DRAFT Regulatory Checklist/Crosswalk for Analyzing Florida's Authority to Assume the CWA Section 404 Program

Florida's existing environmental resource permitting (ERP) program heavily overlaps with the requirements of Section 404 of the Clean Water Act (CWA). Florida's assumption strategy is a two-program approach, where the ERP and 404 authorizations will be separate authorizations. To reduce duplication, provide streamlining, and utilize DEP staff's current understanding of the ERP program rules, we are proposing creation of Chapter 62-331, Florida Administrative Code (F.A.C.) to "bridge the gap" between existing ERP rules and the requirements of section 404 of the CWA. This checklist will be laid out in three parts - Part I will contain information for those requirements of section 404 of the CWA that are not addressed in current ERP rules, Part II will contain information for those requirements that are covered under existing ERP rules and statutes, and Part III will contain a list of ERP provisions that are not applicable under the State 404 Program.

General Authority, Section 373.4146, F.S.:

373.4146 State assumption of the federal Clean Water Act, section 404 dredge and fill permitting program. —

(1) As used in this section, the term “state assumed waters” means waters of the United States that the state assumes permitting authority over pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and rules promulgated thereunder, for the purposes of permitting the discharge of dredge or fill material.

(2) The department has the power and authority to assume, in accordance with 40 C.F.R. part 233, the dredge and fill permitting program established in s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and rules promulgated thereunder. The department may adopt any federal requirements, criteria, or regulations necessary to obtain assumption, including, but not limited to, the guidelines specified in 40 C.F.R. part 230 and the public interest review criteria in 33 C.F.R. s. 320.4(a). Any rule, standard, or other requirement adopted pursuant to the authority granted in this subsection for purposes of obtaining assumption may not become effective or otherwise enforceable until the United States Environmental Protection Agency has approved the state’s assumption application. This legislative authority is intended to be sufficient to enable the department to assume and implement the federal section 404 dredge and fill permitting program in conjunction with the environmental resource permitting program established in this chapter.

(3) To the extent that state law applies and does not conflict with the federal requirements identified in subsection (2), the application of such state law to further regulate discharges in state assumed waters is not prohibited. Provisions of state law which conflict with the federal requirements identified in subsection (2) do not apply to state administered section 404 permits.

(4) A state administered section 404 permit is not required for activities as specified in 33 U.S.C. s. 1344(f), 40 C.F.R. s. 232.3, or 33 C.F.R. s. 323.4. The exemptions established in ss.[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.406.html"], [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.4145.html"], and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.813.html"] still apply to environmental resource permits. However, the exemptions identified in ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.406.html"], [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.4145.html"], and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.813.html"] may not be applied to state administered section 404 permits.

(5) Upon state assumption of the section 404 dredge and fill permitting program pursuant to subsection (2):

(a) The department must grant or deny an application for a state administered section 404 permit within the time allowed for permit review under 40 C.F.R. part 233, subparts D and F. The department is specifically exempted from the time limitations provided in ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0120/Sections/0120.60.html"] and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.4141.html"]for state administered section 404 permits.

(b) All state administered section 404 permits issued under this section must be for a period of no more than 5 years. Upon an applicant’s submittal of a timely application for reissuance, a state administered section 404 permit does not expire until the department takes final action upon the application or until the last day for seeking judicial review of the agency order or a later date fixed by order of the reviewing court. If the department fails to render a permitting decision within the time allowed by s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., 40 C.F.R. part 233, subparts D and F, or a memorandum of agreement executed by the department and the United States Environmental Protection Agency, whichever is shorter, the applicant may apply for an order from the circuit court requiring the department to render a decision within a specified time. The department must adopt by rule an expedited permit review process that is consistent with federal law for the reissuance of state administered section 404 permits where there have been no material changes in the scope of the project as originally permitted, site and surrounding environmental conditions have not changed, and the applicant does not have a history of noncompliance with the existing permit. The decision by the department to approve the reissuance of any state administered section 404 permit issued pursuant to this section is subject to ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0120/Sections/0120.569.html"] and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0120/Sections/0120.57.html"] only with respect to any material permit modification or material changes in the scope of the project as originally permitted.

(c) The department may delegate administration of the state administered section 404 permitting program if such delegation is in accordance with federal law. The department must retain the authority to review, modify, revoke, or rescind a state administered section 404 permit issued by any delegated entity to ensure consistency with federal law.

Applicable Definitions – from 40 CFR Parts 230, 232, and 233, CFR (additional definitions unique to the state program can be found in Volume I, Section 2.0 and the 404 Handbook Section 2.0.
(Citations in parenthesis) Definitions pertaining strictly to the processing of mitigation banking and in-lieu fee instruments are not included. Certain administrative definitions used in 40 CFR Part 233 are also not included because they are unnecessary for inclusion in rule.

Term	Federal Definition	State Definition	Comments
Act or CWA	**Act-** The term Act means the Clean Water Act (also known as the Federal Water Pollution Control Act or FWPCA) Pub. L. 92-500, as amended by Pub. L. 95-217, 33 U.S.C. 1251, et seq. (40 CFR § 230.3)	**"Act" or "CWA"** means the Clean Water Act (also known as the Federal Water Pollution Control Act or FWPCA) Pub. L. 92–500, as amended by Pub. L. 95–217, 33 U.S.C. 1251, et seq. (404 Handbook)	Same.
Activity	See: "Discharge of Dredged Material" and/or "Discharge of Fill Material" and/or "discharge"	**"Activity"** for the purposes of the State 404 Program only, means "discharge of dredged material" and/or "discharge of fill material" as those terms are defined in 40 CFR § 232.2 (see Appendix B). The terms "dredge", "fill", "dredging", and "filling", when used within Chapter 62-331, F.A.C., or this Handbook shall be interchangeable with "activity" as defined herein. (404 Handbook)	The state could not use "discharge" because the term already has a unique and specific definition under ERP relating to stormwater. Use of the term "discharge" may have caused significant confusion because the State 404 Program is heavily linked to ERP rules and statutes.
Adaptive Management	**Adaptive management** means the development of a management strategy that anticipates likely challenges associated with compensatory mitigation projects and provides for the implementation of actions to address those challenges, as well as unforeseen changes to those projects. It requires consideration of the risk, uncertainty, and dynamic nature of compensatory mitigation projects and guides modification of those projects to optimize performance. It includes the selection of appropriate measures that will ensure that the aquatic resource functions are provided and involves analysis of monitoring results to identify potential problems of a compensatory mitigation project and the identification and implementation of measures to rectify those problems. (40 CFR § 230.92)	**"Adaptive Management"** means the development of a management strategy that anticipates likely challenges associated with compensatory mitigation projects and provides for the implementation of actions to address those challenges, as well as unforeseen changes to those projects. It requires consideration of the risk, uncertainty, and dynamic nature of compensatory mitigation projects and guides modification of those projects to optimize performance. It includes the selection of appropriate measures that will ensure that the aquatic resource functions are provided and involves analysis of monitoring results to identify potential problems of a compensatory mitigation project and the identification and implementation of measures to rectify those problems. (404 Handbook)	Same.
Adjacent	**Adjacent.** The term adjacent means bordering, contiguous, or neighboring a water identified in paragraphs (o)(1)(i) through (v) of this section, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a water identified in paragraphs (o)(1)(i) through (v) of this section. Adjacent waters also include all waters that connect segments of a water identified in paragraphs (o)(1)(i) through (v) or are located at the head of a water identified in paragraphs (o)(1)(i) through (v) of this section and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent. (40 CFR § 230.2)	**"Adjacent"** means bordering, contiguous, or neighboring. Wetlands separated from other state-assumed waters by man-made dikes or barriers, natural river berms, beach dunes, and the like are considered adjacent wetlands. (404 Handbook)	
Administratively Complete		"**Administratively complete"** means an application that contains all the items required under the public noticing requirements of section 62-331.060, F.A.C. (404 Handbook)	No federal definition
Agency		**"Agency"** means the Department of Environmental Protection ("Department"), or the water management	No federal definition.

		districts ("Districts"), where the Districts are delegated authority to implement the State 404 Program by the Department, and such delegation has been approved by EPA in accordance with 40 CFR Part 233. (404 Handbook)	
Aquatic Environment or Aquatic Ecosystem	The terms **aquatic environment** and **aquatic ecosystem** mean waters of the United States, including wetlands, that serve as habitat for interrelated and interacting communities and populations of plants and animals. (40 CFR § 230.3)	**"Aquatic environment"** and **"aquatic ecosystem"** mean state-assumed waters, including wetlands, that serve as habitat for interrelated and interacting communities and populations of plants and animals. (Also see "Natural systems" definition in Volume I, section 2.0) (404 Handbook)	
Buffer	**Buffer** means an upland, wetland, and/or riparian area that protects and/or enhances aquatic resource functions associated with wetlands, rivers, streams, lakes, marine, and estuarine systems from disturbances associated with adjacent land uses. (40 CFR § 230.92)	**"Buffer"** means an upland, wetland, and/or riparian area that protects and/or enhances aquatic resource functions associated with wetlands, rivers, streams, lakes, marine, and estuarine systems from disturbances associated with adjacent land uses. (404 Handbook)	Same.
Burial Resources		**"Burial Resources"** means human remains, meaning all physical remains of a human body of a person of American Indian ancestry, even if in fragmentary form unless it is determined that the human remain had been freely given or naturally shed by the individual from whose body it was obtained, such as hair made into ropes or nets or individual teeth. For the purposes of determining cultural affiliation, human remains incorporated into a funerary object, sacred object, or object of cultural patrimony, are considered as part of that item and as a cultural resource item. (404 Handbook)	No federal definition. Requested by the Seminole Tribe of Florida.
Carolina Bays And Delmarva Bays	**Carolina bays and Delmarva bays.** Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain. (40 CFR § 230.3)		N/A for Florida. No state definition
Carrier of Contaminant	The term **carrier of contaminant** means dredged or fill material that contains contaminants. (40 CFR § 230.3)		No state definition.
Compensatory Mitigation	**Compensatory mitigation** means the restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved. (40 CFR § 230.92)	**"Compensatory Mitigation"** means the restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved. (404 Handbook)	Same.
Compensatory Mitigation Project	**Compensatory mitigation project** means compensatory mitigation implemented by the permittee as a requirement of a DA permit (i.e., permittee-responsible mitigation), or by a mitigation bank or an in-lieu fee program. (40 CFR § 230.92)	**"Compensatory Mitigation Project"** means compensatory mitigation implemented by the permittee as a requirement of a permit (i.e., permittee-responsible mitigation), or by a mitigation bank or in-lieu fee program. (404 Handbook)	Same.
Condition	***Condition*** means the relative ability of an aquatic resource to support and maintain a community of organisms having a species composition, diversity, and functional organization comparable to reference aquatic resources in the region. (40 CFR § 203.92)	**"Condition"** as it is used in the mitigation section of this Handbook, means the relative ability of an aquatic resource to support and maintain a community of organisms having a species composition, diversity, and functional organization comparable to reference aquatic resources in the region. (404 Handbook)	Mostly the same language, with one clarifying statement for the state definition.
Contaminant	The term **contaminant** means a chemical or biological substance in a form that can be incorporated into, onto or be ingested by and that harms aquatic organisms, consumers of aquatic organisms, or users of the aquatic environment, and includes but is not limited to the substances on the 307(a)(1) list of toxic pollutants promulgated on January 31, 1978 (43 FR 4109). (40 CFR § 230.3)	"Contaminant" means a chemical or biological substance in a form that can be incorporated into, onto or be ingested by and that harms aquatic organisms, consumers of aquatic organisms, or users of the aquatic environment, and includes but is not limited to the substances on the 307(a)(1) list of toxic pollutants. The list of toxic pollutants is incorporated in	Same, with reference information.

		paragraph 62-620.100(3)(k), F.A.C., and reproduced in Appendix D of this Handbook.	
Creation (State) ***Establishment*** (Federal)	**Establishment (creation)** means the manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area and functions. (40 CFR § 230.92)	**"Creation"** means the establishment of new wetlands or surface waters by conversion of other land forms. (A.H. Vol. 1)	Defining the same concept using two different terms, creation for state and establishment for federal. Also uses different language in definition.
Department		**"Department"** means the Florida Department of Environmental Protection (A.H. Vol. 1)	No federal definition
Discharge (ERP version)		**"Discharge"** means to allow or cause water to flow. (A.H. Vol. 1)	This ERP definition is added here to demonstrate the different meaning of the term "discharge" between ERP and the CWA. This existing definition is why we could not use the term "discharge of dredged or fill material".
Discharge of Dredged Material	**Discharge of dredged material** (1) Except as provided below in paragraph (2), the term discharge of dredged material means any addition of dredged material into, including redeposit of dredged material other than incidental fallback within, the waters of the United States. The term includes, but is not limited to, the following: (i) The addition of dredged material to a specified discharge site located in waters of the United States; (ii) The runoff or overflow, associated with a dredging operation, from a contained land or water disposal area; and (iii) Any addition, including redeposit other than incidental fallback, of dredged material, including excavated material, into waters of the United States which is incidental to any activity, including mechanized landclearing, ditching, channelization, or other excavation. (2) The term discharge of dredged material does not include the following: (i) Discharges of pollutants into waters of the United States resulting from the onshore subsequent processing of dredged material that is extracted for any commercial use (other than fill). These discharges are subject to section 402 of the Clean Water Act even though the extraction and deposit of such material may require a permit from the Corps or applicable state. (ii) Activities that involve only the cutting or removing of vegetation above the ground (e.g., mowing, rotary cutting, and chainsawing) where the activity neither substantially disturbs the root system nor involves mechanized pushing, dragging, or other similar activities that redeposit excavated soil material. (iii) Incidental fallback.	See "Activity", above.	The term "activity", or the interchangeable terms "dredge", "fill", "dredging", or "filling" are used instead of discharge for the State 404 Program. Please see the term "discharge", above, for explanation.

	(3) Section 404 authorization is not required for the following: (i) Any incidental addition, including redeposit, of dredged material associated with any activity that does not have or would not have the effect of destroying or degrading an area of waters of the U.S. as defined in paragraphs (4) and (5) of this definition; however, this exception does not apply to any person preparing to undertake mechanized landclearing, ditching, channelization and other excavation activity in a water of the United States, which would result in a redeposit of dredged material, unless the person demonstrates to the satisfaction of the Corps, or EPA as appropriate, prior to commencing the activity involving the discharge, that the activity would not have the effect of destroying or degrading any area of waters of the United States, as defined in paragraphs (4) and (5) of this definition. The person proposing to undertake mechanized landclearing, ditching, channelization or other excavation activity bears the burden of demonstrating that such activity would not destroy or degrade any area of waters of the United States. (ii) Incidental movement of dredged material occurring during normal dredging operations, defined as dredging for navigation in navigable waters of the United States, as that term is defined in 33 CFR part 329, with proper authorization from the Congress or the Corps pursuant to 33 CFR part 322; however, this exception is not applicable to dredging activities in wetlands, as that term is defined at § 232.2(r) of this chapter. (iii) Certain discharges, such as those associated with normal farming, silviculture, and ranching activities, are not prohibited by or otherwise subject to regulation under Section 404. See 40 CFR 232.3 for discharges that do not require permits. (4) For purposes of this section, an activity associated with a discharge of dredged material destroys an area of waters of the United States if it alters the area in such a way that it would no longer be a water of the United States. Note: Unauthorized discharges into waters of the United States do not eliminate Clean Water Act jurisdiction, even where such unauthorized discharges have the effect of destroying waters of the United States. (5) For purposes of this section, an activity associated with a discharge of dredged material degrades an area of waters of the United States if it has more than a de minimis (i.e., inconsequential) effect on the area by causing an identifiable individual or cumulative adverse effect on any aquatic function.		

Discharge of Fill Material	**Discharge of fill material.** (1) The term discharge of fill material means the addition of fill material into waters of the United States. The term generally includes, without limitation, the following activities: Placement of fill that is necessary for the construction of any structure or infrastructure in a water of the United States; the building of any structure, infrastructure, or impoundment requiring rock, sand, dirt, or other material for its construction; site-development fills for recreational, industrial, commercial, residential, or other uses; causeways or road fills; dams and dikes; artificial islands; property protection and/or reclamation devices such as riprap, groins, seawalls, breakwaters, and revetments; beach nourishment; levees; fill for structures such as sewage treatment facilities, intake and outfall pipes associated with power plants and subaqueous utility lines; placement of fill material for construction or maintenance of any liner, berm, or other infrastructure associated with solid waste landfills; placement of overburden, slurry, or tailings or similar mining-related materials;" after the words "utility lines; and artificial reefs. (2) In addition, placement of pilings in waters of the United States constitutes a discharge of fill material and requires a Section 404 permit when such placement has or would have the effect of a discharge of fill material. Examples of such activities that have the effect of a discharge of fill material include, but are not limited to, the following: Projects where the pilings are so closely spaced that sedimentation rates would be increased; projects in which the pilings themselves effectively would replace the bottom of a waterbody; projects involving the placement of pilings that would reduce the reach or impair the flow or circulation of waters of the United States; and projects involving the placement of pilings which would result in the adverse alteration or elimination of aquatic functions. (i) Placement of pilings in waters of the United States that does not have or would not have the effect of a discharge of fill material shall not require a Section 404 permit. Placement of pilings for linear projects, such as bridges, elevated walkways, and powerline structures, generally does not have the effect of a discharge of fill material. Furthermore, placement of pilings in waters of the United States for piers, wharves, and an individual house on stilts generally does not have the effect of a discharge of fill material. All pilings, however, placed in the navigable waters of the United States, as that term is defined in 33 CFR part 329, require authorization under section 10 of the Rivers and Harbors Act of 1899 (see 33 CFR part 322). (ii) [Reserved] (40 CFR § 232.2)	See "Activity" above.	The term "activity", or the interchangeable terms "dredge", "fill", "dredging", or "filling" are used instead of discharge for the State 404 Program. Please see the term "discharge", above, for explanation.

Discharge Point	The term **discharge point** means the point within the disposal site at which the dredged or fill material is released. (40 CFR § 230.3)	See "discharge", above. Also see "Project area" and "Project site".	
Disposal Site	The term **disposal site** means that portion of the "waters of the United States" where specific disposal activities are permitted and consist of a bottom surface area and any overlying volume of water. In the case of wetlands on which surface water is not present, the disposal site consists of the wetland surface area. (40 CFR § 230.3)	See "Project area" and "Project site".	The state chose not to use the term "Disposal" because it seems to mean something is being disposed of. This may be appropriate for ocean dumping, but fill activities within state-assumed waters are not likely to be for the purpose of disposal of materials, but rather for the purpose of filling to create uplands. The terms spoil site, spoil cell, or dredged material management area are used for sediment disposal sites in ERP.
District		**"District"** means a water management district created pursuant to Section 373.069, F.S. (A.H. Vol. 1)	No federal definition
Dredged Material	**Dredged material** means material that is excavated or dredged from waters of the United States. (40 CFR § 232.2)	See "material", below.	
Ecological Value	See "functional capacity".	**"Ecological value"** means the value of functions performed by uplands, wetlands, and other surface waters to the abundance, diversity, and habitats of fish, wildlife, and listed species. Included are functions such as providing cover and refuge; breeding, nesting, denning, and nursery areas; corridors for wildlife movement; food chain support; natural water storage, natural flow attenuation, and water quality improvement which enhances fish, wildlife, and listed species utilization. (62-345.200, F.A.C.)	
Endangered or Threatened Species		**"Endangered or threatened species"** means those animal species that are identified as endangered or threatened by the US Fish and Wildlife Service, the National Marine Fisheries Service, or the Florida Fish and Wildlife Conservation Commission, as well as those plant species identified as endangered or threatened when such plants are located in a wetland or other surface water. (A.H. Vol. 1)	No federal definition. Demonstrates that the state considers federally and state listed species when evaluating impacts to wetlands and other surface waters.
Enhancement	**Enhancement** means the manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area. (40 CFR § 230.92)	**"Enhancement"** means improving the ecological value of wetlands, other surface waters, or uplands in comparison to their current condition. (A.H. Vol. 1)	Different definitions with the same outcome.
Extraction Site	The term **extraction site** means the place from which the dredged or fill material proposed for discharge is to be removed. (40 CFR § 230.3)	See "Project site" or "Project area".	
Fill Material (Federal) ***Material*** (State)	**Fill material.** (1) Except as specified in paragraph (3) of this definition, the term fill material means material placed in waters of the United States where the material has the effect of: (i) Replacing any portion of a water of the United States with dry land; or (ii) Changing the bottom elevation of any portion of a water of the United States.	**"Material,"** when used in the context of "filling," means matter of any kind, such as, sand, clay, silt, rock, dredged material, construction debris, solid waste, pilings or other structures, ash, and residue from industrial and domestic processes. The term does not include the temporary use and placement of lobster pots, crab traps, or similar devices or the placement of oyster cultch pursuant to Section 597.010, F.S., and Chapter 5L-3, F.A.C. (April 9, 2007). (A.H. Vol. 1)	Different definitions with the same outcome.

