of materials for Live Rock culture.

(e) Harvesting of Live Rock.

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

62-331.212 General Permit for Scientific Measurement Devices

(1) This general permit authorizes the following activities:

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

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

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

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

62-331.213 General Permit for Survey Activities

(1) This general permit authorizes the following activities:

(a) Survey activities, such as core sampling, seismic exploratory operations, plugging of seismic shot holes and other exploratory-type bore holes, exploratory trenching, soil surveys, sampling, sample plots or transects for wetland delineations, and historic resources surveys. For the purposes of this general permit, the term "exploratory trenching" means mechanical land clearing of the upper soil profile to expose bedrock or substrate, for the purpose of mapping or sampling the exposed material. The area in which the exploratory trench is dug must be restored to its pre-construction elevation upon completion of the work and must not drain a state-assumed water. In wetlands, the top 6 to 12 inches of the trench shall be backfilled with topsoil from the trench.

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

(2) This general permit does not authorize:

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

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

(c) Fill placed for roads and other similar activities.

(d) Permanent structures.

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

(3) Notice of intent to use this general permit is required for Seismic exploratory activities in state-assumed waters accessible to any federal listed species.

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

62-331.214 General Permit for Outfall and Intake Structures

(1) This general permit authorizes activities related to the construction or modification of outfall structures and associated intake structures, where the effluent from the outfall is authorized, conditionally authorized, or specifically exempted by, or otherwise in compliance with regulations issued under Part I of Chapter 403, F.S.

(2) This general permit does not authorize the construction of intake structures, unless they are directly associated with an authorized outfall structure.

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

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

62-331.215 General Permit for Utility Line Activities

(1) This general permit authorizes the following activities:

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

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

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

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

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

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

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

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

1. Access roads must be the minimum width necessary.

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

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

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

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

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

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

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

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

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

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

4. The areas affected by temporary fills must be revegetated, as appropriate.

(2) This general permit does not authorize:

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

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

(3) A notice of intent to use this general permit is required prior to commencing the activity if any of the following criteria are met:

(a) The activity involves mechanized land clearing in a forested wetland for the utility line right-of-way.

(b) The utility line in state-assumed waters, excluding overhead lines, exceeds 500 feet.

(c) The utility line is placed within a state-assumed water, and it runs parallel to or along a stream bed that is within that area of state-assumed waters.

(d) Activities that result in the loss of greater than 1/10-acre of state-assumed waters.

(e) The activity is within forested wetlands. (f) Permanent access roads are constructed above grade in state-assumed waters for a distance of more than 500 feet.

(g) Permanent access roads are constructed in state-assumed waters with impervious materials.

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

1. Escambia River
2. Yellow River
3. Shoal River
4. Choctawhatchee River
5. Chipola River
6. Apalachicola River
7. Ochlockonee River
8. Santa Fe River
9. New River (Bradford and Union County line)
10. Econfina Creek (4) For utility line activities crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of general permit authorization.

(5) For activities that require notice of intent to use this general permit, the notice must include any other general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require a general permit authorization but do not require submittal of a notice of intent.

(6) The agency shall require mitigation, when necessary, to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects.

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

62-331.216 General Permit for Bank Stabilization

(1) This general permit authorizes the following activities:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. The areas affected by temporary fills must be revegetated, as appropriate.

(2) The permittee must submit a notice of intent to use this general permit to the Agency prior to commencing the activity if the bank stabilization activity:

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

(b) Is in excess of 500 feet in length;

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

or

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

1. Escambia River
2. Yellow River
3. Shoal River
4. Choctawhatchee River
5. Chipola River
6. Apalachicola River
7. Ochlockonee River
8. Santa Fe River
9. New River (Bradford and Union County line)
10. Econfina Creek

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

62-331.217 General Permit for Linear Transportation Projects

(1) This general permit authorizes the following activities:

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

1. The activity cannot cause the loss of greater than 1/2-acre of state-assumed waters.

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

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

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

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

3. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations.

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

(2) This general permit does not authorize:

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

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

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

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

(3) The permittee must submit a notice of intent to use this general permit to the agency prior to commencing the activity if:

(a) The loss of state-assumed waters exceeds 1/10-acre.

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

(c) The project is in the following rivers, creeks, and their tributaries.

1. Escambia River
2. Yellow River
3. Shoal River
4. Choctawhatchee River
5. Chipola River
6. Apalachicola River
7. Ochlockonee River
8. Santa Fe River
9. New River (Bradford and Union County line)
10. Econfina Creek

(4) For activities that require notice of intent to use this general permit, the notice must include any other general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require authorization but do not require submittal of a notice of intent.

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

(6) The Agency shall require mitigation, when necessary, to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects.

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

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

(1) This general permit authorizes return water from an upland contained dredged material disposal area, when:

(a) The return water will not adversely affect the quality of receiving waters such that the state water quality standards set forth in Chapters 62-4, 62-302, 62-520, and 62-550, F.A.C., including the antidegradation provisions 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, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C., will be violated;

(b) The return water is not part of an activity that requires an individual permit (if so, return water will be addressed within the individual permit).

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

62-331.219 General Permit for Hydropower Projects

(1) This general permit authorizes dredging or filling associated with hydropower projects having:

(a) Less than 5000 kW of total generating capacity at existing reservoirs, where the project, including the fill, is licensed by the Federal Energy Regulatory Commission (FERC) under the Federal Power Act of 1920; or

(b) A licensing exemption granted by the FERC pursuant to section 408 of the Energy Security Act of 1980 (16 U.S.C. §§ 2705 and 2708) and section 30 of the Federal Power Act.

(2) The permittee must submit a notice of intent to use this general permit to the Agency prior to commencing the activity.

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

62-331.220 General Permit for Minor Activities

(1) This general permit authorizes minor dredge or fill activities in state-assumed waters, provided the activity meets all of the following criteria:

(a) The quantity of fill and the volume of material excavated do not exceed 25 cubic yards below the plane of the mean or ordinary high water line;

(b) The activity will not cause the loss of more than 1/10-acre of state-assumed waters; and

(c) The activity is not conducted for the purpose of a stream diversion.

(2) This general permit does not authorize projects that capture and store water, such as Dispersed Water Management Projects (DWMP).