	(2) Examples of such fill material include, but are not limited to: rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in the waters of the United States. (3) The term fill material does not include trash or garbage. (40 CFR § 232.2)		
Functional Capacity	**Functional capacity** means the degree to which an area of aquatic resource performs a specific function. (40 CFR § 230.92)	See "ecological value".	
Functions	**Functions** means the physical, chemical, and biological processes that occur in ecosystems. (40 CFR § 230.92)	**"Functions,"** as used in the mitigation section of this handbook, means the physical, chemical, and biological processes that occur in ecosystems. (404 Handbook)	Same
Historical Resources Assessment Survey or Cultural Resources Assessment Survey	No federal definition	**"Historical Resources Assessment Survey"** or **"Cultural Resources Assessment Survey"** means a survey of the project site which meets the requirements set forth in Chapter 1A-46, F.A.C., Archaeological and Historical Report Standards and Guidelines.	Used within 404 Handbook when referring to historical resources reviewed by SHPO or tribes.
Historic Resource or Cultural Resources	No federal definition	**"Historic Resource"** or **"Cultural Resource"** means any prehistoric or historic district, site, building, object, or other real or personal property of historical, architectural, or archeological value, and folklife resources. These properties or resources may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure trove, artifacts, or other objects with intrinsic historical or archeological value, or any part thereof, relating to the history, government and culture of the state. (Source Section 267.021(3), F.S.) (404 Handbook)	Used within 404 Handbook when referring to historical resources reviewed by SHPO or tribes.
Impact	**Impact** means adverse effect. (40 CFR § 230.92)	**"Impact"** or "Adverse impact" means adverse effect. (404 Handbook)	Same
Indian Tribe	**Indian Tribe** means any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation. (40 CFR § 232.2)	**"Tribe"** means any Indian Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a federal Indian reservation. (404 Handbook)	"Tribe" is used throughout the 404 Handbook, so "Tribe" is used instead of "Indian Tribe".
In-Kind	**In-kind** means a resource of a similar structural and functional type to the impacted resource. (40 CFR § 230.92)	**"In-kind"** means a resource of a similar structural and functional type to the impacted resource. (404 Handbook)	Same
In-Lieu Fee Program	**In-lieu fee program** means a program involving the restoration, establishment, enhancement, and/or preservation of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements for DA permits. Similar to a mitigation bank, an in-lieu fee program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu program sponsor. However, the rules governing the operation and use of in-lieu fee programs are somewhat different from the rules governing operation and use of mitigation banks. The operation and use of an in-lieu fee program are governed by an in-lieu fee program instrument. (40 CFR § 230.92)	**In-lieu fee program**" means a program involving the restoration, creation, enhancement, and/or preservation of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements for 404 permits. Similar to a mitigation bank, an in-lieu fee program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu fee program sponsor. The operation and use of an in-lieu fee program are governed by an in-lieu fee program instrument. (404 Handbook)	State definition is nearly the same, but excludes language referring to rules governing the use and operation of in-lieu fee programs (N/A – the Corps will process these).

In-Lieu Fee Program Instrument	**In-lieu fee program instrument** means the legal document for the establishment, operation, and use of an in-lieu fee program. (40 CFR § 230.92)	N/A for the state program	No state definition
Instrument	**Instrument** means mitigation banking instrument or in-lieu fee program instrument. (40 CFR § 230.92)	N/A for the state program	No state definition
Interagency Review Team	**Interagency Review Team (IRT)** means an interagency group of federal, tribal, state, and/or local regulatory and resource agency representatives that reviews documentation for, and advises the district engineer on, the establishment and management of a mitigation bank or an in-lieu fee program. (40 CFR § 230.92)	**"Interagency Review Team" (IRT)** means an interagency group of federal, tribal, state, and/or local regulatory and resource agency representatives that reviews documentation for, and advises the Corps district engineer on, the establishment and management of a mitigation bank or an in-lieu fee program. (404 Handbook)	Same, except clarifies that the district engineer is a Corps' representative.
Waters of the United States (Federal)	The term W**aters of the United States** means: (1) For purposes of the Clean Water Act, 33 U.S.C. 1251 et seq. and its implementing regulations, subject to the exclusions in paragraph (o)(2) of this section, the term "waters of the United States" means: (i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (ii) All interstate waters, including interstate wetlands; (iii) The territorial seas; (iv) All impoundments of waters otherwise identified as waters of the United States under this section; (v) All tributaries, as defined in paragraph (o)(3)(iii) of this section, of waters identified in paragraphs (o)(1)(i) through (iii) of this section; (vi) All waters adjacent to a water identified in paragraphs (o)(1)(i) through (v) of this section, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters; (vii) All waters in paragraphs (o)(1)(vii)(A) through (E) of this section where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (o)(1)(i) through (iii) of this section. The waters identified in each of paragraphs (o)(1)(vii)(A) through (E) of this section are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (o)(1)(i) through (iii) of this section. Waters identified in this paragraph shall not be combined with waters identified in paragraph (o)(1)(vi) of this section when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (o)(1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required. (40 CFR § 230.3)		No state definition

Mean High Tide Line		**"Mean high tide line"**, for purposes of identifying retained waters, means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm. (33 CFR Part 328 – "high tide line")	This term is used in the Corps MOA.
Mitigation Bank	**Mitigation bank** means a site, or suite of sites, where resources (e.g., wetlands, streams, riparian areas) are restored, established, enhanced, and/or preserved for the purpose of providing compensatory mitigation for impacts authorized by DA permits. In general, a mitigation bank sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the mitigation bank sponsor. The operation and use of a mitigation bank are governed by a mitigation banking instrument. (40 CFR § 230.92)	**"Mitigation Bank"** for the purposes of the State 404 Program only, means a site, or suite of sites, where resources (e.g., wetlands, streams, riparian areas) are restored, established, enhanced, and/or preserved for the purpose of providing compensatory mitigation for impacts authorized by State 404 Program permits. In general, a mitigation bank sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the mitigation bank sponsor. The operation and use of a mitigation bank are governed by a mitigation banking instrument. (404 Handbook)	
Mixing Zone	The term **mixing zone** means a limited volume of water serving as a zone of initial dilution in the immediate vicinity of a discharge point where receiving water quality may not meet quality standards or other requirements otherwise applicable to the receiving water. The mixing zone should be considered as a place where wastes and water mix and not as a place where effluents are treated. (40 CFR § 230.3)	**"Mixing zone"** means a limited volume of water serving as a zone of initial dilution in the immediate vicinity of a dredge or fill activity where receiving water quality may not meet quality standards or other requirements otherwise applicable to the receiving water. (404 Handbook)	
Natural Systems	See "aquatic environment" and "aquatic ecosystem"	**"Natural systems"** for the purpose of this rule means an ecological system supporting aquatic and wetland-dependent natural resources, including fish and aquatic and wetland-dependent wildlife habitat. (A.H. Vol. 1)	
Neighboring	**Neighboring**. The term neighboring means: (A) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (o)(1)(i) through (v) of this section. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark; (B) All waters located within the 100-year floodplain of a water identified in paragraphs (o)(1)(i) through (v) of this section and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;		No state definition - this is in the WOTUS rule that is currently being challenged.

	(C) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (o)(1)(i) or (iii) of this section, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes. (40 CFR § 230.3)		
Off-site	**Off-site** means an area that is neither located on the same parcel of land as the impact site, nor on a parcel of land contiguous to the parcel containing the impact site. (40 CFR § 230.92)	"**Off-site,"** for purposes of the mitigation section of this Handbook, means an area that is neither located on the same parcel of land as the impact site, or on a parcel of land contiguous to the parcel containing the impact site. (404 Handbook)	Same
On-site	**On-site** means an area located on the same parcel of land as the impact site, or on a parcel of land contiguous to the impact site. (40 CFR § 230.92)	"**On-site**," for purposes of the mitigation section of this Handbook, means an area located on the same parcel of land as the impact site, or on a parcel of land contiguous to the impact site. (404 Handbook)	Same
Ordinary High Water Mark (Federal) ***Ordinary High Water Line*** (State)	**Ordinary high water mark**. The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. (40 CFR § 230.3)	**"Ordinary high water mark"**, for purposes of identifying retained waters, means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.	Same, except "for purposes of identifying retained waters"
Other Surface Waters		"**Other surface waters**" means surface waters as described and delineated pursuant to Rule 62-340.600, F.A.C., as ratified by Section 373.4211, F.S., other than wetlands. (A.H. Vol. 1)	No federal definition
Other Watercourse		**"Other watercourse**" means any canal, ditch, or other artificial watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted. [Section 373.019(14), F.S.] (A.H. Vol. 1)	No federal definition
Out-of-kind	**Out-of-kind** means a resource of a different structural and functional type from the impacted resource. (40 CFR § 230.92)	"**Out-of-kind**" means a resource of a different structural and functional type from the impacted resource. (404 Handbook)	Same
Performance Standards	**Performance standards** are observable or measurable physical (including hydrological), chemical and/or biological attributes that are used to determine if a compensatory mitigation project meets its objectives. (40 CFR § 230.92)	"**Performance standards**" are observable or measurable physical (including hydrological), chemical and/or biological attributes that are used to determine if a compensatory mitigation project meets its objectives. (404 Handbook)	Same
Permittee- Responsible Mitigation	**Permittee-responsible mitigation** means an aquatic resource restoration, establishment, enhancement, and/or preservation activity undertaken by the permittee (or an authorized agent or contractor) to provide compensatory mitigation for which the permittee retains full responsibility. (40 CFR § 230.92)	**"Permittee-responsible mitigation"** means an aquatic resource restoration, creation, enhancement, and/or preservation activity undertaken by the permittee (or an authorized agent or contractor) to provide compensatory mitigation for which the permittee retains full responsibility. (404 Handbook)	Same
Pocosins	**Pocosins** are evergreen shrub and tree dominated wetlands found predominantly along Central Atlantic coastal plain. (40 CFR § 230.3)	N/A for Florida.	No state definition
Pollutant	The term **pollutant** means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials not covered by the Atomic Energy Act, heat,	"**Pollutant**" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials not covered by the Atomic Energy Act, heat, wrecked or	

	wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. The legislative history of the Act reflects that "radioactive materials" as included within the definition of "pollutant" in section 502 of the Act means only radioactive materials which are not encompassed in the definition of source, byproduct, or special nuclear materials as defined by the Atomic Energy Act of 1954, as amended, and regulated under the Atomic Energy Act. Examples of radioactive materials not covered by the Atomic Energy Act and, therefore, included within the term "pollutant", are radium and accelerator produced isotopes. See Train v. Colorado Public Interest Research Group, Inc., 426 U.S. 1 (1976). (40 CFR § 230.3)	discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. The legislative history of the Act reflects that ''radioactive materials'' as included within the definition of ''pollutant'' in section 502 of the Act means only radioactive materials which are not encompassed in the definition of source, byproduct, or special nuclear materials as defined by the Atomic Energy Act of 1954, as amended, and regulated under the Atomic Energy Act. Examples of radioactive materials not covered by the Atomic Energy Act and, therefore, included with- in the term ''pollutant'', are radium and accelerator produced isotopes. See Train v. Colorado Public Interest Research Group, Inc., 426 U.S. 1 (1976). (404 Handbook)	
Pollution	The term ***pollution*** means the man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of an aquatic ecosystem. (40 CFR § 230.3)	"**Pollution**" is the presence in the outdoor atmosphere or waters of the state of any substances, contaminants, noise, or manmade or human-induced impairment of air or waters or alteration of the chemical, physical, biological, or radiological integrity of air or water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation unless authorized by applicable law. [Section 403.031(7), F.S.] (A.H. Vol. 1)	
Practicable	The term ***practicable*** means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. (40 CFR § 230.3)	"**Practicable**" means available and capable of being done after taking into consideration cost, existing technology, and logistics considering overall project purposes. (404 Handbook)	
Practicable Alternative		**"Practicable alternative**" means other choices available and capable of being carried out after taking into consideration cost, existing technology, and logistics considering overall project purposes, and may require an area not owned by the applicant which could reasonably have been obtained, utilized, expanded, or managed in order to fulfill the basic purpose of the proposed activity. (404 Handbook)	No federal definition
Prairie Potholes	**Prairie Potholes** are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest. (40 CFR § 230.3)	N/A for Florida	No state definition
Preservation	**Preservation** means the removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions. (40 CFR § 230.92)	"**Preservation**" means the protection of wetlands, other surface waters or uplands from adverse impacts by placing a conservation easement or other comparable land use restriction over the property or by donation of fee simple interest in the property. (A.H. Vol. 1)	Meaning is the same but uses different language.
Project Area	See "point of discharge" and "disposal site"	**"Project area" or "Project site"** means that portion of the state-assumed waters where specific dredging or filling activities are permitted and consist of a bottom surface area, any overlying volume of water, and any mixing zones. In the case of wetlands on which surface water is not present, the project area consists of the wetland surface area. (404 Handbook)	The state uses the terms "Project area or "Project site" instead of point of discharge and disposal site, because of the reasons described in the comments for those terms, above.

Re-establishment	**Re-establishment** means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions. (40 CFR § 230.92)	"**Re-establishment**" means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions. (see "Restoration") (404 Handbook)	Same
Reference Aquatic Resources	**Reference aquatic resources** are a set of aquatic resources that represent the full range of variability exhibited by a regional class of aquatic resources as a result of natural processes and anthropogenic disturbances. (40 CFR § 230.92)	"**Reference aquatic resources**" or "Reference site" are a set of aquatic resources that represent the full range of variability exhibited by a regional class of aquatic resources as a result of natural processes and anthropogenic disturbances. (404 Handbook)	Same
Rehabilitation	**Rehabilitation** means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area. (40 CFR § 230.92)	"**Rehabilitation**" means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area. (see "Restoration") (404 Handbook)	Same
Restoration	**Restoration** means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation. (40 CFR § 230.92)	"**Restoration**", for the purposes of the State 404 Program, means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation. (404 Handbook)	Same
Retained Waters		**"Retained Waters"** means those waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to their mean high water mark, including wetlands adjacent thereto. The Corps will retain responsibility for permitting for the discharge of dredged or fill material in those waters identified in the Retained Waters List (Appendix A), as well as all waters subject to the ebb and flow of the tide shoreward to their mean high water mark that are not specifically listed in the Retained Waters List, including wetlands adjacent thereto landward to the administrative boundary. The administrative boundary demarcating the adjacent wetlands over which jurisdiction is retained by the Corps is a 300-foot guide line established from the ordinary high water mark or mean high tide line of the retained water. In the case of a project that involves discharges of dredged or fill material both waterward and landward of the 300-foot guide line, the Corps will retain jurisdiction to the landward boundary of the project for the purposes of that project only.	From Corps MOA.
Riparian Areas	**Riparian areas** are lands adjacent to streams, rivers, lakes, and estuarine-marine shorelines. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (40 CFR § 230.92)	"**Riparian areas**" are lands adjacent to streams, rivers, lakes, and estuarine-marine shorelines. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (404 Handbook)	Same
Service Area	**Service area** means the geographic area within which impacts can be mitigated at a specific mitigation bank or an in-lieu fee program, as designated in its instrument. (40 CFR § 230.92)	**"Service area"** means the geographic area within which impacts can be mitigated at a specific mitigation bank or an	Same

		in-lieu fee program, as designated in its instrument. (404 Handbook)	
Services	**Services** mean the benefits that human populations receive from functions that occur in ecosystems. (40 CFR § 230.92)	"**Services**" mean the benefits that human populations receive from functions that occur in ecosystems. (404 Handbook)	Same
Special Aquatic Sites	**Special aquatic sites** means those sites identified in subpart E. They are geographic areas, large or small, possessing special ecological characteristics of productivity, habitat, wildlife protection, or other important and easily disrupted ecological values. These areas are generally recognized as significantly influencing or positively contributing to the general overall environmental health or vitality of the entire ecosystem of a region. (See §230.10(a)(3)) (40 CFR § 230.3)	"**Special aquatic sites**" means sanctuaries and refuges under state and federal laws or local ordinances, wetlands, mud flats, vegetated shallows, coral reefs, and riffle and pool complexes. They are geographic areas, large or small, possessing special ecological characteristics of productivity, habitat, wildlife protection, or other important and easily disrupted ecological values. These areas are generally recognized as significantly influencing or positively contributing to the general overall environmental health or vitality of the entire ecosystem of a region. (404 Handbook)	Listed the sites in Subpart E that are applicable to Florida within state definition.
Sponsor	**Sponsor** means any public or private entity responsible for establishing, and in most circumstances, operating a mitigation bank or in-lieu fee program. (40 CFR § 230.92)	**"Sponsor**" means any public or private entity responsible for establishing, and in most circumstances, operating a mitigation bank or in-lieu fee program. (404 Handbook)	Same
State-assumed Waters or Assumed Waters		**"State-assumed Waters"** or **"Assumed Waters"** means those waters as defined in Section 373.4146(1), F.S.	
Surface Water		"**Surface water**" means water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth's surface. [Section 373.019(21), F.S.] (A.H. Vol. 1)	
Technically Complete		**"Technically complete"** means an application where each application item is adequate to allow the Agency to determine if the proposed project complies with Chapter 62-331, F.A.C. If a project requires both an ERP and a State 404 Program authorization, the State 404 Program review shall not be considered complete until the ERP review is complete. This is to satisfy the requirement for reasonable assurance that State water quality standards and coastal zone consistency requirements will be met. (404 Handbook)	
Temporal Loss	**Temporal loss** is the time lag between the loss of aquatic resource functions caused by the permitted impacts and the replacement of aquatic resource functions at the compensatory mitigation site. Higher compensation ratios may be required to compensate for temporal loss. When the compensatory mitigation project is initiated prior to, or concurrent with, the permitted impacts, the district engineer may determine that compensation for temporal loss is not necessary, unless the resource has a long development time. (40 CFR § 230.92)	"**Temporal loss**" or "time lag" is the time that passes between the loss of aquatic resource functions caused by the permitted impacts and the replacement of aquatic resource functions at the mitigation site. (404 Handbook)	The Agencies address temporal loss, and the additional mitigation that may be required, in UMAM (Chapter 62-345, F.A.C.). UMAM will be used for both ERP and State 404 permits. That is why the second half of the federal definition was not included.
Texas Coastal Prairie Wetlands	**Texas coastal prairie wetlands.** Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast. (40 CFR § 230.3)	N/A for Florida	No state definition
Water Management District		**"Water Management District"** or "District" means a Water Management District created pursuant to Section 373.069, F.S. (A.H. Vol. 1)	
Water Quality Standard		**"Water quality standards"** or "State water quality standards" means those 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. (A.H. Vol. 1)	
Watershed		**"Watershed"** means the land area that contributes to the flow of water into a receiving body of water. [Sections 373.403(12) and 403.031(18), F.S.] (A.H. Vol. 1)	
Watershed Approach		"**Watershed approach**" means an analytical process for making mitigation decisions that support the sustainability or improvement of aquatic resources in a watershed. It involves consideration of watershed needs, and how locations and types of compensatory mitigation projects address those needs. A landscape perspective is used to identify the types and locations of mitigation projects that will benefit the watershed and offset losses of aquatic resource functions and services caused by activities authorized by Section 404 permits. The watershed approach may involve consideration of landscape scale, historic and potential aquatic resource conditions, past and projected aquatic resource impacts in the watershed, and terrestrial connections between aquatic resources when determining mitigation requirements for Section 404 permits. (404 Handbook)	
Watershed Plan		"**Watershed plan**" means a plan developed by federal, tribal, state, and/or local government agencies or appropriate non-governmental organizations, in consultation with relevant stakeholders, for the specific goal of aquatic resource restoration, creation, enhancement, and preservation. A watershed plan addresses aquatic resource conditions in the watershed, multiple stakeholder interests, and land uses. Watershed plans may also identify priority sites for aquatic resource restoration and protection. Examples of watershed plans include special area management plans, advance identification programs, and wetland management plans. (404 Handbook)	
Wetlands	**Wetlands.** The term wetlands means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (40 CFR § 230.3)	"**Wetlands**," means those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory	

		dominated by saw palmetto. [Section 373.019(27), F.S.] The landward extent of wetlands is delineated pursuant to Rules 62-340.100 through 62-340.550, F.A.C., as ratified by Section 373.4211, F.S. (A.H. Vol. 1)	

40 CFR Part 232 -

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
232.2	Definitions	Definitions from 40 CFR Parts 232, 233, and 230 are addressed in Rule 62-331.060, F.A.C. and the 404 Handbook, section 2.0. See also the definitions table, above.	See the definitions table, above.	
232.3	Activities not requiring permits	62-331.020(1), F.A.C. 404 Handbook, Appendix A 62-331.040(1), F.A.C.	62-331.020(1), F.A.C. - A permit under this Chapter is not required for the activities described in 40 CFR § 232.3 (July 1, 2018), 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. 62-331.040(1), F.A.C. – 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. 40 CFR § 323.3 is copied verbatim into Appendix B of the 404 Handbook.	