(3) The permittee must submit a notice of intent to use this general permit to the Agency prior to commencing the activity if:

(a) The fill or the volume of material excavated exceeds 10 cubic yards below the plane of the mean or ordinary high water line;

(b) The activity is in a special aquatic site, including wetlands;

or

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

1. Escambia River
2. Yellow River
3. Shoal River
4. Choctawhatchee River
5. Chipola River
6. Apalachicola River

7. Ochlockonee River
8. Santa Fe River
9. New River (Bradford and Union County line)
10. Econfina Creek

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

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

(1) This general permit authorizes:

(a) Activities conducted in response to a spill or release of oil or hazardous substances that are subject to the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR Part 300 as of July 1, 2019, incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX)), including containment, cleanup, and mitigation efforts, provided that the activities are done under either:

1. The Spill Control and Countermeasure Plan required by 40 CFR § 112.3 as of July 1, 2019, incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX));

2. The direction or oversight of the federal on-scene coordinator designated by 40 CFR Part 300; or

3. Any approved existing state, regional or local contingency plan provided that the Regional Response Team (if one exists in the area) concurs with the proposed response efforts.

(b) Activities required for the cleanup of oil releases in state-assumed waters from electrical equipment that are governed by EPA's polychlorinated biphenyl spill response regulations at 40 CFR Part 761 as of July 1, 2019, incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX)).

(c) The use of temporary structures and fills in state-assumed waters for spill response training exercises.

(2) Use of this general permit is subject to the following conditions:

(a) Activities shall be conducted in conformance with the National Response Team Integrated Contingency Plan Guidance (June 5, 1996), incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX);

(b) Activities shall be conducted in conformance with any applicable emergency order for oil spill or hazardous waste control, clean-up, and recovery/restoration issued by the Department.

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

62-331.222 General Permit for Removal of Vessels

(1) This general permit authorizes temporary structures or minor dredging or filling required for the removal of wrecked, abandoned, or disabled vessels.

(2) This general permit does not authorize maintenance dredging, shoal removal, or riverbank snagging.

(3) The permittee must submit a notice of intent to use this general permit to the Agency prior to commencing the activity if:

(a) The activity is conducted in a special aquatic site, including wetlands;

or

(b) The vessel is listed or eligible for listing in the National Register of Historic Places. If this condition is triggered, the permittee cannot commence the activity until informed by the Agency that compliance with the "Historic Properties" general condition is completed.

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

62-331.223 General Permit for Approved Categorical Exclusions

(1) This general permit authorizes activities undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by a federal agency or department, where:

(a) That agency or department has determined, pursuant to the Council on Environmental Quality's implementing regulations for the National Environmental Policy Act, that the activity is categorically excluded from the requirement to prepare an environmental impact statement or environmental assessment analysis, because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment; and

(b) The Office of the Chief of Engineers (Corps) has concurred that the activity is categorically excluded. The list of activity types for which the Office of the Chief of Engineers has concurred categorical exclusion can be found in the current Corps' Regulatory Guidance Letter (RGL) regarding categorical exclusions. Current RGLs can be found online in the Corps' Jacksonville District Regulatory Division Sourcebook.

(2) Use of this general permit is subject to any specific conditions required by the Agency or listed in the current RGL by the Office of the Chief of Engineers.

(3) The permittee must submit a notice of intent to use this general permit to the Agency prior to commencing the activity if the current RGL regarding categorical exclusions require submittal of a pre-construction notice for the activity;

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

62-331.224 General Permit for Structural Activities

(1) This general permit authorizes the placement of fill material such as concrete, sand, rock, etc., into tightly sealed forms or cells where the material will be used as a structural member for standard pile supported structures, such as bridges, transmission line footings, and walkways, including the excavation of bottom material from within the form prior to the placement of concrete, sand, rock, etc.

(2) This general permit does not authorize filled structural members that would support buildings, building pads, homes, house pads, parking areas, storage areas and other such structures.

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

62-331.225 General Permit for Aquatic Habitat Restoration, Enhancement, and Creation Activities

(1) This general permit authorizes the following activities:

(a) Activities in state-assumed waters associated with the restoration, enhancement, and creation of non-tidal wetlands and riparian areas, the restoration and enhancement of streams and other open waters, provided those activities result in net increases in aquatic resource functions and services. To the extent that an activity requires a Section 404 permit, the activities authorized by this general permit, include, but are not limited to:

1. The removal of accumulated sediments;

2. The installation, removal, and maintenance of small water control structures, dikes, and berms, as well as dredging or filling to restore appropriate stream channel configurations after small water control structures, dikes, and berms, are removed;

3. The installation of current deflectors;

4. The enhancement, rehabilitation, or re-establishment of riffle and pool stream structure;

5. The placement of in-stream habitat structures;

6. Modifications of the stream bed and/or banks to enhance, rehabilitate, or re-establish stream meanders;

7. The removal of stream barriers, such as undersized culverts, fords, and grade control structures;

8. The backfilling of artificial channels;

9. The removal of existing drainage structures, such as drain tiles, and the filling, blocking, or reshaping of drainage ditches to restore wetland hydrology;

10. The installation of structures or fills necessary to restore or enhance wetland or stream hydrology;

11. The construction of open water areas;

12. Activities needed to reestablish vegetation, including plowing or discing for seed bed preparation and the planting of appropriate wetland species;

13. Re-establishment of submerged aquatic vegetation in areas where those plant communities previously existed;

14. Mechanized land clearing to remove non-native invasive, exotic, or nuisance vegetation;

15. Other related activities.

(b) Relocation of waters, including wetlands and streams, on the project site provided there are net increases in aquatic resource functions and services.

(2) This general permit does not authorize:

(a) The conversion of a stream or natural wetlands to another aquatic habitat type (*e.g.*, the conversion of a stream to wetland or vice versa) or uplands, except for the relocation of waters on the project site. Changes in wetland plant communities that occur when wetland hydrology is more fully restored during wetland rehabilitation activities are not considered a conversion to another aquatic habitat type.

(b) Stream channelization.

(c) Lake restoration projects proposing any type of in-lake disposal of dredged or fill material.

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

(a) The aquatic habitat restoration, enhancement, or creation activity must be planned, designed, and implemented so that it results in aquatic habitat that resembles an ecological reference. An ecological reference may be based on the characteristics of an intact aquatic habitat or riparian area of the same type that exists in the region, or it may be based on a conceptual model developed from regional ecological knowledge of the target aquatic habitat type or riparian area.

(b) Only native plant species shall be planted at the site.

(c) Reporting. For those activities that do not require submittal of a notice of intent, the permittee must submit a report the to the Agency at least 30 days prior to commencing activities in state-assumed waters authorized by this general permit. The report shall include:

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

2. A copy of:

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

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

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

(4) Compensatory mitigation is not required for activities authorized by this general permit since these activities must result in net increases in aquatic resource functions and services.

(5) The permittee must submit a notice of intent to use this general permit to the Agency prior to commencing any activity, except for the following activities:

(a) Activities conducted on non-Federal public lands and private lands, in accordance with the terms and conditions of a binding stream enhancement or restoration agreement or wetland enhancement, restoration, or creation agreement between the landowner and the FWS, NRCS, FSA, NMFS, NOS, USFS or their designated state cooperating agencies;

(b) Voluntary stream or wetland restoration or enhancement action, or wetland creation action, documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or

(6) This general permit can be used to authorize compensatory mitigation projects, including mitigation banks and in-lieu fee projects.

(7) If a site is to be reverted back to its documented prior condition, when the reversion will be conducted as described in paragraphs (a) through (c), below, the agreement or general permit shall contain language specifically stating the intent to revert at a later date. The reversion activities will require authorization through the use of the

general permit in Rule 62-331.226, F.A.C., or a State 404 Program individual permit for activities associated with reversion but outside of the scope of the original permit.

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

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

(c) In state-assumed waters for reversion of wetlands that were restored, enhanced, or established on prior-converted cropland or on uplands, in accordance with a binding agreement between the landowner and NRCS, FSA, FWS, or state agencies (even though the restoration, enhancement, or creation activity did not require a Section 404 permit).

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

62-331.226 General Permit for Specific Reversion Activities

(1) This general permit authorizes dredging or filling associated with the reversion of an area permitted under Corps Nationwide Permit 27, the general permit under Rule 62-331.225, F.A.C., or any other applicable ERP or Section 404 permit that specifically references reversion, to its documented prior condition when the reversion is conducted:

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

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

(c) In state-assumed waters for reversion of wetlands that were restored, enhanced, or established on prior-converted cropland or on uplands, in accordance with a binding agreement between the landowner and NRCS, FSA, FWS, or state agencies (even though the restoration, enhancement, or creation activity did not require a Section 404 permit).

(2) This general permit does not authorize reversion of an area used for a compensatory mitigation project to its prior condition, since compensatory mitigation is generally intended to be permanent.

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

(a) The reversion activity has been evaluated by FWS under Section 7 or Section 10 consultation, and a Section 7 incidental take statement or Section 10 incidental take permit has been issued for the activity, if required. If Section 7 or Section 10 consultation for the reversion activities was completed for the original permit or agreement, specifically addresses the reversion, and there are no unexpected site conditions that had not previously been addressed, then a new consultation shall not be required.

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

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

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

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

2. A copy of:

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

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

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

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

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

(4) Notwithstanding the provisions of paragraphs 62-331.060(3)(c) through (i), F.A.C., notice of intent to use this general permit, other than submittal of the information in paragraph (3)(d), above, is not required for activities authorized under this general permit.

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

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

62-331.227 General Permit for Residential Developments

(1) This general permit authorizes the following activities:

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

(b) The construction of building foundations and building pads and attendant features that are necessary for the use of the residence or residential development. Attendant features may include but are not limited to roads, parking lots, garages, yards, utility lines, storm water management facilities, septic fields, and recreation facilities such as playgrounds, playing fields, and golf courses (provided the golf course is an integral part of the residential development).

(2) The activity is subject to the following conditions:

(a) The activity must not cause the loss of greater than 1/2-acre of state-assumed waters.

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

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

(d) For residential subdivisions, the aggregate total loss of state-assumed surface waters authorized by this general permit cannot exceed 1/2-acre. This includes any loss of state-assumed waters associated with development of individual subdivision lots.

(3) This general permit does not authorize:

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

(b) Activities in Golden Gate Estates, south of Alligator Alley in Collier County.

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

(d) Activities in the Florida panther consultation area (south of the Caloosahatchee River) as defined in the Florida panther effect determination key, incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX), and also available at https://www.fws.gov/verobeach/MammalsPDFs/20070219LetterSFESOtoCOEPantherKey.pdf.

(4) The permittee must submit a notice of intent to use this general permit to the Agency prior to commencing the activity.

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

62-331.228 General Permit for Moist Soil Management for Wildlife

(1) This general permit authorizes the following activities dredging or filling in state-assumed waters and maintenance activities that are associated with moist soil management for wildlife for the purpose of continuing ongoing, site specific, wildlife management activities where soil manipulation is used to manage habitat and feeding areas for wildlife. Such activities include but are not limited to: plowing or discing to impede succession, preparing seed beds, or establishing fire breaks. Sufficient riparian areas must be maintained adjacent to all open water bodies, including streams, to preclude water quality degradation due to erosion and sedimentation.

(2) This general permit does not authorize:

(a) Construction of new dikes, roads, water control structures, or similar features associated with the management areas.

(b) The conversion of wetlands to uplands, impoundments, or other open water bodies.

(3) Activities authorized under this general permit must not result in a net loss of aquatic resource functions and services.

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

62-331.229 General Permit for Maintenance of Existing Flood Control Facilities

(1) This general permit authorizes the following activities:

(a) Dredging or filling resulting from activities associated with the maintenance of existing flood control facilities, including debris basins, retention/detention basins, levees, and channels that:

1. Were previously authorized by a Section 404 individual permit, general permit, or 33 CFR § 330.3, incorporated by reference in paragraph 62-331.210(1)(a), F.A.C., or did not require a permit at the time they were constructed; or

2. Were constructed by the Corps and transferred to a non-Federal sponsor for operation and maintenance.

(b) Dredging or filling associated with maintenance activities in flood control facilities in any watercourse that have previously been determined to be within the maintenance baseline. The maintenance baseline is a description of the physical characteristics (e.g., depth, width, length, location, configuration, or design flood capacity, etc.) of a flood control project within which maintenance activities are normally authorized by this general permit, subject to any case-specific conditions required by the Agency. The Agency will approve the maintenance baseline based on the approved or constructed capacity of the flood control facility, whichever is smaller, including any areas where there are no constructed channels but which are part of the facility. The prospective permittee will provide documentation of the physical characteristics of the flood control facility (which will normally consist of as-built or approved drawings) and documentation of the approved and constructed design capacities of the flood control facility. If no evidence of the constructed capacity exists, the approved capacity will be used. The documentation will also include best management practices to ensure that the adverse environmental impacts caused by the maintenance activities are no more than minimal, especially in maintenance areas where there are no constructed channels. (The Agency may request maintenance records in areas where there has not been recent maintenance.) Revocation or modification of the final determination of the maintenance baseline can only be done in accordance with Rule 62-331.080, F.A.C. Except in emergencies as described below, this general permit cannot be used until the Agency approves the maintenance baseline and determines the need for mitigation and any regional or activity-specific conditions. Once determined, the maintenance baseline will remain valid for any subsequent reissuance of this general permit.