40 CFR Part 233 -

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
Subpart C Permit Requirements				
233.20 Prohibitions				
233.20(a)	No permit shall be issued by the Director in the following circumstances: (a) When permit does	62-331.053(3), F.A.C.	62-331.053(3), F.A.C. - 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 (Feb. 4, 1987),	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	not comply with the requirements of the Act or regulations thereunder, including the section 404(b)(1) Guidelines (part 230 of this chapter).		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. 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 marine sanctuary designated under Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, incorporated by reference herein (https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX). 6. Causes or contributes to significant degradation of state-assumed 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.;	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			(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.	
233.20(b)	No permit shall be issued by the Director in the following circumstances: (b) When the Regional Administrator has objected to issuance of the permit under § 233.50 and the objection has not been resolved.	62-331.052(3)(b)2., F.A.C. 62-331.053(3)(d), F.A.C.	62-331.052(3)(b)2., F.A.C. - 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. 62-331.053(3)(d), F.A.C. - No permit shall be issued for the following: (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.;	
233.20(c)	No permit shall be issued by the Director in the following circumstances: (c) When the	62-331.053(3)(e), F.A.C.	62-331.053(3), F.A.C. - No permit shall be issued for the following: (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	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	proposed discharges would be in an area which has been prohibited, withdrawn, or denied as a disposal site by the Administrator under section 404(c) of the Act, or when the discharge would fail to comply with a restriction imposed thereunder.			
233.20(d)	No permit shall be issued by the Director in the following circumstances: (d) If the Secretary determines, after consultation with the Secretary of the Department in which the Coast Guard is operating, that	62-331.053(3)(f), F.A.C.	62-331.053(3), F.A.C. - No permit shall be issued for the following: (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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	anchorage and navigation of any of the navigable waters would be substantially impaired.			
233.21 General Permits				
233.21(a)	(a) Under section 404(h)(5) of the Act, States may, after program approval, administer and enforce general permits previously issued by the Secretary in State regulated waters. Note: If States intend to assume existing general permits, they must be able to ensure compliance with existing permit conditions	62-331.210 – 62.331-248, F.A.C.	62-331.200(1), F.A.C. - 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.	The state general permits in Chapter 62-331 are modeled after the Corp's nationwide permits. They contain the same or similar permit conditions and prenotification requirements as the NWPs.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	and any reporting monitoring, or prenotification requirements.			
233.21(b)	(b) The Director may issue a general permit for categories of similar activities if he determines that the regulated activities will cause only minimal adverse environmental effects when performed separately and will have only minimal cumulative adverse effects on the environment. Any general permit issued shall be in compliance with the	62-331.200(2), F.A.C.	62-330.200(2), F.A.C. - 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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	section 404(b)(1) Guidelines.			
233.21(c)	(c) In addition to the conditions specified in § 233.23, each general permit shall contain: (1) A specific description of the type(s) of activities which are authorized, including limitations for any single operation. The description shall be detailed enough to ensure that the requirements of paragraph (b) of this section are met. (This paragraph supercedes § 233.23(c)(1) for general permits.)	See below detail of § 233.23	These requirements are addressed in the "Notice of Intent to Use an Environmental Resource and/or State 404 Program General Permit", form, which is proposed to be adopted in rule under 62-330.402(1), F.A.C.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	(2) A precise description of the geographic area to which the general permit applies, including limitations on the type(s) of water where operations may be conducted sufficient to ensure that the requirements of paragraph (b) of this section are met.			
233.21(d)	(d) Predischarge notification or other reporting requirements may be required by the Director on a permit-by-permit basis as appropriate to ensure that the	62-331.200(3), F.A.C.	62-331.200(3), F.A.C. - 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 activity is adjacent to the river segments identified in the National Rivers Inventory: [HYPERLINK "https://www.nps.gov/ncrc/programs/rtca/nri/index.html"]; (d) The activity is in the Florida Keys; (e) The project is adjacent to a federal project;	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	general permit will comply with the requirement (section 404(e) of the Act) that the regulated activities will cause only minimal adverse environmental effects when performed separately and will have only minimal cumulative adverse effects on the environment.		(f) The project is adjacent to Tribal lands; (g) 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; (h) 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 (i) 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 an historic properties search. The applicant shall provide the FMSF with the project area and Section/Township/Range information 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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			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.	
233.21(e)	(e) The Director may, without revoking the general permit, require any person authorized under a general permit to apply for an individual permit. This discretionary authority will be based on concerns for the aquatic environment including compliance with paragraph (b) of this section and the 404(b)(1) Guidelines (40 CFR part 230.) (1) This provision in no way affects the	62-331.200(6), F.A.C.	62-331.200(6), F.A.C. - 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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	legality of activities undertaken pursuant to the general permit prior to notification by the Director of such requirement. (2) Once the Director notifies the discharger of his decision to exercise discretionary authority to require an individual permit, the discharger's activity is no longer authorized by the general permit.			
233.22 Emergency Permits				
233.22(a)	Notwithstanding any other provision of this part, the Director may issue a temporary emergency permit for a discharge of	62-331.110(1), F.A.C.	62-331.110(1), F.A.C. - 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	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	dredged or fill material if unacceptable harm to life or severe loss of physical property is likely to occur before a permit could be issued or modified under procedures normally required.		of an applicant shall not be sufficient grounds to warrant the granting of an emergency field authorization.	
233.22(b)	(b) Emergency permits shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of § 233.23.	Form 62-331.110(1)	See form 62-331.110(1), F.A.C.	
233.22(b)(1)	(1) Any emergency permit shall be limited to the duration of time (typically no more than	62-331.110(3), F.A.C.	62-331.110(3), F.A.C. - 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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	90 days) required to complete the authorized emergency action.			
233.22(b)(2)	(2) The emergency permit shall have a condition requiring appropriate restoration of the site.	Form 62-331.110(1)	See form 62-331.110(1), F.A.C.	
233.22(c)	(c) The emergency permit may be terminated at any time without process (§ 233.36) if the Director determines that termination is necessary to protect human health or the environment.	62-331.110(4), F.A.C.	62-331.110(4), F.A.C. - 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.	
233.22(d)	(d) The Director shall consult in an expeditious manner, such as by telephone,	62-331.110(7), F.A.C.	62-331.110(7), F.A.C. - 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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	with the Regional Administrator, the Corps, FWS, and NMFS about issuance of an emergency permit.			
233.22(e)	(e) The emergency permit may be oral or written. If oral, it must be followed within 5 days by a written emergency permit. A copy of the written permit shall be sent to the Regional Administrator.	62-331.110(2), F.A.C.	62-331.100(2), F.A.C. - 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.	State will issue only written emergency permits
233.22(f)	(f) Notice of the emergency permit shall be published and public comments solicited in accordance with § 233.32 as soon as possible but	62-331.110(5), F.A.C.	62-331.110(5), F.A.C. - 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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	no later than 10 days after the issuance date.			
233.23 Permit Conditions				
233.23(a)	For each permit the Director shall establish conditions which assure compliance with all applicable statutory and regulatory requirements, including the 404(b)(1) Guidelines, applicable section 303 water quality standards, and applicable section 307 effluent standards and prohibitions.	62-331.054, F.A.C. 62-331.201, F.A.C.	See referenced rule text.	The referenced rules are long, so we did not copy/paste here.
233.23(b)	Section 404 permits shall be effective for a fixed term not to	62-331.090, F.A.C.	62-331.090, F.A.C. - 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).	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	exceed 5 years.			
233.23(c)(1)	Each 404 permit shall include conditions meeting or implementing the following requirements: A specific identification and complete description of the authorized activity including name and address of permittee, location and purpose of discharge, type and quantity of material to be discharged. (This subsection is not applicable to general permits).			This information is located in our permit templates, usually on the first page. It is not in rule. Permit templates will be included as part of the assumption package submitted to EPA along with the finalized rules.
233.23(c)(2)	Each 404 permit shall include conditions meeting or	62-331.054(1), F.A.C. 62-330.350(1)(a), F.A.C. 62-331.201(1), F.A.C.	62-331.054(1), F.A.C. - (1) Individual permits shall contain the general conditions for individual permits in subsection 62-330.350(1), F.A.C., 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	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	implementing the following requirements: Only the activities specifically described in the permit are authorized.	62-330.405(1), F.A.C.	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. 62-330.350(1)(a), F.A.C. - All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under chapter 373, F.S. 62-331.201(1), F.A.C. - (1) General permits shall be subject to the general conditions for all general permits in Rule 62-330.405, F.A.C., except subsection 62-330.405(10), F.A.C., and the conditions in subsections (2) and (3), below. 62-330.405(1), F.A.C. - (1) The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit and may subject the permittee to enforcement action and revocation of the permit under chapter 373, F.S.	
233.23(c)(3)	Each 404 permit shall include conditions meeting or implementing the following requirements: The permittee shall comply with all conditions of the permit even	62-331.054(2)(a), F.A.C.	62-331.054(2), F.A.C. - 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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	if that requires halting or reducing the permitted activity to maintain compliance. Any permit violation constitutes a violation of the Act as well as of State statute and/or regulation.			
233.23(c)(4)	Each 404 permit shall include conditions meeting or implementing the following requirements: The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit.	62-331.054(2)(b), F.A.C.	62-331.054(2), F.A.C. Individual permits shall contain the following conditions in addition to those described in (1), above: (b) The permittee shall take all reasonable steps to prevent any unauthorized dredging or filling in violation of this permit.	
233.23(c)(5)	Each 404 permit shall include conditions meeting or	62-331.054(2)(c), F.A.C. 62-331.201(3)(t), F.A.C.	62-331.054(2), F.A.C. - Individual permits shall contain the following conditions in addition to those described in (1), above: (c) The permittee shall timely notify the Agency of any expected or known actual noncompliance.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	implementing the following requirements: The permittee shall inform the Director of any expected or known actual noncompliance.		62-331.201(3)(t), F.A.C. - In addition, general permits under this Chapter are subject to the following conditions: (t) Noncompliance. The permittee shall timely notify the Agency of any expected or known actual noncompliance.	
233.23(c)(6)	Each 404 permit shall include conditions meeting or implementing the following requirements: The permittee shall provide such information to the Director, as the Director requests, to determine compliance status, or whether cause exists for permit modification, revocation	62-331.054(2)(d), F.A.C. 62-331.201(3)(x), F.A.C.	62-331.054(2)(d), F.A.C. - Upon Agency request, the permittee shall provide information necessary to determine compliance status, or whether cause exists for permit modification, revocation, or termination. 62-331.201(3)(x), F.A.C. - Upon Agency request, the permittee shall provide information necessary to determine compliance status, or whether cause exists for permit modification, revocation, or termination.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	or termination.			
233.23(c)(7)	Each 404 permit shall include conditions meeting or implementing the following requirements: Monitoring, reporting and recordkeeping requirements as needed to safeguard the aquatic environment. (Such requirements will be determined on a case-by-case basis, but at a minimum shall include monitoring and reporting of any expected leachates, reporting of noncompliance, planned changes or transfer of the permit.)	62-331.054(1), F.A.C. 62-331.201(2), F.A.C.	62-331.054(1), F.A.C. - Individual permits shall contain the general conditions for individual permits in subsection 62-330.350(1), F.A.C., and any specific conditions necessary to assure compliance with this Chapter. 62-331.201(2), F.A.C. - When a project requires submittal of a notice of intent to use a general permit, the Agency shall impose specific conditions as necessary for protection of the resource. Specific conditions include, but are not limited to, mitigation requirements, and protection measures for listed species or historical resources. Where a specific condition or a condition within the rule language of a general permit is more stringent than the general conditions, the more stringent condition shall apply.	

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
233.23(c)(8)	Inspection and entry. The permittee shall allow the Director, or his authorized representative, upon presentation of proper identification, at reasonable times to: (i) Enter upon the permittee's premises where a regulated activity is located or where records must be kept under the conditions of the permit, (ii) Have access to and copy any records that must be kept under the conditions of the permit,	62-331.054(2)(e), F.A.C. 62-331.201(3)(u), F.A.C.	62-331.054(2)(e), F.A.C. - 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. 62-331.201(3)(u), F.A.C. - 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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	(iii) Inspect operations regulated or required under the permit, and (iv) Sample or monitor, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.			
233.23(c)(9)	Each 404 permit shall include conditions meeting or implementing the following requirements: Conditions assuring that the discharge will be conducted in a manner which minimizes	62-331.054(1), F.A.C. 62-331.201(2), F.A.C.	62-331.054(1), F.A.C. - Individual permits shall contain the general conditions for individual permits in subsection 62-330.350(1), F.A.C., and any specific conditions necessary to assure compliance with this Chapter. 62-331.201(2), F.A.C. - When a project requires submittal of a notice of intent to use a general permit, the Agency shall impose specific conditions as necessary for protection of the resource. Specific conditions include, but are not limited to, mitigation requirements, and protection measures for listed species or historical resources. Where a specific condition or a condition within the rule language of a general permit is more stringent than the general conditions, the more stringent condition shall apply.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	adverse impacts upon the physical, chemical and biological integrity of the waters of the United States, such as requirements for restoration or mitigation.			
Subpart D Program Operation				
233.30 Application for a permit				
233.30(a)	Except when an activity is authorized by a general permit issued pursuant to § 233.21 or is exempt from the requirements to obtain a permit under § 232.3, any person who proposes to discharge dredged or fill material into State regulated waters shall	62-331.050(1), F.A.C.	62-331.050(1), F.A.C. - 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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	complete, sign and submit a permit application to the Director. Persons proposing to discharge dredged or fill material under the authorization of a general permit must comply with any reporting requirements of the general permit.			
233.30(b)	A complete application shall include: (1) Name, address, telephone number of the applicant and name(s) and address(es) of adjoining property owners. (2) A complete description	62-331.060(1), F.A.C. 62-331.051(1), F.A.C. See also Form 62-330.060(1)	62-331.060(1), F.A.C. - 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	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	of the proposed activity including necessary drawings, sketches or plans sufficient for public notice (the applicant is not generally expected to submit detailed engineering plans and specifications); the location, purpose and intended use of the proposed activity; scheduling of the activity; the location and dimensions of adjacent structures; and a list of authorizations required by other Federal, interstate, State or local agencies for the work, including all		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. 62-331.051, F.A.C. - 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	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	approvals received or denials already made. (3) The application must include a description of the type, composition, source and quantity of the material to be discharged, the method of discharge, and the site and plans for disposal of the dredged or fill material. (4) A certification that all information contained in the application is true and accurate and acknowledging awareness of penalties for submitting		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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	false information. (5) All activities which the applicant plans to undertake which are reasonably related to the same project should be included in the same permit application.			
233.30(c)	In addition to the information indicated in § 233.30(b), the applicant will be required to furnish such additional information as the Director deems appropriate to assist in the evaluation of the application. Such additional information may include environmen	62-331.051(3), F.A.C.	62-331.051(3), F.A.C. - 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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	tal data and information on alternate methods and sites as may be necessary for the preparation of the required environmental documentation.			
233.30(d)	The level of detail shall be reasonably commensurate with the type and size of discharge, proximity to critical areas, likelihood of long-lived toxic chemical substances, and potential level of environmental degradation.			We did not add this to the rule. Applicants must submit reasonable assurance that the project meets the rules – smaller projects, by their nature, usually do not require the level of detail that larger projects require. Therefore, this statement does not seem necessary and could encourage applicants to submit inadequate information.
233.31 Coordination Requirements				
233.31(a)	If a proposed discharge may affect	62-331.060(5), F.A.C.	62-331.060(5), F.A.C. - 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	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	the biological, chemical, or physical integrity of the waters of any State(s) other than the State in which the discharge occurs, the Director shall provide an opportunity for such State(s) to submit written comments within the public comment period and to suggest permit conditions. If these recommendations are not accepted by the Director, he shall notify the affected State and the Regional Administrator prior to permit issuance in writing of		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), F.A.C.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	his failure to accept these recommendations, together with his reasons for so doing. The Regional Administrator shall then have the time provided for in § 233.50(d) to comment upon, object to, or make recommendations.			
233.31(b)	State section 404 permits shall be coordinated with Federal and Federal-State water related planning and review processes.			The state plans to engage in this kind of coordination whenever possible.
233.32	**Public Notice**			
233.32(a)	(a) Applicability. (1) The Director shall give public	62-331.060(1), F.A.C. 62-331.060(4)(b), F.A.C.	62-331.060(1), F.A.C. - 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.	Draft general permits go through the rulemaking process in chapter 120, F.S., and are subject to public notice and comment periods as set forth therein.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	notice of the following actions: (i) Receipt of a permit application. (ii) Preparation of a draft general permit. (iii) Consideration of a major modification to an issued permit. (iv) Scheduling of a public hearing. (v) Issuance of an emergency permit. (2) Public notices may describe more than one permit or action.		62-331.060(4)(b), F.A.C. - The Agency shall provide notice of a public meeting at least 30 days prior to the scheduled public meeting date.	
233.32(b)	(b) Timing. (1) The public notice shall provide a reasonable period of	62-331.060(3) & (4), F.A.C.	62-331.060(3) & (4), F.A.C. – (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;	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	time, normally at least 30 days, within which interested parties may express their views concerning the permit application. (2) Public notice of a public hearing shall be given at least 30 days before the hearing. (3) The Regional Administrator may approve a program with shorter public notice timing if the Regional Administrator determines that sufficient public notice is provided for.		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.	
233.32(c)	(c) The Director shall give	62-331.060(2), F.A.C.	62-331.060(2), F.A.C. - Public notice shall be prepared in accordance with section 5.3.1 of the 404 Handbook and provided as follows:	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	public notice by each of the following methods: (1) By mailing a copy of the notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his rights to receive notice for any classes or categories of permits): (i) The applicant. (ii) Any agency with jurisdiction over the activity or the disposal site, whether or not the agency issues a permit.		(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 (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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	(iii) Owners of property adjoining the property where the regulated activity will occur. (iv) All persons who have specifically requested copies of public notices. (The Director may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Director may delete from the list the name of any person who fails to respond to such a request.) (v) Any State whose waters may be affected			

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	by the proposed discharge. (2) In addition, by providing notice in at least one other way (such as advertisement in a newspaper of sufficient circulation) reasonably calculated to cover the area affected by the activity.			
233.32(d)	(d) All public notices shall contain at least the following information: (1) The name and address of the applicant and, if different, the address or location of the activity(ies) regulated by the permit. (2) The name,	404 Handbook Section 5.3.1(a)	404 Handbook Section 5.3.1(a) - Public notices shall be prepared by the Agency and shall contain: 1. The name and address of the applicant and, if different, the address or location of the activity(ies) regulated by the permit. 2. The name, address, and telephone number of a person to contact for further information. 3. A brief description of the comment procedures and procedures to request a public meeting, including deadlines. 4. A brief description of the proposed activity, its purpose and intended use, so as to provide sufficient information concerning the nature of the activity to generate meaningful comments, including a description of the type of structures, if any, to be erected on fills, and a description of the type, composition and quantity of materials to be used as fill. 5. A plan and elevation drawing showing the general and specific site location and character of all proposed activities, including the size relationship of the proposed structures to the size of the impacted waterway and depth of water in the area. 6. A paragraph describing the various evaluation factors on which decisions are based.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	address, and telephone number of a person to contact for further information. (3) A brief description of the comment procedures and procedures to request a public hearing, including deadlines. (4) A brief description of the proposed activity, its purpose and intended use, so as to provide sufficient information concerning the nature of the activity to generate meaningful comments, including a description of the type of structures, if any, to be		7. Any other information which would significantly assist interested parties in evaluating the likely impact of the proposed activity.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	erected on fills, and a description of the type, composition and quantity of materials to be discharged. (5) A plan and elevation drawing showing the general and specific site location and character of all proposed activities, including the size relationship of the proposed structures to the size of the impacted waterway and depth of water in the area. (6) A paragraph describing the various evaluation factors, including the 404(b)(1) Guidelines			