(c) The removal of vegetation from levees associated with the flood control project.

(2) Activities authorized by this general permit are limited to those resulting from maintenance activities that are conducted within the "maintenance baseline", as described above.

(3) This general permit does not authorize:

(a) The removal of sediment and associated vegetation from natural water courses except when these activities have been included in the maintenance baseline.

(b) Maintenance of a flood control facility that has been abandoned.

1. A flood control facility will be considered abandoned if it has been operating at a significantly reduced capacity or is nonfunctional because routine maintenance was not being accomplished for an extended period of time.

2. A flood control facility will not be considered abandoned if the prospective permittee is in the process of obtaining other authorizations or approvals required for maintenance activities and is experiencing delays in obtaining those authorizations or approvals.

(4) The activities must meet the following conditions:

(a) All dredged and excavated material must be deposited and retained in an area that has no state-assumed waters unless otherwise specifically approved by the Agency under separate authorization.

(b) Proper sediment controls must be used.

(5) The Agency will determine any required mitigation one-time only for impacts associated with maintenance work at the same time that the maintenance baseline is approved.

(a) Such one-time mitigation will be required when necessary to ensure that adverse environmental effects are no more than minimal, both individually and cumulatively.

(b) Such mitigation will only be required once for any specific reach of a flood control project. However, if one-time mitigation is required for impacts associated with maintenance activities, the Agency will not delay needed maintenance, provided the Agency and the permittee establish a schedule for identification, approval, development, construction and completion of any such required mitigation.

(c) Once the one-time mitigation described above has been completed, or a determination made that mitigation is not required, no further mitigation will be required for maintenance activities within the maintenance baseline.

(d) In determining appropriate mitigation, the Agency will give special consideration to natural water courses that have been included in the maintenance baseline and require mitigation and/or best management practices as appropriate.

(e) If mitigation was previously required and completed for the specific reach of the flood control project, additional mitigation for that specific reach will not be required.

(6) In emergency situations, this general permit may be used to authorize maintenance activities in flood control facilities for which no maintenance baseline has been approved.

(a) Emergency situations are those which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if action is not taken before a maintenance baseline can be approved.

(b) In such situations, the determination of mitigation requirements, if any, may be deferred until the emergency has been resolved.

(c) Once the emergency has ended, a maintenance baseline must be established expeditiously, and mitigation, including mitigation for maintenance conducted during the emergency, must be required as appropriate.

(d) The permittee must submit notice of intent to use this general permit to the Agency before any maintenance work is conducted.

1. The notice of intent to use this general permit may be for activity-specific maintenance or for maintenance of the entire flood control facility by submitting a five-year (or less) maintenance plan.

2. The notice of intent to use this general permit must include a description of the maintenance baseline and the disposal site for dredged or excavated material.

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

62-331.230 General Permit for Completed Federal Enforcement Actions

(1) This general permit authorizes any structure, work, or activity remaining in place or undertaken for mitigation, restoration, or environmental benefit in compliance with either:

(a) The terms of a final written Corps non-judicial settlement agreement resolving a violation of Section 404 of the Clean Water Act; or the terms of an EPA 309(a) order on consent resolving a violation of section 404 of the Clean Water Act, provided that:

1. The activities authorized by this general permit cannot adversely affect more than five acres of state-assumed waters;

2. The settlement agreement provides for environmental benefits, to an equal or greater degree, than the environmental detriments caused by the unauthorized activity that is authorized by this general permit; and

3. The Agency issues a verification letter authorizing the activity subject to the terms and conditions of this general permit and the settlement agreement, including a specified completion date; or

(b) The terms of a final federal court decision decree, or settlement agreement resulting from an enforcement action brought by the United States under section 404 of the Clean Water Act; or

(c) The terms of a final court decision, consent decree, settlement agreement, or non-judicial settlement agreement resulting from a natural resource damage claim brought by a trustee or trustees for natural resources (as defined by the National Contingency Plan at 40 CFR, part 300, subpart G, incorporated by reference in paragraph 62-331.221(1)(a), F.A.C., under Section 311 of the Clean Water Act, Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, Section 312 of the National Marine Sanctuaries Act, section 1002 of the Oil Pollution Act of 1990, or the Park System Resource Protection Act at 16 U.S.C. 19jj, to the extent that a State 404 program permit is required.

(2) Compliance is a condition of this general permit itself. Non-compliance of the terms and conditions of an authorization under this general permit may result in an additional federal and state enforcement action. Any authorization under this general permit is automatically revoked if the permittee does not comply with the terms of this general permit or the terms of the court decision, consent decree, or judicial/non-judicial settlement agreement.

(3) This general permit does not authorize any activities occurring after the date of the decision, decree, or agreement that are not for the purpose of mitigation, restoration, or environmental benefit.

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

62-331.231 General Permit for Temporary Construction, Access, and Dewatering

(1) This general permit authorizes the following activities:

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

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

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

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

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

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

(d) The affected areas must be revegetated, as appropriate.

(3) This general permit does not authorize the use of cofferdams to dewater wetlands or other aquatic areas to change their use.

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

62-331.233 General Permit for Boat Ramps

(1) This general permit authorizes the following activities required for the construction of boat ramps, provided the activity meets all of the following criteria:

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

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

(c) The base material is crushed stone, gravel, or other suitable material;

(d) The excavation is limited to the area necessary for site preparation and all excavated material is removed to an area that has no state-assumed waters; and

(e) No material is placed in special aquatic sites, including wetlands.

(2) This general permit does not authorize:

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

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

(3) The permittee must submit a notice of intent to use this general permit to the Agency prior to commencing the activity if:

(a) Fill to be placed in state-assumed waters exceeds 50 cubic yards.

(b) The boat ramp exceeds 20 feet in width.

(c) The project is in the following rivers, creeks, and their tributaries.

1. Escambia River
2. Yellow River
3. Shoal River
4. Choctawhatchee River
5. Chipola River
6. Apalachicola River
7. Ochlockonee River
8. Santa Fe River
9. New River (Bradford and Union County line)
10. Econfina Creek

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

62-331.234 General Permit for Emergency Watershed Protection and Rehabilitation

(1) This general permit authorizes work done by or funded by:

(a) The Natural Resources Conservation Service for a situation requiring immediate action under its emergency Watershed Protection Program (7 CFR Part 624 (Jan. 1, 2019));

(b) The U.S. Forest Service under its Burned-Area Emergency Rehabilitation Handbook (FSH 2509.13 (Jan. 12, 1995));

(c) The Department of the Interior for wildland fire management burned area emergency stabilization and rehabilitation (DOI Manual part 620, Ch. 3 (Jan. 18, 2017));

(d) The Office of Surface Mining, Reclamation and Enforcement, or states with approved programs, for abandoned mine land reclamation activities under Title IV of the Surface Mining Control and Reclamation Act or 30 CFR subchapter R (July 1, 2019); or

(e) The Farm Service Agency under its Emergency Conservation Program (7 CFR Part 701 (Jan. 1, 2019)).

(2) In general, the prospective permittee shall wait until the Agency issues a general permit verification or 45 calendar days have passed before proceeding with the watershed protection and rehabilitation activity. However, in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur,

the emergency watershed protection and rehabilitation activity may proceed immediately, and the Agency will consider the information in the notice of intent to use this general permit and any comments received as a result of agency coordination to decide whether the general permit authorization should be modified, suspended, or revoked.

(3) Except in cases where delay would cause an unacceptable hazard to life or a significant loss of property or economic hardship will occur, the permittee must submit a notice of intent to the Agency prior to commencing the activity.

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

62-331.235 General Permit for Cleanup of Hazardous and Toxic Waste

(1) This general permit authorizes the following activities:

(a) Specific activities required to affect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority.

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

(2) This general permit does not authorize the establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous or toxic waste.

(3) The permittee must submit a notice of intent to use this general permit to the Agency prior to commencing the activity.

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

62-331.236 General Permit for Commercial and Institutional Developments

(1) This general permit authorizes dredging or filling in state-assumed waters for the construction or expansion of commercial and institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures.

(a) Attendant features may include, but are not limited to, roads, parking lots, garages, yards, utility lines, storm water management facilities, wastewater treatment facilities, and recreation facilities such as playgrounds and playing fields.

(b) Examples of commercial developments include retail stores, industrial facilities, restaurants, business parks, and shopping centers.

(c) Examples of institutional developments include schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals, and places of worship.

(2) This general permit does not authorize:

(a) The construction of new golf courses and new ski areas.

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

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

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

(e) Activities in the Florida panther consultation area (south of the Caloosahatchee River) as defined in the Florida panther effect determination key, incorporated by reference in paragraph 62-331.227(3)(d), F.A.C., and also available at https://www.fws.gov/verobeach/MammalsPDFs/20070219LetterSFESOtoCOEPantherKey.pdf.

(3) This general permit is subject to the following conditions:

(a) The activity must not cause the loss of greater than 1/2-acre of state-assumed waters.

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

(c) The loss of stream bed plus any other losses of state-assumed waters caused by the general permit activity cannot exceed 1/2-acre.

(4) The permittee must submit a notice of intent to use this general permit to the Agency prior to commencing the activity.

(5) For any activity that involves the construction of a wind energy generating structure, solar tower, or overhead transmission line, a copy of the Notice and general permit verification will be provided to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

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

62-331.237 General Permit for Agricultural Activities

(1) This general permit authorizes the following activities:

(a) Dredging and filling in state-assumed waters for agricultural activities, including the construction of building pads for farm buildings. Authorized activities include the installation, placement, or construction of drainage tiles, ditches, or levees; mechanized land clearing; land leveling; the relocation of existing serviceable drainage ditches constructed in state-assumed waters; and similar activities.

(b) Construction of farm ponds in state-assumed waters, excluding perennial streams, provided the farm pond is used solely for agricultural purposes.

(c) Dredging or filling in state-assumed waters to relocate existing serviceable drainage ditches constructed in streams.

(2) This general permit does not authorize:

(a) Construction of aquaculture ponds.

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

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

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

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

(3) The activities authorized by this general permit are subject to the following conditions:

(a) The activity must not cause the loss of greater than 1/2-acre of state-assumed waters.

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

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

(4) The permittee must submit a notice of intent to use this general permit to the Agency prior to commencing the activity.

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

62-331.238 General Permit for Reshaping Existing Drainage Ditches

(1) This general permit authorizes dredging or filling in state-assumed waters, excluding non-tidal wetlands adjacent to tidal retained waters, to modify the cross-sectional configuration of currently serviceable drainage ditches constructed in state-assumed waters, for the purpose of improving water quality by regrading the drainage ditch with gentler slopes, which can reduce erosion, increase growth of vegetation, and increase uptake of nutrients and other substances by vegetation.

(2) The reshaping of the ditch cannot:

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

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

(c) Change the rate or volume of water discharged from the site from original design capacity conditions.

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

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

(4) This general permit does not authorize:

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

(b) Stream channelization or stream relocation projects.

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

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

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

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

62-331.239 General Permit for Recreational Facilities

(1) This general permit authorizes the following activities:

(a) Dredging or filling in state-assumed waters for the construction or expansion of recreational facilities. Examples of recreational facilities that may be authorized by this general permit include playing fields (*e.g.*, football fields, baseball fields), basketball courts, tennis courts, hiking trails, bike paths, golf courses, ski areas, horse paths, nature centers, and campgrounds (excluding recreational vehicle parks).

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

(2) This general permit does not authorize:

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

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

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

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

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

(a) The activity must not cause the loss of greater than 1/2-acre of state-assumed waters.

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

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

(4) The permittee must submit a notice of intent to use this general permit to the Agency prior to commencing the activity.

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

62-331.240 General Permit for Stormwater Management Facilities

(1) This general permit authorizes the following activities:

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

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

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

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

(2) This general permit does not authorize:

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

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

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

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

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

(a) The activity must not cause the loss of greater than 1/2-acre of state-assumed waters.

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

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

(4) A notice of intent to use this general permit shall be submitted to the Agency for:

(a) Dredging or filling in state-assumed waters for the construction of new stormwater management facilities or pollutant reduction green infrastructure features,

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

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

(d) Maintenance activities do not require notice of intent if they are limited to restoring the original design capacities of the stormwater management facility or pollutant reduction green infrastructure feature.

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

62-331.241 General Permit for Mining Activities

(1) This general permit authorizes dredging or filling in state-assumed waters for mining activities, provided the activity meets all of the following criteria:

(a) For mining activities involving dredging or filling in wetlands, the activity must not cause the loss of greater than 1/2-acre of wetlands;

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

(c) The acreage loss under subparagraph (1)(a)1. plus, the acreage impact under subparagraph (1)(a)2. does not exceed 1/2-acre.