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	or State-equivalent criteria, on which decisions are based. (7) Any other information which would significantly assist interested parties in evaluating the likely impact of the proposed activity.			
233.32(e)	(e) Notice of public hearing shall also contain the following information: (1) Time, date, and place of hearing. (2) Reference to the date of any previous public notices relating to the permit.	404 Handbook Section 5.3.1(b)	404 Handbook Section 5.3.1(b) - Notice of public meeting shall also contain the information in (a)1. through 7., above, and the following information: 1. Time, date, and place of meeting. 2. Reference to the date of any previous public notices relating to the permit. 3. Brief description of the nature and purpose of the meeting.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	(3) Brief description of the nature and purpose of the hearing.			
233.33 Public Hearing				
233.33(a)	Any interested person may request a public hearing during the public comment period as specified in § 233.32. Requests shall be in writing and shall state the nature of the issues proposed to be raised at the hearing.	62-331.060(4), F.A.C.	62-331.060(4), F.A.C. - 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.	
233.33(b)	The Director shall hold a public hearing whenever he determines there is a significant degree of public interest in a permit application or a draft general	62-331.060(4), F.A.C.	62-331.060(4), F.A.C. - 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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	permit. He may also hold a hearing, at his discretion, whenever he determines a hearing may be useful to a decision on the permit application.			
233.33(c)	At a hearing, any person may submit oral or written statements or data concerning the permit application or draft general permit. The public comment period shall automatically be extended to the close of any public hearing under this section. The presiding officer may also extend the comment	62-331.060(4)(c), F.A.C. 62-331.060(3)(c), F.A.C.	62-331.060(4)(c), F.A.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. 62-331.060(3)(c), F.A.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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	period at the hearing.			
233.33(d)	All public hearings shall be reported verbatim. Copies of the record of proceedings may be purchased by any person from the Director or the reporter of such hearing. A copy of the transcript (or if none is prepared, a tape of the proceedings) shall be made available for public inspection at an appropriate State office.	62-331.060(4)(c), F.A.C.	62-331.060(4)(c), F.A.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.	
233.34	Making a decision on a permit application			
233.34(a)	The Director will review all applications for compliance	62-331.052(1), F.A.C.	62-331.052(1), F.A.C. - 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	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	with the 404(b)(1) Guidelines and/or equivalent State environmental criteria as well as any other applicable State laws or regulations.		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.	
233.34(b)	The Director shall consider all comments received in response to the public notice, and public hearing if a hearing is held. All comments, as well as the record of any public hearing, shall be made part of the official record on the application.	62-331.060(6), F.A.C.	62-331.060(6), F.A.C. 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.	
233.34(c)	After the Director has completed his review of the	404 Handbook section 8.2 62-331.053(3), F.A.C.	404 Handbook, section 8.2 – Sequence of Review Upon receipt of a technically complete application, the Agency will follow the sequence of review for processing applications summarized below. The sequence is simplified for purposes of illustration. The actual process followed may be iterative, with	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	application and consideration of comments, the Director will determine, in accordance with the record and all applicable regulations, whether or not the permit should be issued. No permit shall be issued by the Director under the circumstances described in § 233.20. The Director shall prepare a written determination on each application outlining his decision and rationale for his decision. The determination shall be dated, signed and included in the official		the results of one step leading to a re-examination of the previous steps. The Agency must address all the applicable State 404 Program permitting conditions in reaching a permitting decision for a project. a) Determine whether the activity qualifies for a State 404 Program exemption or general permit. If it is not covered by an exemption or general permit, then: b) Review practicable alternatives to the proposed activity. Alternatives may include not dredging or filling in state-assumed waters (avoidance) or dredging or filling in an alternative aquatic site with potentially less damaging environmental consequences. The applicant shall submit an alternatives analysis as required by Rule 62-331.053, F.A.C. Guidance for completing the alternatives analysis can be found in Appendix C. c) Review the proposed project area boundaries. For the purposes of the State 404 Program only, the project area includes all areas of dredging or filling in state-assumed waters, and any proposed mixing zones, where applicable. Mixing zones shall be reviewed in accordance with this chapter, and as provided in Rule 62-4.242, and subsection 62-4.244(5), F.A.C. d) Evaluate the various physical and chemical components which characterize the non-living environment of the proposed site, the substrate and the water including its dynamic characteristics consistent with Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C. e) Identify and evaluate any special or critical characteristics of the proposed project site and surrounding areas which might be affected by use of such site, related to their living communities or human uses consistent with Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C. f) Review the information submitted with the application to determine whether the information provided by the applicant is sufficient to provide reasonable assurance that the applicable provisions of Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C., will be met. g) Evaluate the material to be dredged or used as fill to determine the possibility of the presence of contaminants, including chemical contamination, that may violate state water quality standards listed in paragraph 62-330.301(1)(e), F.A.C., or any toxic effluent standard or prohibition under section 307 of the CWA. Check for physical incompatibility of the material to be used as fill (examples – 1) muck should not be used as	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	record prior to final action on the application. The official record shall be open to the public.		structural fill but may be appropriate for use in a wetland restoration project; 2) if a certain ecological community type is expected to colonize the fill, the fill should be appropriate for the desired species). h) If there is a reasonable probability that contaminants are present, including chemical contamination, the Agency shall require the applicant to conduct appropriate sediment, elutriate, and/or water quality tests, as applicable. i) Identify appropriate and practicable changes to the project plan to avoid or minimize the environmental impact of the activity, as described in Volume I, section 10.2.1, except 10.2.1.2, which is not applicable to the State 404 Program. Avoidance should be considered first, and then minimization only if avoidance is not practicable. j) Complete a Technical Staff Report to document how the project addresses the requirements of Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C. k) Make and document a finding of either compliance or noncompliance with the requirements of Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C. This is a determination of whether the project, including any mitigation, is permittable under the State 404 Program. l) Prepare a written determination on each application outlining the permitting decision and the rationale for the decision. The determination shall be dated, signed, and included in the official record prior to final action on the application. The Technical Staff Report from step 10 (subsection (j)), above, shall be included in or attached to the determination. <u>62-331.053(3), F.A.C. - No permit shall be issued for the following:</u> <u>(a) When the project is inconsistent with the requirements of this Chapter and the 404 Handbook, including when the project:</u> <u>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;</u> <u>2. Causes or contributes to violations of any applicable water quality standard within other states or Tribal lands;</u> <u>3. Violates any applicable toxic effluent standard or prohibition under section 307 of the CWA, 33 U.S.C. § 1317 (Feb. 4, 1987), incorporated herein</u>	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			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. 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	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			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.	
233.35 Issuance and effective date of permit				
233.35(a)	If the Regional Administrator comments on a permit application or draft general permit under § 233.50, the Director shall follow the procedures specified in that section in issuing the permit.	62-331.052(3)(b), F.A.C.	62-331.052(3)(b), F.A.C. - 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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			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.	
233.35(b)	If the Regional Administrator does not comment on a permit application or draft general permit, the Director shall make a final permit decision after the close of the public comment period and shall notify the applicant. (1) If the decision is to issue a	62-331.052(3)(a), F.A.C.	62-331.052(3)(a), F.A.C. - 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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	permit, the permit becomes effective when it is signed by the Director and the applicant. (2) If the decision is to deny the permit, the Director will notify the applicant in writing of the reason(s) for denial.			
233.36 Modification, suspension or revocation of permits				
233.36(a)	General. The Director may reevaluate the circumstances and conditions of a permit either on his own motion or at the request of the permittee or of a third party and initiate action to modify, suspend, or revoke a	62-331.080(2), F.A.C.	62-331.080, F.A.C. - 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: … (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;	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	permit if he determines that sufficient cause exists. Among the factors to be considered are: (1) Permittee's noncompliance with any of the terms or conditions of the permit; (2) Permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at the time; (3) Information that activities authorized by a general permit are		(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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	having more than minimal individual or cumulative adverse effect on the environment, or that the permitted activities are more appropriately regulated by individual permits; (4) Circumstances relating to the authorized activity have changed since the permit was issued and justify changed permit conditions or temporary or permanent cessation of any discharge controlled by the permit; (5) Any significant			

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	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; (6) Revisions to applicable statutory or regulatory authority, including toxic effluent standards or prohibitions or water quality standards.			
233.36(b)	Limitations. Permit modifications shall be in compliance with § 233.20.	62-331.080(1), F.A.C.	62-331.080(1), F.A.C. - 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	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			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.	
233.36(c)	Procedures. (1) The Director shall develop procedures to modify, suspend or revoke permits if he determines cause exists for such action (§ 233.36(a)). Such procedures shall provide opportunity for public comment (§ 233.32), coordination with the Federal review agencies (§ 233.50), and opportunity	62-331.080(4), F.A.C. 62-331.080(1), F.A.C. 62-331.080(3), F.A.C.	62-331.080(4), F.A.C. - 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. 62-331.080(1), F.A.C. - 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	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	for public hearing (§ 233.33) following notification of the permittee. When permit modification is proposed, only the conditions subject to modification need be reopened. (2) Minor modification of permits. The Director may, upon the consent of the permittee, use abbreviated procedures to modify a permit to make the following corrections or allowance for changes in the permitted activity: (i) Correct typographical errors;		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. 62-331.080(3), F.A.C. - 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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	(ii) Require more frequent monitoring or reporting by permittee; (iii) Allow for a change in ownership or operational control of a project or activity where the Director 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 Director;			

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	(iv) Provide for minor modification 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; (v) Extend the term of a 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 dredged or fill material allowed to be discharged.			
233.37	**Signatures on permit**	Form 62-330.060(1)	See Form Language	Rule 62-331.051(1), F.A.C., implements the requirements of 40 C.F.R. § 233.37, by requiring an applicant use Form 62-330.060(1) – "Application

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	applications and reports. The application and any required reports must be signed by the person who desires to undertake the proposed activity or by that person's duly authorized agent if accompanied by a statement by that person designating the agent. In either case, the signature of the applicant or the agent will be understood to be an affirmation that he possesses or represents the person who possesses	Form 62-330.402(1)		for Individual and Conceptual Approval Environmental Resource Permit, State 404 Program Permit, and Authorization to Use State-Owned Submerged Lands." Part 4, Section A of this Form requires the signature of the applicant or the applicant's agent; Section B requires the certification of real property interest; and Section C requires the Designation of Authorized Agent (if applicable). Noticed general permits require the use of Form 62-330.402(1), which requires substantially the same information and certification.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	the requisite property interest to undertake the activity proposed in the application.			
233.38	**Continuation of expiring permits.** A Corps 404 permit does not continue in force beyond its expiration date under Federal law if, at that time, a State is the permitting authority. States authorized to administer the 404 Program may continue Corps or State-issued permits until the effective date of the new permits, if State law allows.	62-331.090, F.A.C. 404 Handbook, Section 6 Draft MOA with Corps, Section IV. 1) Draft MOA with Corps, Section IV.B.	62-331.090, F.A.C. - 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). 404 Handbook, section 6.0 - Duration, Modification, and Transfer of Permits (a) Duration of permits shall be in accordance with Rule 62-331.090, F.A.C. (b) Individual permits become effective when they are signed by the Agency and the applicant. Each State 404 Individual permit, when issued, shall contain a signature page with signature blocks for the person who has authority to sign permits for the district where the permit is issued and for the applicant. The applicant shall sign the page and send it back to the Agency for Agency signature. (c) Individual permits cannot be extended but may be administratively continued while an application for a new permit is under review in accordance with section 5.3.3 of this handbook when unexpected project delays cause a project to require more than five years to complete. Corps MOA IV.A.(1) The time limit for completing work authorized under a Department of the Army (DA) individual permit issued prior to the date of assumption for the discharge of dredged or fill material in State assumed waters will remain the expiration date stated in the permit instrument. After the date of assumption, an applicant must apply for a new permit from DEP for any work that remains incomplete by the expiration date. The Corps will not review requests for extension of time and will refer the applicant to DEP to apply for a new	The Corps MOA will not be adopted by rule but will be a binding part of the state program after EPA's approval of the program.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	Otherwise, the discharge is being conducted without a permit from the time of expiration of the old permit to the effective date of a new State-issued permit, if any.		permit under the State 404 Program. DEP may administratively continue an expiring Corps permit until the effective date of a new permit, if any, consistent with 40 C.F.R. § 233.38, or a decision is made not to issue a new permit. Corps MOA IV.B. The time limit for completing the work under a DA general permit verified prior to the date of assumption for the discharge of dredged or fill material in State assumed waters will remain the expiration date stated in the verification letter or as stated in the DA general permit, whichever is earliest. After the date of assumption, any work that remains incomplete by the expiration date must receive a new permit from DEP under the State 404 Program. Requests for modifications of verifications under a DA general permit within State assumed waters shall be made to DEP. Verifications of DA general permits shall continue to be effective for the original duration established by the Corps' verification letter, to include 12 months after expiration if work has commenced or is under contract to commence. After the date of assumption, no new verifications under general permits will be issued by the Corps within State assumed waters.	
233.39	**Electronic Reporting** States that choose to receive electronic documents must satisfy the requirements of 40 CFR Part 3 - (Electronic reporting) in their state program.	373.026(10), F.S.	373.026(10), F.S. - In addition to its other powers and duties, the department shall, to the greatest extent possible: (10) Expand the use of Internet-based self-certification services for appropriate exemptions and general permits issued by the department and the water management districts, if such expansion is economically feasible. In addition to expanding the use of Internet-based self-certification services for appropriate exemptions and general permits, the department and water management districts shall identify and develop general permits for appropriate activities currently requiring individual review which could be expedited through the use of applicable professional certification.	The Department receives electronic documents through its ESSA (Electronic Self-Service Application Portal) and EzDMR (Electronic Discharge Monitoring Report) applications, which have been complaint with CROMERR (EPAs Cross Media Electronic Reporting Rule) since January 2012.
Subpart E Compliance Evaluation and Enforcement				
233.40 Requirements for compliance evaluation programs				
233.40(a)	In order to abate	[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statut	373.129(1) and (7), F.S. – The department, the governing board of any water management district, any local board, or a local	The State has authority to enforce rules and regulations promulgated under Part IV of Chapter 373, F.S., including the

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	violations of the permit program, the State shall maintain a program designed to identify persons subject to regulation who have failed to obtain a permit or to comply with permit conditions.	e&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](1) and (7), F.S. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.430.html"](1), F.S. (via [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](7), F.S.) [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.161.html"](1), F.S. (via [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](7), F.S.)	government to which authority has been delegated pursuant to s. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.103.html"](8), is authorized to commence and maintain proper and necessary actions and proceedings in any court of competent jurisdiction for any of the following purposes: (1) To enforce rules, regulations, and orders adopted or issued pursuant to this law. (7) Enforce the provisions of part IV of this chapter in the same manner and to the same extent as provided in ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.430.html"], [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.121.html"](1) and (2), [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.131.html"], [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.141.html"], and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.161.html"]. 373.430(1), F.S. (via 373.129(7), F.S.) - (1) It shall be a violation of this part, and it shall be prohibited for any person: (a) To cause pollution, as defined in s. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.031.html"](7), except as otherwise provided in this part, so as to harm or injure human health or welfare, animal, plant, or aquatic life or property. (b) To fail to obtain any permit required by this part or by rule or regulation adopted pursuant thereto, or to violate or fail to comply with any rule, regulation, order, or permit adopted or issued by a water management district, the department, or local government pursuant to their lawful authority under this part. (c) To knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this part, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under	Environmental Resource Permit (ERP) program and the State 404 Program, if assumed. Such regulatory violations include failure to obtain a required permit or failure to comply with permit conditions. Compliance monitoring and enforcement procedures are implemented statewide via the Department's Compliance Assurance Program (CAP). CAP staff are responsible for tracking and maintaining records related to permit compliance monitoring and unpermitted violations using the program-specific Environmental Resource Permit Compliance & Enforcement (ERPce) database. The ERPce database also enables staff to identify parties responsible for multiple or repeat violations, and to record publicly-submitted reports about potential violations (as discussed in the comments for § 233.40(d), below).

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			this part or by any permit, rule, regulation, or order issued under this part. 403.161(1), F.S. (via 373.129(7), F.S.) - (1) It shall be a violation of this chapter, and it shall be prohibited for any person: (a) To cause pollution, except as otherwise provided in this chapter, so as to harm or injure human health or welfare, animal, plant, or aquatic life or property. (b) To fail to obtain any permit required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the department pursuant to its lawful authority. (c) To knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under this chapter or by any permit, rule, regulation, or order issued under this chapter. (d) For any person who owns or operates a facility to fail to report to the representative of the department, as established by department rule, within one working day of discovery of a release of hazardous substances from the facility if the owner or operator is required to report the release to the United States Environmental Protection Agency in accordance with 42 U.S.C. s. 9603. (e) To fail to provide required notice pursuant to s. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.077.html"].	
233.40(b)	The Director and State officers engaged in compliance evaluation, upon presentation of proper identification, shall have authority to enter any site or premises	[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.423.html"], F.S. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.091.html"], F.S. 62-331.054(1), F.A.C. and [HYPERLINK "https://www.flrules.org/gateway/RuleNo.asp?title=ENVIRONMENTAL%20RESOURCE%20PERMITTING&ID=62-330.350"](1)(m), F.A.C. 62-331.201(1), F.A.C. and [HYPERLINK "https://www.flrules.org/gateway/RuleNo.asp?title=ENVIRONMENTAL%20RESOURCE%20PERMITTING&ID=62-330.405"](8), F.A.C.	373.423, F.S. Inspection. — (1) During the construction or alteration of any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, the governing board or department pursuant to s. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.091.html"] shall make at its expense such periodic inspections as it deems necessary to ensure conformity with the approved plans and specifications included in the permit. (2) If during construction or alteration the governing board or department finds that the work is not being done in accordance with the approved plans and specifications as indicated in the permit, it shall give the permittee written notice stating with	Several statutes grant the Department authority to access sites for inspections. Additional sources of site access authority include permits, consent orders, other administrative orders, permission forms, easements and licenses, inspection warrants, and court orders. Pursuant to Section 1.7 of Applicant's Handbook Vol. I ("Permission to Inspect, Monitor and Sample"), ERP program applications must include authorization for Department staff to enter and inspect the subject site; after an individual or general permit is issued, Department staff are authorized to access and inspect the subject site pursuant to s. 373.423, F.S. and the permit general conditions of Rule 62-330.350 or Rule 62-330.405, F.A.C., as applicable.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	subject to regulation or in which records relevant to program operation are kept in order to copy any records, inspect, monitor or otherwise investigate compliance with the State program.	[HYPERLINK "https://www.flrules.org/gateway/reference.asp?No=Ref-09390"], Section 1.7	which particulars of the approved plans and specifications the construction is not in compliance and shall order immediate compliance with such plans and specifications. The failure to act in accordance with the orders of the governing board or department after receipt of written notice shall result in the initiation of revocation proceedings in accordance with s. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.429.html"]. (3) Upon completion of the work, the executive director of the district or the Department of Environmental Protection or its successor agency shall have periodic inspections made of permitted stormwater management systems, dams, reservoirs, impoundments, appurtenant work, or works to protect the public health and safety and the natural resources of the state. No person shall refuse immediate entry or access to any authorized representative of the governing board or the department who requests entry for purposes of such inspection and presents appropriate credentials. 403.091, F.S. Inspections. — (1)(a) Any duly authorized representative of the department may at any reasonable time enter and inspect, for the purpose of ascertaining the state of compliance with the law or rules and regulations of the department, any property, premises, or place, except a building which is used exclusively for a private residence, on or at which: 1. A hazardous waste generator, transporter, or facility or other air or water contaminant source; 2. A discharger, including any nondomestic discharger which introduces any pollutant into a publicly owned treatment works; 3. Any facility, as defined in s. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0376/Sections/0376.301.html"]; or 4. A resource recovery and management facilityis located or is being constructed or installed or where records which are required under this chapter, ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0376/Sections/0376.30.html"]-[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0376/Sections/0376.317.html"], or department rule are kept.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			(b) Any duly authorized representative may at reasonable times have access to and copy any records required under this chapter or ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0376/Sections/0376.30.html"]-[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0376/Sections/0376.317.html"]; inspect any monitoring equipment or method; sample for any pollutants as defined in s. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0376/Sections/0376.301.html"], effluents, or wastes which the owner or operator of such source may be discharging or which may otherwise be located on or underlying the owner's or operator's property; and obtain any other information necessary to determine compliance with permit conditions or other requirements of this chapter, ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0376/Sections/0376.30.html"]-[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0376/Sections/0376.317.html"], or department rules. (c) No person shall refuse reasonable entry or access to any authorized representative of the department who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection. The owner or operator of the premises shall receive a report, if requested, setting forth all facts found which relate to compliance status. (2) An inspection pursuant to subsection (1) may be conducted only after: (a) Consent for the inspection is received from the owner, operator, or person in charge; or (b) The appropriate inspection warrant as provided in this section is obtained. (3)(a) An inspection warrant as authorized by this chapter may be issued by a judge of any county court or circuit court of this state which has jurisdiction of the place or thing to be searched. (b) Upon proper affidavit being made, an inspection warrant may be issued under the provisions of this chapter or ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0376/Sections/0376.30.html"]-[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_St	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			atute&Search_String=&URL=0300-0399/0376/Sections/0376.317.html"]: 1. When it appears that the properties to be inspected may be connected with or contain evidence of the violation of any of the provisions of this chapter or ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0376/Sections/0376.30.html"]-[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0376/Sections/0376.317.html"] or any rule properly promulgated thereunder; or 2. When the inspection sought is an integral part of a larger scheme of systematic routine inspections which are necessary to, and consistent with, the continuing efforts of the department to ensure compliance with the provisions of this chapter or ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0376/Sections/0376.30.html"]-[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0376/Sections/0376.317.html"] and any rules adopted thereunder. (c) The judge shall, before issuing the warrant, have the application for the warrant duly sworn to and subscribed by a representative of the department; and may receive further testimony from witnesses, supporting affidavits, or depositions in writing to support the application. The affidavit and further proof, if had or required, shall set forth the facts tending to establish the grounds specified in paragraph (b) or the reasons for believing that such grounds exist. (d) Upon examination of the application and proofs submitted and if satisfied that cause exists for the issuing of the inspection warrant, the judge shall thereupon issue a warrant, signed by him or her with the name of his or her office, to any department representative, which warrant will authorize the representative forthwith to inspect the property described in the warrant. <u>62-331.054(1), F.A.C. - Individual permits shall contain the general conditions for individual permits in subsection 62-330.350(1), F.A.C., 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</u>	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			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. 62-330.350(1), F.A.C. - The following general conditions are binding on all individual permits issued under this chapter, except where the conditions are not applicable to the authorized activity, or where the conditions must be modified to accommodate project-specific conditions. (m) Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit. 62-331.201(1), F.A.C. - (1) General permits shall be subject to the general conditions for all general permits in Rule 62-330.405, F.A.C., except subsection 62-330.405(10), F.A.C., and the conditions in subsections (2) and (3), below. 62-330.405, F.A.C. - The following general permit conditions are binding upon the permittee and are enforceable under chapter 373, F.S. These conditions do not apply to the general permit for stormwater management systems under section 403.814(12), F.S. (8) Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the permitted system to ensure conformity with the plans and specifications approved by the permit. Volume I, section 1.7 - Each application must include permission signed by the landowner, easement or lessee holder, or their legal designee that Agency staff may access the property where the proposed activity is located for purposes of inspecting, sampling, and monitoring the land subject to the application to determine whether the activity can meet (and if a permit is issued, is meeting) permitting criteria and permit conditions. If this is not possible, the applicant must supply the Agency with written authorization through other means (such as obtaining permission from leases and easement holders) for staff to enter onto, inspect, and conduct sampling of the site. This is necessary to prevent claims of trespass, and to ensure the applicant, and potential permittee, has approval from the entity that has sufficient real property interest over the land subject to the	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			application to construct, alter, operate, and maintain, or remove, the project. In the case of an easement, the easement must specifically provide for the right of governmental entities to be on the lands subject to the easement for such purposes as compliance, or such right must flow through necessity from the explicit grant of the easement. Each permit is subject to the condition that Agency authorized staff, upon proper identification, will have permission to enter, inspect and observe, and collect samples of the activity to ensure compliance with the approved plans and specifications included in the permit. See Part 4 of Form 62-330.060(1) for additional information.	
233.40(c)	The State program shall provide for inspections to be conducted, samples to be taken and other information to be gathered in a manner that will produce evidence admissible in an enforcement proceeding.	OGC Enforcement Manual, [HYPERLINK "https://floridadep.gov/ogc/ogc/documents/enforcement-manual-chapter-4"]	Refer to full text: [HYPERLINK "https://floridadep.gov/ogc/ogc/documents/enforcement-manual-chapter-4"]	Chapter 4 of the Department's OGC Enforcement Manual, "Inspections and Investigations," provides guidance for staff related to conducting and documenting inspections. Instruction specifically related to gathering and recording information in a manner that will produce evidence admissible in an enforcement proceeding is primarily found in ss. 4.5-4.10, which address: general documentation of the inspection and investigation (4.5); location and ownership information (4.6-4.7); responsible parties, including corporations or partnerships (4.8-4.9); and procedures for sampling and analysis (4.10). Specific procedures and standards for criminal investigations are outlined in s. 4.11.
233.40(d)	The State shall maintain a program for receiving and ensuring proper	*Refer to § 233.40(a), above*	*Refer to § 233.40(a), above*	As discussed in the comments provided for § 233.40(a), above, the State utilizes the program-specific ERPce database to maintain records related to permit compliance and unpermitted violations. The ERPce database is also used to record publicly-submitted reports of potential violations (categorized as "complaints") and to track any related investigations.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	consideration of information submitted by the public about violations.			
233.41 Requirements for enforcement authority				
233.41(a)(1) and (2)	(a) Any State agency administering a program shall have authority: (1) To restrain immediately and effectively any person from engaging in any unauthorized activity; (2) To sue to enjoin any threatened or continuing violation of any program requirement;	[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](1), (2) and (7), F.S. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.121.html"](2)(b), F.S. (via [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](7), F.S.) [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.131.html"], F.S. (via [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](7), F.S.)	373.129(1), (2) and (7), F.S. - The department, the governing board of any water management district, any local board, or a local government to which authority has been delegated pursuant to s. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.103.html"](8), is authorized to commence and maintain proper and necessary actions and proceedings in any court of competent jurisdiction for any of the following purposes: (1) To enforce rules, regulations, and orders adopted or issued pursuant to this law. (2) To enjoin or abate violations of the provisions of this law or rules, regulations, and orders adopted pursuant hereto. (7) Enforce the provisions of part IV of this chapter in the same manner and to the same extent as provided in ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.430.html"], [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.121.html"](1) and (2), [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.131.html"], [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.141.html"], and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.161.html"]. 403.121(2)(b), F.S. (via 373.129(7), F.S.) - (2)(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. Except for violations involving	The State has statutory authority to restrain violators and to sue to enjoin threatened or continuing violations.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed $10,000 per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). Pursuant to 42 U.S.C. s. 300g-2, the administrative penalty assessed pursuant to subsection (3), subsection (4), or subsection (5) against a public water system serving a population of more than 10,000 shall be not less than $1,000 per day per violation. The department shall not impose administrative penalties in excess of $10,000 in a notice of violation. The department shall not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation. 403.131, F.S. (via 373.129(7), F.S.) - (1) The department may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this chapter or any rule, regulation, permit certification, or order; to enjoin any violation specified in s. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.161.html"](1); and to seek injunctive relief to prevent irreparable injury to the air, waters, and property, including animal, plant, and aquatic life, of the state and to protect human health, safety, and welfare caused or threatened by any violation.	
233.41(a)(3)	(a) Any State agency administering a program shall have authority: (3) To assess or sue to recover civil penalties and to seek criminal remedies, as follows:			The State has authority to recover civil penalties and criminal fines in amounts that meet or exceed federal requirements (see below). The State also has authority to: • Seek administrative remedies and recover costs and attorney's fees [[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.121.html" \h](2), F.S.]; • Recover damages [[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.430.html" \h](2), [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.121.html" \h], and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
				Statute&Search_String=&URL=0400-0499/0403/Sections/0403.161.html" \h](2), F.S.]; and Recover investigative costs, court costs, and reasonable attorney's fees [[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html" \h](6), F.S.].
233.41(a)(3)(i)	(a) Any State agency administering a program shall have authority: (3) To assess or sue to recover civil penalties and to seek criminal remedies, as follows: (i) The agency shall have the authority to assess or recover civil penalties for discharges of dredged or fill material without a required permit or in violation of any section 404 permit condition in an amount of at least $5,000 per day of such violation.	[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](5), F.S. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.121.html"](1)(b), F.S. (via [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](7), F.S.) [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.141.html"](1), F.S. (via [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](7) and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.161.html"](2), F.S.)	373.129(5), F.S. - The department, the governing board of any water management district, any local board, or a local government to which authority has been delegated pursuant to s. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.103.html"](8), is authorized to commence and maintain proper and necessary actions and proceedings in any court of competent jurisdiction for any of the following purposes: (5) To recover a civil penalty for each offense in an amount not to exceed $10,000 per offense. Each date during which such violation occurs constitutes a separate offense. 403.121(1)(b), F.S. (via 373.129(7), F.S.) - (1)(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than $10,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. 403.141(1), F.S. (via 373.129(7) and 403.161(2), F.S.) - (1) Whoever commits a violation specified in s. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.161.html"](1) is liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state to their former condition, and furthermore is subject to the judicial imposition of a civil penalty for each offense in an amount of not more than $10,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. Nothing	The State has the authority to assess or sue to recover civil penalties of up to $10,000 per day of violation. *Note: The state also has statutory authority to seek administrative remedies, including penalties, as provided by s.* [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.121.html"]*(2), F.S.*

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			herein shall give the department the right to bring an action on behalf of any private person.	
233.41(a)(3)(ii)	(a) Any State agency administering a program shall have authority: (3) To assess or sue to recover civil penalties and to seek criminal remedies, as follows: (ii) The agency shall have the authority to seek criminal fines against any person who willfully or with criminal negligence discharges dredged or fill material without a required permit or violates any permit condition issued under section 404 in the amount of at least $10,000 per	[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.430.html"](3) and (5), F.S. (via [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](7), F.S.) 403.161(3) and (5), F.S. (via [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](7), F.S.)	373.430(3) and (5), F.S. (via 373.129(7), F.S.) - (3) Any person who willfully commits a violation specified in paragraph (1)(a) is guilty of a felony of the third degree, punishable as provided in ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0775/Sections/0775.082.html"](3)(e) and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0775/Sections/0775.083.html"](1)(g), by a fine of not more than $50,000 or by imprisonment for 5 years, or by both, for each offense. Each day during any portion of which such violation occurs constitutes a separate offense. (5) Any person who willfully commits a violation specified in paragraph (1)(b) or paragraph (1)(c) is guilty of a misdemeanor of the first degree, punishable as provided in ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0775/Sections/0775.082.html"](4)(a) and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0775/Sections/0775.083.html"](1)(g), by a fine of not more than $10,000 or by 6 months in jail, or by both, for each offense. 403.161(3) and (5), F.S. (via 373.129(7), F.S.) - (3) Any person who willfully commits a violation specified in paragraph (1)(a) is guilty of a felony of the third degree punishable as provided in ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0775/Sections/0775.082.html"](3)(e) and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0775/Sections/0775.083.html"](1)(g) by a fine of not more than $50,000 or by imprisonment for 5 years, or by both, for each offense. Each day during any portion of which such violation occurs constitutes a separate offense. (5) Any person who willfully commits a violation specified in paragraph (1)(b) or paragraph (1)(c) is guilty of a misdemeanor of the first degree punishable as provided in ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0775/Sections/0775.082.html"](4)(a) and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_St	The State has the authority to assess or sue to recover criminal fines of up to $50,000 for willful violations described by (a)(3)(ii). Such violations are also punishable by incarceration, or by both a criminal fine and incarceration.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	day of such violation.		atute&Search_String=&URL=0700-0799/0775/Sections/0775.083.html"](1)(g) by a fine of not more than $10,000 or by 6 months in jail, or by both for each offense.	
233.41(a)(3)(iii)	(a) Any State agency administering a program shall have authority: (3) To assess or sue to recover civil penalties and to seek criminal remedies, as follows: (iii) The agency shall have the authority to seek criminal fines against any person who knowingly makes false statements, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act, these	[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.430.html"](5), F.S. (via [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](7), F.S.) [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.161.html"](5), F.S. (via [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](7), F.S.)	373.430(5), F.S. (via 373.129(7), F.S.) - (5) Any person who willfully commits a violation specified in paragraph (1)(b) or paragraph (1)(c) is guilty of a misdemeanor of the first degree, punishable as provided in ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0775/Sections/0775.082.html"](4)(a) and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0775/Sections/0775.083.html"](1)(g), by a fine of not more than $10,000 or by 6 months in jail, or by both, for each offense. 403.161(5), F.S. (via 373.129(7), F.S.) - (5) Any person who willfully commits a violation specified in paragraph (1)(b) or paragraph (1)(c) is guilty of a misdemeanor of the first degree punishable as provided in ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0775/Sections/0775.082.html"](4)(a) and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0775/Sections/0775.083.html"](1)(g) by a fine of not more than $10,000 or by 6 months in jail, or by both for each offense.	The State has the authority to assess or sue to recover criminal fines of up to $10,000 per day for the violations described under (a)(3)(iii). Such violations are also punishable by 6 months in jail or by both a fine and incarceration.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	regulations or the approved State program, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under the permit, in an amount of at least $5,000 for each instance of violation.			
233.41(b)(1)	(b)(1) The approved maximum civil penalty or criminal fine shall be assessable for each violation and, if the violation is continuous, shall be assessable in that maximum amount for	*Civil penalties:* [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](5), F.S. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.141.html"](1), F.S. (via [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](7), F.S.) *Criminal fines:* [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statut	Civil penalties: 373.129(5), F.S. - The department, the governing board of any water management district, any local board, or a local government to which authority has been delegated pursuant to s. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.103.html"](8), is authorized to commence and maintain proper and necessary actions and proceedings in any court of competent jurisdiction for any of the following purposes: (5) To recover a civil penalty for each offense in an amount not to exceed $10,000 per offense. Each date during which such violation occurs constitutes a separate offense. 403.141(1), F.S. (via 373.129(7), F.S.) - (1) Whoever commits a violation specified in s. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-	The State has authority to assess maximum civil penalties or criminal fines for each violation and for each day of violation, should the violation be continuous. *Note: While the maximum daily criminal fines authorized under ss. 373.430(5) and 403.161(5), F.S. (which are cited for § 233.41(a)(3)(ii) and (iii), above) are assessable for each violation, neither section allows the fine to be assessed in the maximum amount for each day of violation. However, these statutes provide that criminal violations are also punishable by 6 months in jail or by both a criminal fine and incarceration; therefore, state authority establishes a method of ensuring compliance with equivalent or more significant punitive and deterrent effects than those required by this section.*

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	each day of violation.	e&Search_String=&URL=0300-0399/0373/Sections/0373.430.html"](3), F.S. (via [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](7), F.S.) [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.161.html"](3), F.S. (via [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](7), F.S.)	0499/0403/Sections/0403.161.html"](1) is liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state to their former condition, and furthermore is subject to the judicial imposition of a civil penalty for each offense in an amount of not more than $10,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. Nothing herein shall give the department the right to bring an action on behalf of any private person. Criminal fines: 373.430(3), F.S. (via 373.129(7), F.S.) - (3) Any person who willfully commits a violation specified in paragraph (1)(a) is guilty of a felony of the third degree, punishable as provided in ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0775/Sections/0775.082.html"](3)(e) and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0775/Sections/0775.083.html"](1)(g), by a fine of not more than $50,000 or by imprisonment for 5 years, or by both, for each offense. Each day during any portion of which such violation occurs constitutes a separate offense. 403.161(3), F.S. (via 373.129(7), F.S.) - (3) Any person who willfully commits a violation specified in paragraph (1)(a) is guilty of a felony of the third degree punishable as provided in ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0775/Sections/0775.082.html"](3)(e) and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0775/Sections/0775.083.html"](1)(g) by a fine of not more than $50,000 or by imprisonment for 5 years, or by both, for each offense. Each day during any portion of which such violation occurs constitutes a separate offense.	
233.41(b)(2)	(2) The burden of proof and			State statutes and regulations do not require a greater burden of proof to establish a violation than that borne by EPA when it brings an action under the CWA.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	degree of knowledge or intent required under State law for establishing violations under paragraph (a)(3) of this section, shall be no greater than the burden of proof or degree of knowledge or intent EPA must bear when it brings an action under the Act.			
233.41(c)	(c) The civil penalty assessed, sought, or agreed upon by the Director under paragraph (a)(3) of this section shall be appropriate to the violation. Note: To the extent that State judgments or	[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.430.html"](6), F.S. (via [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](7), F.S.) [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.161.html"](6), F.S. (via [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html"](7), F.S.) [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.121.html" \h],	373.430(6), F.S. (via 373.129(7), F.S.) - (6) It is the intent of the Legislature that the civil penalties imposed by the court be of such amount as to ensure immediate and continued compliance with this section. 403.161(6), F.S. (via 373.129(7), F.S.) - (6) It is the legislative intent that the civil penalties and criminal fines imposed by the court be of such amount as to ensure immediate and continued compliance with this section. 403.121, F.S. (via 373.129(7), F.S. and 403.121(2)(b), F.S.) - *Refer to full text for administrative remedies and penalty assessment.*	The same statutes that provide State authority to assess penalties explicitly state the Legislative intent that civil penalties and criminal fines "be of such amount as to ensure immediate and continued compliance with this section." DEP policies also ensure that penalties are assessed or recovered in an amount that is appropriate to the specific violation. Administrative remedies and penalties are described in [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.121.html" \h], F.S. and [HYPERLINK "https://floridadep.gov/ogc/ogc/documents/dep-directive-923" \h]. Penalty amounts for dredge and fill violations are outlined in 403.121(3)(c). Pursuant to subsections (6)-(8), respectively, administrative penalties: are assessable daily for continuous or multi-day violations; may include adjustments for history of non-compliance; and should include economic benefit considerations.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	settlements provide penalties in amounts which EPA believes to be substantially inadequate in comparison to the amounts which EPA would require under similar facts, EPA may, when authorized by section 309 of the Act, commence separate action for penalties.	F.S.(via [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.129.html" \h](7), F.S. and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0403/Sections/0403.121.html" \h](2)(b), F.S.)		
233.41(d)	(d)(1) The Regional Administrator may approve a State program where the State lacks authority to recover penalties of the levels required under paragraphs (a)(3)(i)-(iii)	*Not applicable*	*Not applicable*	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	of this section only if the Regional Administrator determines, after evaluating a record of at least one year for an alternative enforcement program, that the State has an alternate, demonstrably effective method of ensuring compliance which has both punitive and deterrence effects. (2) States whose programs were approved via waiver of monetary penalties shall keep the Regional Administrator informed of all enforcement actions taken under any			

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	alternative method approved pursuant to paragraph (d)(1) of this section. The manner of reporting will be established in the Memorandum of Agreement with the Regional Administrator (§233.13).			
233.41(e)	(e) Any State administering a program shall provide for public participation in the State enforcement process by providing either: (1) Authority which allows intervention of right in any civil or administrative action to obtain remedies	Memorandum of Agreement Between the Florida Department of Environmental Protection and The United States Environmental Protection Agency ("EPA MOA"), Section III.I.	EPA MOA, section III.I. -DEP shall provide for public participation in the State 404 Permit Program enforcement process pursuant to 40 C.F.R. § 233.41(e)(2).	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	specified in paragraph (a)(3) of this section by any citizen having an interest which is or may be adversely affected, or (2) Assurance that the State agency or enforcement authority will: (i) Investigate and provide written responses to all citizen complaints submitted pursuant to State procedures; (ii) Not oppose intervention by any citizen when permissive intervention may be authorized by statute, rule, or regulation; and (iii) Publish notice of			

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	and provide at least 30 days for public comment on any proposed settlement of a State enforcement action.			
233.41(f)	(f) *Provision for Tribal criminal enforcement authority.* To the extent that an Indian Tribe does not assert or is precluded from asserting criminal enforcement authority (§233.41(a)(3) (ii) and (iii)), the Federal government will continue to exercise primary criminal enforcement responsibility. The Tribe, with the EPA Region and Corps District(s)	Not applicable	Not applicable	*See EPA MOA Sections III.A. and III.K.*

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	with jurisdiction, shall develop a system where the Tribal agency will refer such a violation to the Regional Administrator or the District Engineer(s), as agreed to by the parties, in an appropriate and timely manner. This agreement shall be incorporated into joint or separate Memorandum of Agreement with the EPA Region and the Corps District(s), as appropriate.			