(2) This general permit does not authorize:

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

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

(c) Activities in the Belle Meade North bounded by I-75 to the south, Golden Gate Canal to the west, and Miller Canal to the east, and Belle Meade South bounded by I-75 to the north, CR 951 to the west, Miller Canal to the east, and U.S. 41 to the south in Collier County, Florida.

(d) Activities within the Corkscrew Marsh Basin, south of S.R. 82, east of I-75 in Collier and Lee Counties.

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

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

(b) The loss of stream bed plus any other losses of state-assumed waters caused by the activity cannot exceed 1/2-acre.

(4) A notice of intent to use this general permit is required if reclamation is required by other laws. A copy of the final reclamation plan must be submitted with the notice of intent.

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

62-331.242 General Permit for Repair of Uplands Damaged by Discreet Events

(1) This general permit authorizes the following activities:

(a) Dredging or filling in state-assumed waters for activities associated with the restoration of upland areas damaged by storms, floods, or other discrete events.

(b) Bank stabilization to protect the restored uplands.

(2) This general permit does not authorize:

(a) Beach restoration or nourishment.

(b) Reclamation of lands lost to normal erosion processes over an extended period

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

(a) The restoration of the damaged areas, including any bank stabilization, must not exceed the contours, or the mean or ordinary high water line, that existed before the damage occurred.

(b) The work must commence, or be under contract to commence, within two years of the date of damage, unless this condition is waived in writing by the Agency.

(c) Dredging is limited to the amount necessary to restore the damaged upland area and shall not significantly alter the pre-existing bottom contours of the waterbody.

(4) The Agency retains the right to determine the extent of the pre-existing conditions and the extent of any restoration work authorized by this general permit.

(5) The permittee must submit a notice of intent to use this general permit to the Agency within 12 months of the date of the damage; for major storms, floods, or other discrete events, the Agency may waive the 12-month limit for submitting a notice of intent if the permittee can demonstrate funding, contract, or other similar delays. The notice of intent must include the following:

(a) Documentation, such as a recent topographic survey or photographs, to justify the extent of the proposed restoration; and

(b) A sediment and erosion control plan.

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

62-331.243 General Permit for Activities in Ditches

(1) This general permit authorizes activities in ditches that:

(a) Are constructed in uplands,

(b) Receive water from an area determined to be a water of the United States prior to the construction of the ditch,

(c) Divert water to an area determined to be a water of the United States prior to the construction of the ditch, and

(d) Are determined to be state-assumed waters.

(2) This general permit does not authorize:

(a) Dredging or filling in ditches constructed in streams or other state-assumed waters, or in streams that have been relocated in uplands.

(b) Activities that increase the capacity of the ditch and drain those areas determined to be state-assumed waters prior to construction of the ditch.

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

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

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

(3) The authorized activities are subject to the condition that the activity must not cause the loss of greater than one acre of state-assumed waters.

(4) The permittee must submit a notice of intent to use this general permit to the Agency prior to commencing the activity.

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

62-331.244 General Permit for Commercial Shellfish Aquaculture Activities

(1) This general permit authorizes the following activities:

(a) Dredging or filling in state-assumed waters for new and continuing commercial shellfish aquaculture operations in authorized project areas. For the purposes of this general permit, the project area is the area in which the operator is authorized to conduct commercial shellfish aquaculture activities, as identified through a lease or permit issued by an appropriate state or local government agency, a treaty, or any easement, lease, deed, contract, or other legally binding agreement that establishes an enforceable property interest for the operator. A "new commercial shellfish aquaculture operation" is an operation in a project area where commercial shellfish aquaculture activities have not been conducted during the past 100 years.

(b) The installation of buoys, floats, racks, trays, nets, lines, tubes, containers, and other structures into state-assumed waters.

(c) Dredging or filling in state-assumed waters necessary for shellfish seeding, rearing, cultivating, transplanting, and harvesting activities. Rafts and other floating structures must be securely anchored and clearly marked.

(2) This general permit does not authorize:

(a) The cultivation of a nonindigenous species unless that species has been previously cultivated in the waterbody;

(b) The cultivation of an aquatic nuisance species as defined in the Aquatic Nuisance Prevention and Control Act, 16 U.S.C. §§ 4701 – 4751 (2018), incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX);

(c) Attendant features such as docks, piers, boat ramps, stockpiles, or staging areas, or the deposition of shell material back into state-assumed waters as waste;

(d) Activities that directly affect more than 1/2-acre of submerged aquatic vegetation beds in project areas that have not been used for commercial shellfish aquaculture activities during the past 100 years;

(e) Placement of materials for Live Rock culture; or

(f) Harvesting of Live Rock.

(3) This general permit is subject to the condition that in order to prevent introduction of aquatic nuisance species, no material that has been taken from a different waterbody may be reused in the current project area, unless it has been treated in accordance with the applicable regional nuisance species management plan.

(4) The permittee must submit a notice of intent to use this general permit to the Agency if:

(a) The activity will include a species that has never been cultivated in the waterbody;

(b) The activity occurs in a project area that has not been used for commercial shellfish aquaculture activities during the past 100 years;

(5) If a notice of intent is required, the permittee must include the following with the notification:

(a) A map showing the boundaries of the project area(s), with latitude and longitude coordinates for each corner of each project area;

(b) The name(s) of the species that will be cultivated during the period this general permit is in effect;

(c) Whether canopy predator nets will be used;

(d) Whether suspended cultivation techniques will be used;

(e) General water depths in the project area(s) (a detailed survey is not required); and

(f) A description of all species and culture activities the operator expects to undertake in the project area or group of contiguous project areas during the effective period of this general permit.

(6) If an operator intends to undertake unanticipated changes to the commercial shellfish aquaculture operation during the effective period of this general permit, and those changes require authorization under this Chapter, the operator must contact the Agency to request a modification of the general permit verification; a new notice of intent does not need to be submitted.

(7) No more than one notice of intent per project area or group of contiguous project areas shall be submitted for the commercial shellfish operation during the effective period of this general permit.

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

62-331.245 General Permit for Land-Based Renewable Energy Generation Facilities

(1) This general permit authorizes dredging or filling in state-assumed waters for the construction, expansion, or modification of land-based renewable energy production facilities, including attendant features.

(a) Such facilities include infrastructure to collect solar (concentrating solar power and photovoltaic), wind, biomass, or geothermal energy.

(b) Attendant features may include, but are not limited to roads, parking lots, and stormwater management facilities within the land- based renewable energy generation facility.

(2) This general permit does not authorize:

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

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

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

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

(a) The activity must not cause the loss of greater than 1/2-acre of state-assumed waters.