40 CFR Part 230 – 404(b)(1) Guidelines

The 404(b)(1) Guidelines and existing ERP rules are laid out differently, but generally accomplish the same purpose. The guidelines lay out certain environmental concerns and habitat types and then discuss the possible loss of environmental characteristics and values, which are often the same for several concern types/habitats. ERP rules describe general scientific and environmental principals that are to be applied to all types of concerns and habitat types. Any reviewer of this crosswalk will probably note the repetition of state rules for the concerns/habitats listed in the guidelines. The ERP rules containing the environmental principles which will also apply to the State 404 Program are

Rules 62-330.301, F.A.C. and 62-330.302, F.A.C. The reviewer may save time by reading and/or printing those two sections of the ERP rule for reference before proceeding. The ERP Applicant's Handbook Volume I provides further explanations and guidance for each of the rule requirements. In most cases, the text of Applicant's Handbook Volume I is not reproduced in this table, for brevity.

Federal Law (40 CFR §…)	**Federal Requirement**	**State Law (in addition to general authority granted by Section 373.4146, F.S.)**	**State Law Text**	**Comments**
Subpart A	**General**			
230.1	Purpose and Policy	NA		Not necessary to include in state law
230.2	Applicability	NA		Not necessary to include in state law
230.3	Definitions	See Definitions table, above		
230.4	Organization			State law is organized differently than the Guidelines but accomplishes the same purpose. (See introductory paragraph above this table)
230.5	General Procedures to be Followed (aka "sequence of review"	62-331.050, F.A.C. 404 Handbook, section 8.2	62-331.050, F.A.C. - (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. 404 Handbook, section 8.2 - Sequence of Review Upon receipt of a technically complete application, the Agency will follow the sequence of review for processing applications summarized below. The sequence is simplified for purposes of illustration. The actual process followed may be iterative, with the results of one step leading to a re-examination of the previous steps. The Agency must address all the applicable State 404 Program permitting conditions in reaching a permitting decision for a project. a) Determine whether the activity qualifies for a State 404 Program exemption or general permit. If it is not covered by an exemption or general permit, then: b) Review practicable alternatives to the proposed activity. Alternatives may include not dredging or filling in state-assumed waters (avoidance) or dredging or filling in an alternative aquatic site with potentially less damaging environmental consequences. The applicant shall submit an alternatives analysis as required by Rule 62-331.053, F.A.C. Guidance for completing the alternatives analysis can be found in Appendix C. c) Review the proposed project area boundaries. For the purposes of the State 404 Program only, the project area includes all areas of dredging or filling in state-assumed waters, and any proposed mixing zones, where applicable. Mixing zones shall be reviewed in accordance with this chapter, and as provided in Rule 62-4.242, and subsection 62-4.244(5), F.A.C.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			d) Evaluate the various physical and chemical components which characterize the non-living environment of the proposed site, the substrate and the water including its dynamic characteristics consistent with Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C. e) Identify and evaluate any special or critical characteristics of the proposed project site and surrounding areas which might be affected by use of such site, related to their living communities or human uses consistent with Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C. f) Review the information submitted with the application to determine whether the information provided by the applicant is sufficient to provide reasonable assurance that the applicable provisions of Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C., will be met. g) Evaluate the material to be dredged or used as fill to determine the possibility of the presence of contaminants, including chemical contamination, that may violate state water quality standards listed in paragraph 62-330.301(1)(e), F.A.C., or any toxic effluent standard or prohibition under section 307 of the CWA. Check for physical incompatibility of the material to be used as fill (examples – 1) muck should not be used as structural fill but may be appropriate for use in a wetland restoration project; 2) if a certain ecological community type is expected to colonize the fill, the fill should be appropriate for the desired species). h) If there is a reasonable probability that contaminants are present, including chemical contamination, the Agency shall require the applicant to conduct appropriate sediment, elutriate, and/or water quality tests, as applicable. i) Identify appropriate and practicable changes to the project plan to avoid or minimize the environmental impact of the activity, as described in Volume I, section 10.2.1, except 10.2.1.2, which is not applicable to the State 404 Program. Avoidance should be considered first, and then minimization only if avoidance is not practicable. j) Complete a Technical Staff Report to document how the project addresses the requirements of Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C. k) Make and document a finding of either compliance or noncompliance with the requirements of Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C. This is a determination of whether the project, including any mitigation, is permittable under the State 404 Program. l) Prepare a written determination on each application outlining the permitting decision and the rationale for the decision. The determination shall be dated, signed, and included in the official record prior to final action on the application. The Technical Staff Report from step 10 (subsection (j)), above, shall be included in or attached to the determination.	
230.6	Adaptability	NA		Not necessary to include in state law. State law allows for use of "reasonable assurances" and "best scientific judgement".

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
				These two principles lend adaptability to the state review.
230.7	General Permits	These will be outlined in the program description submitted to EPA for review.		Not necessary to include in state law. The state must follow the requirements of Chapter 331, F.A.C. and 40 CFR Part 233 when creating a new general permit, but this information is not presented in rule.
Subpart B	**Compliance with the guidelines**			
230.10(a)	(a) Except as provided under section 404(b)(2), no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.	62-331.053(1), F.A.C.	62-331.053(1), F.A.C. - 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.	
230.10(a)(1)(i) and (ii)	(1) For the purpose of this requirement, practicable alternatives include, but are not limited to: (i) Activities which do not involve a discharge of dredged or fill material into the waters of the United States or ocean waters; (ii) Discharges of dredged or fill material at other locations in waters of the United States or ocean waters;	62-331.053(1)(a)1., and 2., F.A.C.	62-331.053(1)(a), F.A.C. - 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.	
230.10(a)(2)	(2) An alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of 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 in order to fulfill the basic purpose of the proposed activity may be considered.	62-331.053(1)(b), F.A.C.	62-331.053(1)(b), F.A.C. - 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.	
230.10(a)(3)	(3) Where the activity associated with a discharge which is proposed for a special aquatic site (as defined in subpart E) does not require access or proximity to or siting within the special aquatic site in question to fulfill its	62-331.053(1)(c), F.A.C.	62-331.053(1)(c), F.A.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	

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	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 discharge is proposed for a special aquatic site, all practicable alternatives to the proposed discharge which do not involve a discharge into a special aquatic site are presumed to have less adverse impact on the aquatic ecosystem, unless clearly demonstrated otherwise.		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.	
230.10(a)(4)	Actions subject to NEPA - N/A to state program	N/A		
230.10(a)(5)	(5) To the extent that practicable alternatives have been identified and evaluated under a Coastal Zone Management program, a section 208 program, or other planning process, such evaluation shall be considered by the permitting authority as part of the consideration of alternatives under the Guidelines. Where such evaluation is less complete than that contemplated under this subsection, it must be supplemented accordingly.	62-331.053(1)(d), F.A.C.	62-331.053(1)(d), F.A.C. - 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.	
230.10(b)	(b) No discharge of dredged or fill material shall be permitted if it:	62-331.053(3), F.A.C.	62-331.053(3), F.A.C. - 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:	
230.10(b)(1)	(1) Causes or contributes, after consideration of disposal site dilution and dispersion, to violations of any applicable State water quality standard;	62-331.053(3)(a)1., and 2., F.A.C.;	62-331.053(3)(a)1., F.A.C. - 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;	
230.10(b)(2)	(2) Violates any applicable toxic effluent standard or prohibition under section 307 of the Act;	62-331.053(3)(a)3., F.A.C.	62-331.053(3)(a)3., F.A.C. - Violates any applicable toxic effluent standard or prohibition under section 307 of the CWA, 33 U.S.C. § 1317 (Feb. 4, 1987), incorporated herein https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX), or state law;	
230.10(b)(3)	(3) Jeopardizes the continued existence of species listed as endangered or threatened under the Endangered Species Act of 1973, as amended, or results in likelihood of the	62-331.053(3)(a)4., F.A.C.	62-331.053(3)(a)4., F.A.C. - 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	

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	destruction or adverse modification of a habitat which is determined by the Secretary of Interior or Commerce, as appropriate, to be a critical habitat under the Endangered Species Act of 1973, as amended. If an exemption has been granted by the Endangered Species Committee, the terms of such exemption shall apply in lieu of this subparagraph;		for endangered or threatened species. If an exemption has been granted by the Endangered Species Committee, the terms of such exemption shall apply in lieu of this subparagraph;	
230.10(b)(4)	(4) Violates any requirement imposed by the Secretary of Commerce to protect any marine sanctuary designated under title III of the Marine Protection, Research, and Sanctuaries Act of 1972.	62-331.053(3)(a)5., F.A.C.	62-331.053(3)(a)5., F.A.C. - Violates any requirement imposed by the Secretary of Commerce to protect any area designated as a marine sanctuary.	
230.10(c)	(c) Except as provided under section 404(b)(2), no discharge of dredged or fill material shall be permitted which will cause or contribute to significant degradation of the waters of the United States. Findings of significant degradation related to the proposed discharge shall be based upon appropriate factual determinations, evaluations, and tests required by subparts B and G, after consideration of subparts C through F, with special emphasis on the persistence and permanence of the effects outlined in those subparts. Under these Guidelines, effects contributing to significant degradation considered individually or collectively, include:	62-331.053(3)(a)6., F.A.C.	62-331.053(3)(a)6., F.A.C. - Causes or contributes to significant degradation of wetlands or other surface waters. Effects contributing to significant degradation considered individually or collectively, include:	
230.10(c)(1)	(1) Significantly adverse effects of the discharge of pollutants on human health or welfare, including but not limited to effects on municipal water supplies, plankton, fish, shellfish, wildlife, and special aquatic sites.	62-331.053(3)(a)6.i., F.A.C.	62-331.053(3)(a)6.i., F.A.C. - 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;	
230.10(c)(2)	(2) Significantly adverse effects of the discharge of pollutants on life stages of aquatic life and other wildlife dependent on aquatic ecosystems, including the transfer, concentration, and spread of pollutants or their byproducts outside of the disposal site through biological, physical, and chemical processes;	62-331.053(3)(a)6.ii., F.A.C.	62-331.053(3)(a)6.ii., F.A.C. - 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;	

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
230.10(c)(3)	(3) Significantly adverse effects of the discharge of pollutants 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	62-331.053(3)(a)6.iii., F.A.C.	62-331.053(3)(a)6.iii., F.A.C. - 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	
230.10(c)(4)	(4) Significantly adverse effects of discharge of pollutants on recreational, aesthetic, and economic values.	62-331.053(3)(a)6.iv., F.A.C.	62-331.053(3)(a)6.iv., F.A.C. - Significant adverse effects on recreational, aesthetic, and economic values.	
230.10(d)	Except as provided under section 404(b)(2), no permit unless steps taken to avoid and minimize impacts on aquatic ecosystem	62-331.053(3)(b), F.A.C.	62-331.053(3)(b), F.A.C. - When appropriate and practicable steps have not been taken to minimize potential adverse impacts of the activity on the aquatic ecosystem;	
230.11	Factual Determinations - The permitting authority shall determine in writing the potential short-term or long-term effects of a proposed discharge of dredged or fill material on the physical, chemical, and biological components of the aquatic environment in light of subparts C through F. Such factual determinations shall be used in §230.12 in making findings of compliance or non-compliance with the restrictions on discharge in §230.10. The evaluation and testing procedures described in §230.60 and §230.61 of subpart G shall be used as necessary to make, and shall be described in, such determination. The determinations of effects of each proposed discharge shall include the following:	Subsection 120.60(3), F.S. 404 Handbook Section 8.2	120.60(3), F.S. - Each applicant shall be given written notice, personally or by mail, that the agency intends to grant or deny, or has granted or denied, the application for license. The notice must state with particularity the grounds or basis for the issuance or denial of the license, except when issuance is a ministerial act. Unless waived, a copy of the notice shall be delivered or mailed to each party's attorney of record and to each person who has made a written request for notice of agency action. Each notice must inform the recipient of the basis for the agency decision, inform the recipient of any administrative hearing pursuant to ss. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0120/Sections/0120.569.html"] and [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0120/Sections/0120.57.html"] or judicial review pursuant to s.[HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0120/Sections/0120.68.html"] which may be available, indicate the procedure that must be followed, and state the applicable time limits. The issuing agency shall certify the date the notice was mailed or delivered, and the notice and the certification must be filed with the agency clerk. 404 Handbook, section 8.2 - Sequence of Review Upon receipt of a technically complete application, the Agency will follow the sequence of review for processing applications summarized below. The sequence is simplified for purposes of illustration. The actual process followed may be iterative, with the results of one step leading to a re-examination of the previous steps. The Agency must address all the applicable State 404 Program permitting conditions in reaching a permitting decision for a project. a) Determine whether the activity qualifies for a State 404 Program exemption or general permit. If it is not covered by an exemption or general permit, then: b) Review practicable alternatives to the proposed activity. Alternatives may include not dredging or filling in state-assumed waters (avoidance) or dredging or filling in an alternative aquatic site with potentially less damaging environmental consequences. The applicant shall submit an alternatives analysis as required by Rule 62-331.053, F.A.C. Guidance for completing the alternatives analysis can be found in Appendix C.	Florida's ERP rules, conditions and additional conditions for issuance (62-330.301 and 62-330.302, F.A.C.) and the explanations in Applicant's Handbook Volume I broadly cover the same effects as listed in 40 CFR § 230.11. The state rules used to evaluate the concerns in each section are listed below, with a brief explanation, where helpful.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			c) Review the proposed project area boundaries. For the purposes of the State 404 Program only, the project area includes all areas of dredging or filling in state-assumed waters, and any proposed mixing zones, where applicable. Mixing zones shall be reviewed in accordance with this chapter, and as provided in Rule 62-4.242, and subsection 62-4.244(5), F.A.C. d) Evaluate the various physical and chemical components which characterize the non-living environment of the proposed site, the substrate and the water including its dynamic characteristics consistent with Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C. e) Identify and evaluate any special or critical characteristics of the proposed project site and surrounding areas which might be affected by use of such site, related to their living communities or human uses consistent with Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C. f) Review the information submitted with the application to determine whether the information provided by the applicant is sufficient to provide reasonable assurance that the applicable provisions of Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C., will be met. g) Evaluate the material to be dredged or used as fill to determine the possibility of the presence of contaminants, including chemical contamination, that may violate state water quality standards listed in paragraph 62-330.301(1)(e), F.A.C., or any toxic effluent standard or prohibition under section 307 of the CWA. Check for physical incompatibility of the material to be used as fill (examples – 1) muck should not be used as structural fill but may be appropriate for use in a wetland restoration project; 2) if a certain ecological community type is expected to colonize the fill, the fill should be appropriate for the desired species). h) If there is a reasonable probability that contaminants are present, including chemical contamination, the Agency shall require the applicant to conduct appropriate sediment, elutriate, and/or water quality tests, as applicable. i) Identify appropriate and practicable changes to the project plan to avoid or minimize the environmental impact of the activity, as described in Volume I, section 10.2.1, except 10.2.1.2, which is not applicable to the State 404 Program. Avoidance should be considered first, and then minimization only if avoidance is not practicable. j) Complete a Technical Staff Report to document how the project addresses the requirements of Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C. k) Make and document a finding of either compliance or noncompliance with the requirements of Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C. This is a determination of whether the project, including any mitigation, is permittable under the State 404 Program. l) Prepare a written determination on each application outlining the permitting decision and the rationale for the decision. The determination shall be dated, signed, and included in the official record prior to final action on the application. The Technical Staff Report from step 10 (subsection (j)), above, shall be included in or attached to the determination.	

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
230.11(a)	(a) *Physical substrate determinations.* Determine the nature and degree of effect that the proposed discharge will have, individually and cumulatively, on the characteristics of the substrate at the proposed disposal site. Consideration shall be given to the similarity in particle size, shape, and degree of compaction of the material proposed for discharge and the material constituting the substrate at the disposal site, and any potential changes in substrate elevation and bottom contours, including changes outside of the disposal site which may occur as a result of erosion, slumpage, or other movement of the discharged material. The duration and physical extent of substrate changes shall also be considered. The possible loss of environmental values (§230.20) and actions to minimize impact (subpart H) shall also be considered in making these determinations. Potential changes in substrate elevation and bottom contours shall be predicted on the basis of the proposed method, volume, location, and rate of discharge, as well as on the individual and combined effects of current patterns, water circulation, wind and wave action, and other physical factors that may affect the movement of the discharged material.	62-330.301(1)(a), (b), (c), (d), (e), and (f), F.A.C. 62-330.302(1)(a)3., F.A.C. 62-330.302(1)(b), F.A.C. 62-331.053, F.A.C. (see rule text)	62-330.301(1), F.A.C. - To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter: (a) Will not cause adverse water quantity impacts to receiving waters and adjacent lands; (b) Will not cause adverse flooding to on-site or off-site property; (c) Will not cause adverse impacts to existing surface water storage and conveyance capabilities; (d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters; (e) 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; (f) Will not cause adverse secondary impacts to the water resources. In addition to the criteria in this subsection and in subsection 62-330.301(2), F.A.C., in accordance with Section 373.4132, F.S., an applicant proposing the construction, alteration, operation, maintenance, abandonment, or removal of a dry storage facility for 10 or more vessels that is functionally associated with a boat launching area must also provide reasonable assurance that the facility, taking into consideration any secondary impacts, will meet the provisions of paragraph 62-330.302(1)(a), F.A.C., including the potential adverse impacts to manatees; 62-330.302(1), F.A.C. - In addition to the conditions in Rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project: (a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such activities significantly degrade or are within an Outstanding Florida Water, are clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Volume I: ... 3. Whether the activities will adversely affect navigation or the flow of water or cause harmful erosion or shoaling, ... (b) Will not cause unacceptable cumulative impacts upon wetlands and other surface waters as set forth in sections 10.2.8 through 10.2.8.2 of Volume I.	62-331.053, F.A.C. is not copied here, or anywhere it is referenced below due to length.
230.11(b)	(b) *Water circulation, fluctuation, and salinity determinations.* Determine the nature and degree of effect that the proposed discharge will have individually and cumulatively on water, current patterns, circulation including downstream flows, and normal water fluctuation. Consideration shall be given to	62-330.301(1)(a), (b), (c), (d), (e), (f), F.A.C. 62-330.301(2), F.A.C. 62-330.302(1)(a)3., F.A.C.	62-330.301(1), F.A.C. - To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter: (a) Will not cause adverse water quantity impacts to receiving waters and adjacent lands; (b) Will not cause adverse flooding to on-site or off-site property; (c) Will not cause adverse impacts to existing surface water storage and conveyance capabilities;	

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	water chemistry, salinity, clarity, color, odor, taste, dissolved gas levels, temperature, nutrients, and eutrophication plus other appropriate characteristics. Consideration shall also be given to the potential diversion or obstruction of flow, alterations of bottom contours, or other significant changes in the hydrologic regime. Additional consideration of the possible loss of environmental values (§§230.23 through 230.25) and actions to minimize impacts (subpart H), shall be used in making these determinations. Potential significant effects on the current patterns, water circulation, normal water fluctuation and salinity shall be evaluated on the basis of the proposed method, volume, location, and rate of discharge.	62-330.302(1)(b), F.A.C. 62-4.246(1)-(3), F.A.C. 62-331.053, F.A.C. (see rule text)	(d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters; (e) 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; (f) Will not cause adverse secondary impacts to the water resources. In addition to the criteria in this subsection and in subsection 62-330.301(2), F.A.C., in accordance with Section 373.4132, F.S., an applicant proposing the construction, alteration, operation, maintenance, abandonment, or removal of a dry storage facility for 10 or more vessels that is functionally associated with a boat launching area must also provide reasonable assurance that the facility, taking into consideration any secondary impacts, will meet the provisions of paragraph 62-330.302(1)(a), F.A.C., including the potential adverse impacts to manatees; (2) In instances where an applicant is unable to meet state water quality standards because existing ambient water quality does not meet standards and the system will contribute to this existing condition, the applicant must implement mitigation measures that are proposed by or acceptable to the applicant that will cause net improvement of the water quality in the receiving waters for those parameters that do not meet standards. 62-330.302(1), F.A.C. - In addition to the conditions in Rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project: (a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such activities significantly degrade or are within an Outstanding Florida Water, are clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Volume I: ... 3. Whether the activities will adversely affect navigation or the flow of water or cause harmful erosion or shoaling, ... (b) Will not cause unacceptable cumulative impacts upon wetlands and other surface waters as set forth in sections 10.2.8 through 10.2.8.2 of Volume I. 62-4.246(1)-(3), F.A.C. - (1) The Department shall require monitoring and sampling for pollutants reasonably expected to be contained in the discharge and to violate the water quality criteria in Chapter 62-302, F.A.C. (2) Field testing, sample collection and preservation, laboratory testing, including quality control procedures, and all record keeping shall comply with Chapter 62-160, F.A.C. (3) Subsections (4)-(11) of this rule apply only to permit applications, permits, monitoring reports, and other sources of data relating to discharges to surface waters.	

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230.11(c)	(c) Suspended particulate/turbidity determinations. Determine the nature and degree of effect that the proposed discharge will have, individually and cumulatively, in terms of potential changes in the kinds and concentrations of suspended particulate/turbidity in the vicinity of the disposal site. Consideration shall be given to the grain size of the material proposed for discharge, the shape and size of the plume of suspended particulates, the duration of the discharge and resulting plume and whether or not the potential changes will cause violations of applicable water quality standards. Consideration should also be given to the possible loss of environmental values (§230.21) and to actions for minimizing impacts (subpart H). Consideration shall include the proposed method, volume, location, and rate of discharge, as well as the individual and combined effects of current patterns, water circulation and fluctuations, wind and wave action, and other physical factors on the movement of suspended particulates.	62-330.301(1)(d)-(f), F.A.C. 62-330.301(4), F.A.C. 62-330.302(1)(b), F.A.C. 62-4.244(5)(a)-(c), F.A.C. 62-4.244(7), F.A.C. 62-331.053, F.A.C. (see rule text) Volume I, section 11.0	62-330.301(1), F.A.C. - To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter: ... (d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters; (e) 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; (f) Will not cause adverse secondary impacts to the water resources. In addition to the criteria in this subsection and in subsection 62-330.301(2), F.A.C., in accordance with Section 373.4132, F.S., an applicant proposing the construction, alteration, operation, maintenance, abandonment, or removal of a dry storage facility for 10 or more vessels that is functionally associated with a boat launching area must also provide reasonable assurance that the facility, taking into consideration any secondary impacts, will meet the provisions of paragraph 62-330.302(1)(a), F.A.C., including the potential adverse impacts to manatees; 62-330.301(4), F.A.C. - The standards and criteria used to determine whether the reasonable assurances required in this section and Rule 62-330.302, F.A.C., have been provided, including the provisions for elimination or reduction of impacts and mitigation to offset adverse impacts, are contained in Volume I, incorporated by reference in subsection 62-330.010(4), F.A.C., and Volume II, incorporated by reference in subsection 62-330.010(4), F.A.C., for the applicable District. 62-330.302(1), F.A.C. - In addition to the conditions in Rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project: (b) Will not cause unacceptable cumulative impacts upon wetlands and other surface waters as set forth in sections 10.2.8 through 10.2.8.2 of Volume I. 62-4.244(5), F.A.C. - Mixing zones for dredge and fill permits shall not be subject to the provisions in paragraphs (1)(c) through (j), subsection (2), (3), or (4) of this rule, provided that applicable water quality standards are met at the boundary and outside the mixing zone. (a) The dimensions of dredge and fill mixing zones shall be proposed by the applicant and approved, modified or denied by the Department. (b) Criteria for departmental evaluation of a proposed mixing zone shall include site-specific biological and hydrographic or hydrological considerations. (c) In no case shall the boundary of a Joint Coastal Permit mixing zone be more than 1000 meters from the point of discharge into the waterbody or the boundary of a dredge and fill mixing zone be more than 150 meters downstream in flowing streams or 150 meters in radius in	

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			other bodies of water, where these distances are measured from the cutterhead, return flow, discharge, or other points of generation of turbidity or other pollutants. 62-4.244(7), F.A.C. - Additional relief from mixing zone restrictions necessary to prevent significant impairment of a designated use is through: (a) Reclassification of the water body pursuant to Rule 62-302.400, F.A.C.; (b) Variance granted pursuant to Section 403.201, F.S., and Rule 62-103.100, F.A.C. (c) Modification of the requirements of this section for specific criteria by the Secretary upon compliance with the notice and hearing requirements for mixing zones set forth in paragraph (1)(c), above, and upon affirmative demonstration by an applicant that the applicant's discharge from a source existing on the effective date of this rule complies with best technology economically achievable, best management practices, or other requirements set forth in Chapter 62-600, F.A.C., and the economic, environmental and social costs of compliance with the existing criteria outweigh the social, environmental, and economic benefits of compliance with more stringent discharge limitations necessary to comply with mixing zone requirements of subsection 62-4.244(1), F.A.C., and the provisions relating to dissolved oxygen in Rule 62-4.244, F.A.C. 1. No discharger may be issued more than one permit or permit modification or renewal which allows a modification pursuant to this subsection unless the applicant affirmatively demonstrates that it has undertaken a continuing program, approved by the Department, designed to consider water quality conditions and review or develop any reasonable means of achieving compliance with the water quality criteria from which relief has been granted pursuant to this subsection. 2. With respect to paragraphs 62-4.244(1)(c) and 62-4.244(7)(c), F.A.C., the applicant must affirmatively demonstrate the minimum area of the water body necessary to achieve compliance with either subsection. Within a minimum area determined by the Secretary to be necessary to achieve compliance, the discharger shall be exempt from the criterion for which a demonstration has been made. (d) Whenever site specific alternative criteria are established pursuant to Rule 62-302.800 or paragraph 62-302.510(2)(g), F.A.C., a mixing zone may be issued for dissolved oxygen if all provisions of Rule 62-4.244, F.A.C., are met with the exception of subparagraph 62-4.244(1)(j)1., F.A.C.	
230.11(d)	(d) Contaminant determinations. Determine the degree to which the material proposed for discharge will introduce, relocate, or increase contaminants. This determination shall consider the material to be discharged, the aquatic environment at the proposed disposal site, and the availability of contaminants.	62-330.301(1)(d), and (e), F.A.C. 62-330.301(2), F.A.C. 62-330.302(1)(a)1., and 2., F.A.C. 62-4.246, F.A.C. 62-331.053, F.A.C. (see rule text)	62-330.301(1), F.A.C. - To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter: (d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters; (e) 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;	

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			62-330.301(2), F.A.C. - In instances where an applicant is unable to meet state water quality standards because existing ambient water quality does not meet standards and the system will contribute to this existing condition, the applicant must implement mitigation measures that are proposed by or acceptable to the applicant that will cause net improvement of the water quality in the receiving waters for those parameters that do not meet standards. 62-330.302(1), F.A.C. - In addition to the conditions in rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project: (a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such activities significantly degrade or are within an Outstanding Florida Water, are clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Volume I: 1. Whether the activities will adversely affect the public health, safety, or welfare or the property of others; 2. Whether the activities will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats; 62-4.246, F.A.C. - (1) The Department shall require monitoring and sampling for pollutants reasonably expected to be contained in the discharge and to violate the water quality criteria in Chapter 62-302, F.A.C. (2) Field testing, sample collection and preservation, laboratory testing, including quality control procedures, and all record keeping shall comply with Chapter 62-160, F.A.C. (3) Subsections (4)-(11) of this rule apply only to permit applications, permits, monitoring reports, and other sources of data relating to discharges to surface waters. (4) Using generally accepted scientific procedures, the Department shall establish and publish a method detection limit (MDL) and practical quantification limit (PQL) for each approved analytical method for a parameter (including any pollutant). On request, the Department shall make available a list of all current established MDLs and PQLs. The permittee may request and the Department shall consider approval for alternative methods or for alternative MDLs and PQLs for any approved analytical method, in accordance with the criteria of Rules 62-160.520 (New Methods, Validation Requirements) and 62-160.530 (Approval of Alternate Test Procedures), F.A.C. Permit applications, permits, and monitoring reports shall specify the applicable MDL and PQL established by the Department for each pertinent parameter. (5) When establishing effluent limits in accordance with Rule 62-650, F.A.C., for pollutants for which MDLs are higher than the established water quality criteria, the Department shall base the limits on concentrations in the receiving waters computed in accordance with generally accepted scientific procedures and with subsections (8), (10) and (11), of this rule. Permit applications and monitoring reports shall identify results below the MDL. Except as specified in subsections (8) and (10), below, such results shall demonstrate compliance for that pollutant. (6) All results submitted to the Department for permit applications and monitoring shall be reported as follows.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			(a) The approved analytical method and corresponding Department-established MDL and PQL levels shall be reported for each pollutant. The MDLs and PQLs incorporated in the permit shall constitute the minimum reporting levels for each parameter for the life of the permit. The Department shall not accept results for which the laboratory's MDLs or PQLs are greater than those incorporated in the permit. All results with laboratory MDLs and PQLs lower than those established in the permit shall be reported to the Department. Unless otherwise specified, all subsequent references to MDL and PQL pertain to the MDLs and PQLs incorporated in the permit. (b) Results greater than or equal to the PQL shall be reported as the measured quantity. (c) Results less than the PQL and greater than or equal to the MDL shall be reported as less than the PQL and deemed to be equal to the MDL. (d) Results less than the MDL shall be reported as less than the MDL. (e) The following table is intended as a guide in the use of paragraphs (6)(b)-(d), for determining compliance with permit limits. Common abbreviations used in this table are as follows: PQL means practical quantification limit MDL means method detection limit > means greater than means less than = means equal to. Table 1 COMPLIANCE DETERMINATION PERMIT LIMIT DATA COMPLIANCE NONCOMPLIANCE *[table removed for this crosswalk – can be found in rule]* (7) When all the results or projected concentrations for the effluent and the receiving water are below the MDL for a particular parameter, the Department shall deem the permittee to be in compliance with the applicable criterion or permit limit, subject to the provisions of subsections (8) and (10), below, when applicable. (8) The presence of toxicity (as established through biomonitoring), data from analysis of plant or animal tissue, contamination of sediment in the vicinity of the installation, intermittent violations of effluent limits or water quality standards, or other similar kinds of evidence reasonably related to the installation may indicate that a pollutant in the effluent may cause or contribute to violations of water quality criteria. If there is such evidence of possible water quality violations, then (unless the permittee has complied with subsection (9), below) in reviewing reports and applications to establish permit conditions and determine compliance with permits and water quality criteria, the Department shall treat any result less than the MDL of the method required in the permit or the method as required under subsection (10), below, or any lower MDL reported by the permittee's laboratory as being one half the MDL (if the criterion equals or exceeds the MDL) or one half the criterion (if the criterion is less than the MDL), for any pollutant. Without the permission of the applicant, the Department shall not use any values determined under this subsection or subsection (9) below for results obtained under a MDL superseded later by a lower MDL. (9) As an alternative to the procedure described in subsection (8), above, for determining the value of any result, the permittee may select and follow any procedure if set forth in any of the sources listed in this subsection below or shown by the permittee to provide equivalent reasonable assurance of accuracy and reliability, and if applicable to the particular discharge.	

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			Such equivalency of reasonable assurance and the applicability of each such procedure shall be determined in accordance with generally accepted methods of statistical analysis for that procedure. The following sources are incorporated here by reference. (a) Gilbert, O.R., 1987. Statistical Methods For Environmental Pollution Monitoring, Van Nostrand Reinhold Company. (b) Hollander, M., and D.A. Wolfe, 1973. Nonparametric Statistical Methods. Wiley, New York. (c) USEPA. 1989. Draft Technical Guidance Manual for Performing Wasteload Allocations. Book III: Estuaries. Part 1: Estuaries and WLA Models. Center for Exposure Assessment Modeling. Athens, Ga. (d) USEPA. 1991. Technical Support Document for Water Quality-Based Toxics Control. Office of Water Regulations and Standards. Washington, DC. EPA/505/2-90-001. (e) USEPA. 1983. Technical Guidance Manual for Performing Wasteload Allocations. Book II: Streams and Rivers. Chapter 1: Biochemical Oxygen Demand/Dissolved Oxygen. Office of Water Regulations and Standards. Washington, DC. EPA/440/4-84/020. (f) USEPA. 1983. Technical Guidance Manual for Performing Wasteload Allocations. Book II: Streams and Rivers. Chapter 2: Nutrient/Eutrophication Impact. Office of Water Regulations and Standards. Washington, DC. EPA/440/4-84/021. (g) USEPA. 1984. Technical Guidance Manual for Performing Wasteload Allocations. Book II: Streams and Rivers. Chapter 3: Toxic Substances. Office of Water Regulations and Standards. Washington, DC. EPA/440/4-84/022. (h) USEPA. 1983. Technical Guidance Manual for Performing Wasteload Allocations. Book IV: Lakes and Impoundments. Chapter 2: Nutrient/Eutrophication Impacts. Office of Water Regulations and Standards. Washington, DC. EPA/440/4-84/019. (i) USEPA. 1986. Technical Guidance Manual for Performing Wasteload Allocations. Book IV: Lakes and Impoundments. Chapter 3: Toxic Substances. Office of Water Regulations and Standards. Washington, DC. EPA/440/4-87/002. (j) USEPA. 1986. Technical Guidance Manual for Performing Wasteload Allocations. Book VI: Stream Design Flow for Steady-State Modeling. Office of Water Regulations and Standards. Washington, DC. EPA/440/4-87/004. (k) USEPA. 1985. Water Quality Assessment: A Screening Procedure for Toxic and Conventional Pollutants. Office of Research and Development. Athens, Ga. EPA/600/6-85/002 a and b. (10) If there is evidence of possible water quality violations as set forth in subsection (8), above, and if the water quality criterion for the pollutant is lower than the MDL, the Department shall require the permittee to use the approved analytical method with the lowest MDL from those published by the Department or established by the permittee's laboratory for each such pollutant, for all reports and applications, to establish permit conditions and determine compliance. The Department shall not require the permittee to use an MDL lower than necessary to demonstrate compliance. (11) If there is evidence that a pollutant in the effluent is reasonably expected to cause or contribute to water quality violations but there is no evidence of the presence of that pollutant in the ambient background receiving water, the Department shall treat the ambient background value of that pollutant in the receiving water as zero in establishing the pertinent effluent limit.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
230.11(e)	(e) Aquatic ecosystem and organism determinations. Determine the nature and degree of effect that the proposed discharge will have, both individually and cumulatively, on the structure and function of the aquatic ecosystem and organisms. Consideration shall be given to the effect at the proposed disposal site of potential changes in substrate characteristics and elevation, water or substrate chemistry, nutrients, currents, circulation, fluctuation, and salinity, on the recolonization and existence of indigenous aquatic organisms or communities. Possible loss of environmental values (§230.31), and actions to minimize impacts (subpart H) shall be examined. Tests as described in §230.61 (Evaluation and Testing), may be required to provide information on the effect of the discharge material on communities or populations of organisms expected to be exposed to it.	62-330.301(1)(d), and (f), F.A.C. 62-330.301(4), F.A.C. 62-330.302(1)(a)2., and 7., F.A.C. 62-330.302(1)(b), and (c), F.A.C.	62-330.301(1), F.A.C. – To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter: (d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters; (f) Will not cause adverse secondary impacts to the water resources. In addition to the criteria in this subsection and in subsection 62-330.301(2), F.A.C., in accordance with section 373.4132, F.S., an applicant proposing the construction, alteration, operation, maintenance, abandonment, or removal of a dry storage facility for 10 or more vessels that is functionally associated with a boat launching area must also provide reasonable assurance that the facility, taking into consideration any secondary impacts, will meet the provisions of paragraph 62-330.302(1)(a), F.A.C., including the potential adverse impacts to manatees; 62-330.301(4), F.A.C. - (4) The standards and criteria used to determine whether the reasonable assurances required in this section and rule 62-330.302, F.A.C., have been provided, including the provisions for elimination or reduction of impacts and mitigation to offset adverse impacts, are contained in Volume I, incorporated by reference in subsection 62-330.010(4), F.A.C., and Volume II, incorporated by reference in subsection 62-330.010(4), F.A.C., for the applicable District. 62-330.302(1)(a)2., and 7., F.A.C. - (1) In addition to the conditions in rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project: (a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such activities significantly degrade or are within an Outstanding Florida Water, are clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Volume I: 2. Whether the activities will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats; … 7. The current condition and relative value of functions being performed by areas affected by the proposed activities. 62-330.302(1)(b), F.A.C. – Will not cause unacceptable cumulative impacts upon wetlands and other surface waters as set forth in sections 10.2.8 through 10.2.8.2 of Volume I. (c), F.A.C. – Located in, adjacent to or in close proximity to Class II waters or located in Class II waters or Class III waters classified by the Department of Agriculture and Consumer Services as approved, restricted, conditionally approved, or conditionally restricted for shellfish harvesting will comply with the additional criteria in section 10.2.5 of Volume I.	
230.11(f)	(f) Proposed disposal site determinations. (1) Each disposal site shall be specified through the application of these Guidelines. The mixing zone shall be confined to the smallest	62-4.244(5)(a)-(c), F.A.C. 62-4.244(7), F.A.C.	62-4.244(5), F.A.C. - Mixing zones for dredge and fill permits shall not be subject to the provisions in paragraphs (1)(c) through (j), subsection (2), (3), or (4) of this rule, provided that applicable water quality standards are met at the boundary and outside the mixing zone.	230.11(f) seems to be very specific to ocean dumping activities, and of limited