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

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

(d) Projects must comply with the USFWS Land-Based Wind Energy Guidelines, incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX), and also available at (https://www.fws.gov/ecological-services/es-library/pdfs/WEG_final.pdf).

(4) The permittee must submit a notice of intent to use this general permit to the Agency prior to commencing the activity if the activity results in the loss of greater than 1/10- acre of state-assumed waters.

(5) Utility lines constructed to transfer the energy from the land-based renewable energy generation facility to a distribution system, regional grid, or other facility are generally considered to be linear projects and each separate and distant crossing of a waterbody is eligible for treatment as a separate single and complete linear project. Those utility lines may be authorized by the general permit in Rule 62-331.215, F.A.C.

(6) For any activity that involves the construction of a wind energy generating structure, solar tower, or overhead transmission line, a copy of the notice and general permit verification will be provided to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

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

62-331.246 General Permit for Water-Based Renewable Energy Generation Pilot Projects

(1) This general permit authorizes dredging or filling in state-assumed waters for the construction, expansion, modification, or removal of water-based wind, water-based solar, wave energy, or hydrokinetic renewable energy generation pilot projects and their attendant features.

(a) Attendant features may include, but are not limited to, land-based collection and distribution facilities, control facilities, roads, parking lots, and stormwater management facilities.

(b) For the purposes of this general permit, the term "pilot project" means an experimental project where the water-based renewable energy generation units will be monitored to collect information on their performance and environmental effects at the project site.

(2) This general permit is subject to the following conditions:

(a) The activity must not cause the loss of greater than 1/2-acre of state-assumed waters, including the loss of more than 300 linear feet of stream bed, unless for intermittent and ephemeral stream beds when the Agency waives the 300 linear foot limit by making a written determination concluding that the activity will result in no more than minimal adverse environmental effects.

(b) The loss of stream bed plus any other losses of state-assumed waters caused by the general permit activity cannot exceed 1/2-acre.

(c) For each single and complete project, no more than 10 generation units (e.g., wind turbines, wave energy devices, or hydrokinetic devices) are authorized.

(d) For floating solar panels, each single and complete project cannot exceed 1/2- acre in water surface area covered by the floating solar panels.

(e) Upon completion of the pilot project, the generation units, transmission lines, and other structures or fills associated with the pilot project must be removed to the maximum extent practicable unless they are authorized by a separate authorization under this Chapter. Completion of the pilot project will be identified as the date of expiration of the Federal Energy Regulatory Commission (FERC) license, or the expiration date of the general permit authorization if no FERC license is required.

(3) This general permit is not applicable within Designated Critical Resource Waters or other state and federally managed areas such as marine sanctuaries, Habitat Areas of Particular Concern (HAPC), aquatic preserves, and parks.

(4) The permittee must submit a notice of intent to use this general permit to the Agency prior to commencing the activity.

(5) Utility lines constructed to transfer the energy from the land-based collection facility to a distribution system, regional grid, or other facility are generally considered to be linear projects and each separate and distant crossing of a waterbody is eligible for treatment as a separate single and complete linear project. Those utility lines may be authorized by general permit Rule 62-331.215, F.A.C. or another authorization under this Chapter.

(6) An activity that is located on an existing locally or federally maintained U.S. Army Corps of Engineers project requires separate approval from the Chief of Engineers or District Engineer under 33 U.S.C. § 408. The permittee is responsible for obtaining such approval separately from the Corps.

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

62-331.247 General Permit for Removal of Low-Head Dams

(1) This general permit authorizes structures, work, dredging, and filling associated with the removal of low-head dams. For the purposes of this general permit, the term "low-head dam" is defined as a dam built across a stream to pass flows from upstream over all, or nearly all, of the width of the dam crest on a continual and uncontrolled basis. During a drought, there might not be water flowing over the dam crest. Low-head dams do not have a separate spillway or spillway gates, but it may have an uncontrolled spillway. The dam crest is the top of the dam from left abutment to right abutment, and if present, an uncontrolled spillway. A low-head dam provides little storage function.

(2) This general permit is subject to the following conditions:

(a) The removed low-head dam structure must be deposited and retained in an upland area, unless otherwise specifically approved by the Agency under separate authorization;

(b) The Agency may require compensatory mitigation if the net increase in ecological function from the removal and any related restoration activities does not fully offset any loss in ecological function resulting from the dam removal.

(c) In waters accessible to manatees, the Agency shall coordinate with the appropriate state or federal wildlife agency so that appropriate action can be taken to limit potential adverse effects to manatees.

(3) This general permit does not authorize:

(a) Dredging, filling, work, or structures to restore the stream in the vicinity of the low-head dam, including the former impoundment area. Such projects may be authorized under the general permit in Rule 62-331.225, F.A.C., or an individual permit.

(b) Dredging, filling, work or structures to stabilize stream banks. Bank stabilization activities may be authorized by the general permit in Rule 62-331.216, F.A.C., or an individual permit.

(4) The permittee shall submit a notice of intent to use this general permit to the Agency prior to commencing the activity.

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

62-331.248 General Permit for Florida Department of Transportation and Florida's Turnpike Enterprise

(1) This general permit authorizes activities required for the construction of Florida Department of Transportation (FDOT) and Florida's Turnpike Enterprise (FTE) projects, with a Federal Highway Administration (FHWA) and/or FDOT approved Environmental Document (PD&E, Categorical Exclusion, Environmental Assessment, or Environmental Impact Statement), including non-capacity and capacity improvements, where dredge and fill impacts do not result in the loss of greater than 5.0 acres of state-assumed waters (wetlands and surface waters) for any 1-mile segment of roadway length up to a maximum loss of 50 acres of state-assumed waters per project. This includes FTE projects with an approved state Environmental Document.

(2) This general permit does not authorize:

(a) Construction of a new alignment (non-existing roadway);

(b) Activities in Monroe County.

(3) This general permit is subject to the following conditions:

(a) Use of this general permit is limited to linear transportation projects that have been reviewed through the FDOT Efficient Transportation Decision Making (ETDM) and/or Project Development and Environment (PD&E) Study subsequent to 2010.

(b) The term "capacity" is used to express the maximum number of vehicles or persons that can pass a point on a roadway during a given time period under prevailing roadway and traffic conditions. A capacity improvement project is normally implemented by the addition of through travel lanes. Non-capacity improvement projects may include safety improvements, maintenance, bike lane, or sidewalk additions.

(c) No work shall be performed until the permittee submits satisfactory plans for the proposed activity and receives written authorization from the Agency.

(d) If the project includes modification of a federal project, no work shall be performed until the permittee receives authorization under 33 U.S.C § 408 from the Corps of Engineers.

(e) Conformance with the descriptions, quantities, and criteria in this general permit does not guarantee authorization under this general permit. The Agency reserves the right to require that any request for authorization under this general permit be evaluated as an individual permit.

(f) A copy of all "Recommendations and Commitments" related to the avoidance and minimization of impacts to state-assumed waters identified in any completed Environmental Documents and the Quality Enhancement Strategies (QES) (effective date), incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX), shall be submitted with the permit application prior to verification of this general permit.

(g) Prior to the verification of qualification for this general permit; the applicant shall provide the Agency with copies of the concurrence documents from the State Historic Preservation Officer (SHPO) in Tallahassee and the Tribal Historic Preservation Officer (THPO) where applicable.

(h) Cultural Resources and/or Historic Properties.

1. No structure or work shall adversely affect, impact, or disturb properties listed in the National Register of Historic Places (NRHP), or those eligible for listing in the NRHP.

2. If during the ground disturbing activities and construction work within the permit area, there are archaeological or cultural materials encountered which were not the subject of a previous cultural resources assessment survey, including but not limited to pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement; the Permittee shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Agency within the same business day. The Agency shall then notify the State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.

3. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with condition subparagraph 2., above, and if deemed necessary by the SHPO or THPO(s). Based on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Agency may modify, suspend, or revoke the permit in accordance with Rule 62-331.080, F.A.C. Such activity shall not resume without written authorization from the SHPO for finds under their jurisdiction, and from the Agency.

4. In the unlikely event that unmarked human remains are identified, they will be treated in accordance with Section 872.05, F.S. All work and ground-disturbing activities within a 100-meter diameter of the unmarked human remains shall immediately cease and the Permittee shall immediately notify the medical examiner, Agency, and State Archaeologist within the same business day. The Agency shall then notify the appropriate SHPO and THPO(s). Based on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Agency may modify, suspend, or revoke the permit in accordance with Rule 62-331.080, F.A.C. Such activity shall not resume without written authorization from the State Archaeologist, and from the Agency. Additionally, if the unmarked remains were identified on federal lands, or lands where the Archaeological Resources Protection Act, 16 U.S.C. §§ 470aa – 470mm (2018), incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX), or the Native American Graves Protection Repatriation 25 U.S.C. §§ 3001-3013 (2018), incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX), applies, such activity shall not resume without written authorization from the SHPO, the appropriate THPO(s), and the federal manager.

(i) Mitigation.

1. Mitigation may be accomplished by one or more of the following mechanisms and preference hierarchy.

a. Securing appropriate number and resource type of credits from approved mitigation bank within the project's service area;

b. Payment of mitigation fees to an approved in-lieu program within the project's service area;

c. Through a "permittee-responsible" mitigation, including those mitigation projects that are part of the FDOT Mitigation Program in Section 373.4137, F.S.; on-site and in-kind mitigation; or off-site or out-of-kind compensatory mitigation.

d. It is the responsibility of the applicant to demonstrate to the Agency that the mitigation proposal is the environmentally preferable option to replace the ecological functions and services that would be lost though the implementation of any work proposed. All mitigation proposals must be approved prior to verification of this general permit.

2. Prior to proceeding with the activity authorized in this general permit, a final mitigation plan must be approved by the Agency. If the approved mitigation plan is the purchase of mitigation bank or in lieu fee credits, the credits must be purchased or in-lieu fees paid prior to proceeding.

3. When the purchase of mitigation credits is applicable, the Permittee shall provide verification to the Agency indicating the number and type of credits purchased and the specific federal mitigation bank from which credits have been purchased. When payment of in-lieu fees is applicable, evidence of fee payment shall be provided to the Agency. The above-described verification or notification shall be provided to the Agency before commencement of the activities authorized by this general permit.

4. If the general permit verification includes permittee-responsible mitigation, the mitigation plan shall address the components of a complete mitigation plan as described in Rule 62-331.130, F.A.C.

(j) Prior to the verification of projects pursuant to this general permit, the applicant (FDOT, FHWA, or others) shall provide the Agency with a copy of either a concurrence document (May Affect, Not Likely to Adversely Affect determinations) or a finalized biological opinion (for May Affect, Likely to Adversely Affect determinations) written by the U.S. Fish and Wildlife Service (USFWS), These documents demonstrate that project consultation for federally listed species has been completed.

(k) No authorizations under this general permit shall be made for projects that jeopardize the continued existence of a threatened or endangered species or destroy or adversely modify designated critical habitat.

(l) No authorizations under this general permit shall be made for projects resulting in any direct, indirect, or cumulative effect on very rare species, specifically the endangered Perdido Key beach mouse, Choctawhatchee beach mouse, and the St. Andrew beach mouse.

(m) All terms and conditions provided by the USFWS and/or the FWC shall be included as a special condition of any projects verified under this general permit.

(n) This general permit does not authorize stream channelization or the bank-to-bank filling and relocating and/or culverting of more than 300 linear feet of perennial or intermittent natural stream systems. Ditches, canals, swales or other non-natural channelized systems are not included in this restriction. The authorized activities shall not increase flooding, or negatively impact the pre-project hydrologic flow characteristics or water quality of any affected stream. This permit does not authorize severance of connections to upstream or downstream waters.

(o) To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters shall be maintained for each activity, including stream channelization and stormwater management activities, except as provided below. The activity shall be constructed to withstand expected high flows. The activity shall not restrict nor impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open water if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

(p) This general permit does not authorize fill activities which would sever hydrologic connection between wetlands or other surface waters.

(q) Best management practices for erosion and sediment control shall be used to prevent water quality violations during and after construction. These shall include a construction-phase stormwater management and erosion control plan that is designed and implemented to include site-specific measures adapted from practices and procedures described in "The State of Florida Erosion and Sediment Control Designer and Reviewer Manual, FDOT and FDEP" (June 2007), incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C. (https://www.flrules.org/Gateway/reference.asp?No=Ref-02530).

(r) Authorization under this general permit is void at any time if the information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate.

(s) The permittee shall comply with USFWS "Standard Protection Measures for the Eastern Indigo Snake" (Aug. 12, 2013), incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX).

(t) For projects accessible to manatees, the Permittee shall comply with the "Standard Manatee Conditions for In-Water Work" (2011), incorporated by reference in paragraph 62-331.201(4)(n), F.A.C.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Benjamin M. Melnick, Director, Division of Water Resource Management

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Noah Valenstein, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: 2/17/2020

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