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	practicable zone within each specified disposal site that is consistent with the type of dispersion determined to be appropriate by the application of these Guidelines. In a few special cases under unique environmental conditions, where there is adequate justification to show that widespread dispersion by natural means will result in no significantly adverse environmental effects, the discharged material may be intended to be spread naturally in a very thin layer over a large area of the substrate rather than be contained within the disposal site. (2) The permitting authority and the Regional Administrator shall consider the following factors in determining the acceptability of a proposed mixing zone: (i) Depth of water at the disposal site; (ii) Current velocity, direction, and variability at the disposal site; (iii) Degree of turbulence; (iv) Stratification attributable to causes such as obstructions, salinity or density profiles at the disposal site; (v) Discharge vessel speed and direction, if appropriate; (vi) Rate of discharge; (vii) Ambient concentration of constituents of interest; (viii) Dredged material characteristics, particularly concentrations of constituents, amount of material, type of material (sand, silt, clay, etc.) and settling velocities; (ix) Number of discharge actions per unit of time; (x) Other factors of the disposal site that affect the rates and patterns of mixing.		(a) The dimensions of dredge and fill mixing zones shall be proposed by the applicant and approved, modified or denied by the Department. (b) Criteria for departmental evaluation of a proposed mixing zone shall include site-specific biological and hydrographic or hydrological considerations. (c) In no case shall the boundary of a Joint Coastal Permit mixing zone be more than 1000 meters from the point of discharge into the waterbody or the boundary of a dredge and fill mixing zone be more than 150 meters downstream in flowing streams or 150 meters in radius in other bodies of water, where these distances are measured from the cutterhead, return flow, discharge, or other points of generation of turbidity or other pollutants. 62-4.244(7), F.A.C. - Additional relief from mixing zone restrictions necessary to prevent significant impairment of a designated use is through: (a) Reclassification of the water body pursuant to Rule 62-302.400, F.A.C.; (b) Variance granted pursuant to Section 403.201, F.S., and Rule 62-103.100, F.A.C. (c) Modification of the requirements of this section for specific criteria by the Secretary upon compliance with the notice and hearing requirements for mixing zones set forth in paragraph (1)(c), above, and upon affirmative demonstration by an applicant that the applicant's discharge from a source existing on the effective date of this rule complies with best technology economically achievable, best management practices, or other requirements set forth in Chapter 62-600, F.A.C., and the economic, environmental and social costs of compliance with the existing criteria outweigh the social, environmental, and economic benefits of compliance with more stringent discharge limitations necessary to comply with mixing zone requirements of subsection 62-4.244(1), F.A.C., and the provisions relating to dissolved oxygen in Rule 62-4.244, F.A.C. 1. No discharger may be issued more than one permit or permit modification or renewal which allows a modification pursuant to this subsection unless the applicant affirmatively demonstrates that it has undertaken a continuing program, approved by the Department, designed to consider water quality conditions and review or develop any reasonable means of achieving compliance with the water quality criteria from which relief has been granted pursuant to this subsection. 2. With respect to paragraphs 62-4.244(1)(c) and 62-4.244(7)(c), F.A.C., the applicant must affirmatively demonstrate the minimum area of the water body necessary to achieve compliance with either subsection. Within a minimum area determined by the Secretary to be necessary to achieve compliance, the discharger shall be exempt from the criterion for which a demonstration has been made. (d) Whenever site specific alternative criteria are established pursuant to Rule 62-302.800 or paragraph 62-302.510(2)(g), F.A.C., a mixing zone may be issued for dissolved oxygen if all provisions of Rule 62-4.244, F.A.C., are met with the exception of subparagraph 62-4.244(1)(j)1., F.A.C.	applicability to state-assumed waters. However, the state does have methods for determining the appropriate size of a mixing zone, in Rule 62-4.244, F.A.C.
230.11(g)(1) and (2)	(g) Determination of cumulative effects on the aquatic ecosystem. (1) Cumulative impacts are the changes in an aquatic ecosystem that are attributable to the collective effect of a number of individual	62-330.302(1)(b), F.A.C. Applicant's Handbook Volume I, section 10.2.8 (see Handbook text)	62-330.302(1)(b), F.A.C. - (1) In addition to the conditions in rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project: ...	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	discharges of dredged or fill material. Although the impact of a particular discharge may constitute a minor change in itself, the cumulative effect of numerous such piecemeal changes can result in a major impairment of the water resources and interfere with the productivity and water quality of existing aquatic ecosystems. (2) Cumulative effects attributable to the discharge of dredged or fill material in waters of the United States should be predicted to the extent reasonable and practical. The permitting authority shall collect information and solicit information from other sources about the cumulative impacts on the aquatic ecosystem. This information shall be documented and considered during the decision-making process concerning the evaluation of individual permit applications, the issuance of a General permit, and monitoring and enforcement of existing permits.		(b) Will not cause unacceptable cumulative impacts upon wetlands and other surface waters as set forth in sections 10.2.8 through 10.2.8.2 of Volume I.	
230.11(h)(1) and (2)	(h) Determination of secondary effects on the aquatic ecosystem. (1) Secondary effects are effects on an aquatic ecosystem that are associated with a discharge of dredged or fill materials, but do not result from the actual placement of the dredged or fill material. Information about secondary effects on aquatic ecosystems shall be considered prior to the time final section 404 action is taken by permitting authorities. (2) Some examples of secondary effects on an aquatic ecosystem are fluctuating water levels in an impoundment and downstream associated with the operation of a dam, septic tank leaching and surface runoff from residential or commercial developments on fill, and leachate and runoff from a sanitary landfill located in waters of the U.S. Activities to be conducted on fast land created by the discharge of dredged or fill material in waters of the United States may have secondary impacts within those waters which should be	62-330.301(1)(f), F.A.C. Applicant's Handbook Volume I, section 10.2.7 (see Handbook text)	62-330.301(1)(f), F.A.C. - (1) To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter: … (f) Will not cause adverse secondary impacts to the water resources. In addition to the criteria in this subsection and in subsection 62-330.301(2), F.A.C., in accordance with section 373.4132, F.S., an applicant proposing the construction, alteration, operation, maintenance, abandonment, or removal of a dry storage facility for 10 or more vessels that is functionally associated with a boat launching area must also provide reasonable assurance that the facility, taking into consideration any secondary impacts, will meet the provisions of paragraph 62-330.302(1)(a), F.A.C., including the potential adverse impacts to manatees;	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	considered in evaluating the impact of creating those fast lands.			
230.12	Findings on the compliance or non-compliance with the restrictions on discharge. (a) On the basis of these Guidelines (subparts C through G) the proposed disposal sites for the discharge of dredged or fill material must be: (1) Specified as complying with the requirements of these Guidelines; or (2) Specified as complying with the requirements of these Guidelines with the inclusion of appropriate and practicable discharge conditions (see subparts H and J) to minimize pollution or adverse effects to the affected aquatic ecosystems; or (3) Specified as failing to comply with the requirements of these Guidelines where: (i) There is a practicable alternative to the proposed discharge that would have less adverse effect on the aquatic ecosystem, so long as such alternative does not have other significant adverse environmental consequences; or (ii) The proposed discharge will result in significant degradation of the aquatic ecosystem under §230.10(b) or (c); or (iii) The proposed discharge does not include all appropriate and practicable measures to minimize potential harm to the aquatic ecosystem; or (iv) There does not exist sufficient information to make a reasonable judgment as to whether the proposed discharge will comply with these Guidelines. (b) Findings under this section shall be set forth in writing by the permitting authority for each proposed discharge and made available to the permit applicant. These findings shall include the factual determinations required by §230.11, and a brief explanation of any adaptation of these Guidelines to the activity under consideration. In the case of a General	62-331.054, F.A.C. Applicant's Handbook Volume I, section 5.5.4 (see Handbook text) 120.60(3), F.S. 404 Handbook, Section 8.2, (j), (k), and (l)	62-331.054, F.A.C. - (1) Individual permits shall contain the general conditions for individual permits in subsection 62-330.350(1), F.A.C., and any specific conditions necessary to assure compliance with this Chapter. (a) 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. 120.60(3), F.S. - Each applicant shall be given written notice, personally or by mail, that the agency intends to grant or deny, or has granted or denied, the application for license. The notice must state with particularity the grounds or basis for the issuance or denial of the license, except when issuance is a ministerial act. Unless waived, a copy of the notice shall be delivered or mailed to each party's attorney of record and to each person who has made a written request for notice of agency action. Each notice must inform the recipient of the basis for the agency decision, inform the recipient of any administrative hearing pursuant to ss. 120.569 and 120.57 or judicial review pursuant to s. 120.68 which may be available, indicate the procedure that must be followed, and state the applicable time limits. The issuing agency shall certify the date the notice was mailed or delivered, and the notice and the certification must be filed with the agency clerk. 404 Handbook, section 8.2, (j), (k), and (l) – Upon receipt of a technically complete application, the Agency will follow the sequence of review for processing applications summarized below. The sequence is simplified for purposes of illustration. The actual process followed may be iterative, with the results of one step leading to a re-examination of the previous steps. The Agency must address all of the applicable State 404 Program permitting conditions in reaching a permitting decision for a project. … (j) Complete a Technical Staff Report to document how the project addresses the requirements of Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C. (k) Make and document a finding of either compliance or noncompliance with the requirements of Rules 62-330.301, 62-330.302, and 62-331.053, F.A.C. This is a determination of whether the project, including any mitigation, is permittable under the State 404 Program. (l) Prepare a written determination on each application outlining the permitting decision and the rationale for the decision. The determination shall be dated, signed, and included in the official record prior to final action on the application. The Technical Staff Report from step 10 (subsection (j)), above, shall be included in or attached to the determination.	Equivalent state terms = issued/granted (complying), issued/granted with conditions (complying with conditions), or denied (failing to comply).

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	permit, such findings shall be prepared at the time of issuance of that permit rather than for each subsequent discharge under the authority of that permit.			
Subpart C	**Potential impacts on physical and chemical characteristics of the aquatic ecosystem**			
230.20(a) and (b)	(a) The substrate of the aquatic ecosystem underlies open waters of the United States and constitutes the surface of wetlands. It consists of organic and inorganic solid materials and includes water and other liquids or gases that fill the spaces between solid particles. (b) Possible loss of environmental characteristics and values: The discharge of dredged or fill material can result in varying degrees of change in the complex physical, chemical, and biological characteristics of the substrate. Discharges which alter substrate elevation or contours can result in changes in water circulation, depth, current pattern, water fluctuation and water temperature. Discharges may adversely affect bottom-dwelling organisms at the site by smothering immobile forms or forcing mobile forms to migrate. Benthic forms present prior to a discharge are unlikely to recolonize on the discharged material if it is very dissimilar from that of the discharge site. Erosion, slumping, or lateral displacement of surrounding bottom of such deposits can adversely affect areas of the substrate outside the perimeters of the disposal site by changing or destroying habitat. The bulk and composition of the discharged material and the location, method, and timing of discharges may all influence the degree of impact on the substrate.	See §230.11(a), above, for F.A.C. rule references. Applicant's Handbook Volume I, section 10.2.2.4	Volume I, section 10.2.2.4 - Water Quantity Impacts to Wetlands and Other Surface Waters Pursuant to section 10.1.1(a), above, an applicant must provide reasonable assurance that the regulated activity will not change the hydroperiod of a wetland or other surface water, so as to adversely affect wetland functions or other surface water functions as follows: (a) Whenever portions of a system, such as constructed basins, structures, stormwater ponds, canals, and ditches, could have the effect of reducing the depth, duration or frequency of inundation or saturation in a wetland or other surface water, the applicant must perform an analysis of the drawdown in water levels or diversion of water flows resulting from such activities and provide reasonable assurance that these drawdowns or diversions will not adversely impact the functions that wetlands and other surface waters provide to fish and wildlife and listed species; (b) Increasing the depth, duration, or frequency of inundation through changing the rate or method of discharge of water to wetlands or other surface waters or by impounding water in wetlands or other surface waters must also be addressed to prevent adverse effects to functions that wetlands and other surface waters provide to fish and wildlife and listed species. Different types of wetlands respond differently to increased depth, duration, or frequency of inundation. Therefore, the applicant must provide reasonable assurance that activities that have the potential to increase discharge or water levels will not adversely affect the functioning of the specific wetland or other surface water subject to the increased discharge or water level; and (c) Whenever portions of an activity could have the effect of altering water levels in wetlands or other surface waters, applicants shall be required to either: monitor the wetland or other surface waters to demonstrate that such alteration has not resulted in adverse impacts; or modify the activity to prevent adverse impacts. Monitoring parameters, methods, schedules, and reporting requirements shall be specified in permit conditions.	The State evaluates projects to determine if they will adversely impact habitat, including substrate considerations outlined in 40 CFR § 230.20.
230.21(a) and (b)	(a) Suspended particulates in the aquatic ecosystem consist of fine-grained mineral particles, usually smaller than silt, and organic particles. Suspended particulates may enter water bodies as a result of land runoff,	See §230.11(c), above, for F.A.C. rule references Applicant's Handbook Volume I, section 10.2.4.1	Volume I, section 10.2.4.1 - Short Term Water Quality Considerations The applicant must address the short term water quality impacts of a proposed activity, including: (a) Providing and maintaining turbidity barriers or similar devices for the duration of dewatering and other construction activities in or adjacent to wetlands or other surface waters;	Limits for turbidity (suspended particulates) are provided in Rule 62-302.530(70), F.A.C. depending on the classification of the waterbody.

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	flooding, vegetative and planktonic breakdown, resuspension of bottom sediments, and man's activities including dredging and filling. Particulates may remain suspended in the water column for variable periods of time as a result of such factors as agitation of the water mass, particulate specific gravity, particle shape, and physical and chemical properties of particle surfaces. (b) Possible loss of environmental characteristics and values: The discharge of dredged or fill material can result in greatly elevated levels of suspended particulates in the water column for varying lengths of time. These new levels may reduce light penetration and lower the rate of photosynthesis and the primary productivity of an aquatic area if they last long enough. Sight-dependent species may suffer reduced feeding ability leading to limited growth and lowered resistance to disease if high levels of suspended particulates persist. The biological and the chemical content of the suspended material may react with the dissolved oxygen in the water, which can result in oxygen depletion. Toxic metals and organics, pathogens, and viruses absorbed or adsorbed to fine-grained particulates in the material may become biologically available to organisms either in the water column or on the substrate. Significant increases in suspended particulate levels create turbid plumes which are highly visible and aesthetically displeasing. The extent and persistence of these adverse impacts caused by discharges depend upon the relative increase in suspended particulates above the amount occurring naturally, the duration of the higher levels, the current patterns, water level, and fluctuations present when such discharges occur, the volume, rate, and duration of the discharge, particulate deposition, and the seasonal timing of the discharge.		(b) Stabilizing newly created slopes or surfaces in or adjacent to wetlands and other surface waters to prevent erosion and turbidity; (c) Providing proper construction access for barges, boats and equipment to ensure that propeller dredging and rutting from vehicular traffic does not occur; (d) Maintaining construction equipment to ensure that oils, greases, gasoline, or other pollutants are not released into wetlands or other surface waters; (e) Controlling the discharge from spoil disposal sites; and (f) Preventing any other discharge or release of pollutants during construction or alteration that will cause or contribute to water quality standards being violated.	We evaluate projects for the likelihood that turbidity or suspended particulate will occur. A General Condition of all individual permits requires use of turbidity and sedimentation control BMPs. Larger, in-water projects are required to perform turbidity monitoring during construction.

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
230.22(a) and (b)	(a) Water is the part of the aquatic ecosystem in which organic and inorganic constituents are dissolved and suspended. It constitutes part of the liquid phase and is contained by the substrate. Water forms part of a dynamic aquatic life-supporting system. Water clarity, nutrients and chemical content, physical and biological content, dissolved gas levels, pH, and temperature contribute to its life-sustaining capabilities. (b) Possible loss of environmental characteristics and values: The discharge of dredged or fill material can change the chemistry and the physical characteristics of the receiving water at a disposal site through the introduction of chemical constituents in suspended or dissolved form. Changes in the clarity, color, odor, and taste of water and the addition of contaminants can reduce or eliminate the suitability of water bodies for populations of aquatic organisms, and for human consumption, recreation, and aesthetics. The introduction of nutrients or organic material to the water column as a result of the discharge can lead to a high biochemical oxygen demand (BOD), which in turn can lead to reduced dissolved oxygen, thereby potentially affecting the survival of many aquatic organisms. Increases in nutrients can favor one group of organisms such as algae to the detriment of other more desirable types such as submerged aquatic vegetation, potentially causing adverse health effects, objectionable tastes and odors, and other problems.	See §230.11(d), above, for F.A.C. rule references Applicant's Handbook Volume I, sections 8.3.1 and 10.2.4	Volume I, section 8.3.1 Surface Water Quality Standards - State surface water quality standards are set forth in Chapters 62-4 and 62-302, F.A.C., including the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), 62-4.242(2) and (3), F.A.C., and Rule 62-302.300, F.A.C., and the special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C. Volume I, section 10.2.4 Water Quality - Pursuant to section 10.1.1(c), above, an applicant must provide reasonable assurance that the regulated activity will not cause or contribute to violations of water quality standards in areas where water quality standards apply. Reasonable assurances regarding water quality must be provided both for the short term and the long term, addressing the proposed construction, alteration, operation, maintenance, removal and abandonment of the project. The following requirements are in addition to the water quality requirements found in sections 8.2.3 and 8.3 through 8.3.3, above. Volume I, section 10.2.4.1 Short Term Water Quality Considerations The applicant must address the short term water quality impacts of a proposed activity, including: (a) Providing and maintaining turbidity barriers or similar devices for the duration of dewatering and other construction activities in or adjacent to wetlands or other surface waters; (b) Stabilizing newly created slopes or surfaces in or adjacent to wetlands and other surface waters to prevent erosion and turbidity; (c) Providing proper construction access for barges, boats and equipment to ensure that propeller dredging and rutting from vehicular traffic does not occur; (d) Maintaining construction equipment to ensure that oils, greases, gasoline, or other pollutants are not released into wetlands or other surface waters; (e) Controlling the discharge from spoil disposal sites; and (f) Preventing any other discharge or release of pollutants during construction or alteration that will cause or contribute to water quality standards being violated. Volume I, section 10.2.4.2 Long Term Water Quality Considerations The applicant must address the long term water quality impacts of a proposed activity, including: (a) The potential of a constructed or altered water body to cause or contribute to violations of water quality standards due to its depth or configuration. For example, the depth of water bodies must be designed to ensure proper mixing so that the water quality standard for dissolved oxygen will not be violated in the lower levels of the water body, but the depth should not be so shallow that the bottom sediments are frequently resuspended by boat activity. Water bodies must be configured to prevent the creation of debris traps or stagnant areas that could result in violations of water quality standards. (b) Long term erosion, siltation or propeller dredging that will cause turbidity violations. (c) Prevention of any discharge or release of pollutants from the activity that will cause water quality standards to be violated.	We evaluate projects for likelihood to violate state water quality standards. Evaluation can include water quality, sediment, and effluent testing, if needed. Pollution prevention requirements are added as permit conditions, as needed.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			Volume I, section 10.2.4.3 Additional Water Quality Considerations for Docking Facilities Docking facilities, due to their nature, provide potential sources of pollutants to wetlands and other surface waters. If the proposed work has the potential to adversely affect water quality, an applicant proposing the construction, expansion or alteration of a docking facility must address the following factors to provide the required reasonable assurance that water quality standards will not be violated: (a) Hydrographic information or studies shall be required for docking facilities of greater than ten boat slips, unless hydrographic information or studies previously conducted in the vicinity of the facility provide reasonable assurance that the conditions of the water body and the nature of the proposed activity do not warrant the need for new information or studies. Hydrographic information or studies also may be required for docking facilities of fewer than ten slips, dependent upon the site specific features described in section 10.2.4.3(b), below. In all cases, the design of the hydrographic study, and its complexity, will be dependent upon the specific project design and the specific features of the project site. (b) The purpose of the hydrographic information or studies is to document the flushing time (the time required to reduce the concentration of a conservative pollutant to ten percent of its original concentration) of the water at the docking facility. This information is used to determine the likelihood that the facility will accumulate pollutants to the extent that water quality violations will occur. Generally, a flushing time of less than or equal to four days is the maximum that is desirable for docking facilities. However, the evaluation of the maximum desirable flushing time also takes into consideration the size (number of slips) and configuration of the proposed docking facility; the amplitude and periodicity of the tide; the geometry of the subject water body; the circulation and flushing of the water body; the quality of the waters at the project site; the type and nature of the docking facility; the services provided at the docking facility; and the number and type of other sources of water pollution in the area. (c) The level and type of hydrographic information or studies that will be required for the proposed docking facility will be determined based upon an analysis of site specific characteristics. As compared to sites that flush in less than four days, sites where the flushing time is greater than four days generally will require additional, more complex levels of hydrographic studies or information to determine whether water quality standards can be expected to be violated by the facility. The degree and complexity of the hydrographic study will be dependent upon the types of considerations listed in section 10.2.4.3(b), above, including the potential for the facility, based on its design and location, to add pollutants to the receiving waters. Types of information that can be required include site-specific measurements of: waterway geometry, tidal amplitude, the periodicity of forces that drive water movement at the site, and water tracer studies that document specific circulation patterns. (d) The applicant shall document, through hydrographic information or studies, that pollutants leaving the site of the docking facility will be adequately dispersed in the receiving water body so as to not cause or contribute to violations of water quality standards based on circulation patterns and flushing characteristics of the receiving water body. (e) In all cases, the hydrographic studies shall be designed to document the hydrographic characteristics of the project site and surrounding waters. All hydrographic studies must be based on the factors described in sections (a) through (d), above. An applicant should consult with the Agency prior to conducting such a study.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			(f) In accordance with Chapters 62-761 and 62-762, F.A.C., applicants are advised that fueling facilities must have secondary containment equipment and shall be located and operated so that the potential for spills or discharges to surface waters and wetlands is minimized. (g) The disposal of domestic wastes from boat heads, particularly from liveaboard vessels, must be addressed to prevent improper disposal into wetlands or other surface waters. A liveaboard vessel shall be defined as a vessel docked at the facility that is inhabited by a person or persons for any five consecutive days or a total of ten days within a 30-day period. (h) The disposal of solid waste, such as garbage and fish cleaning debris, must be addressed to prevent disposal into wetlands or other surface waters. (i) Pollutant leaching characteristics of materials such as treated pilings and anti-fouling paints used on the hulls of vessels must be addressed to ensure that any pollutants that leach from the structures and vessels will not cause violations of water quality standards given the flushing at the site and the type, number and concentration of the likely sources of pollutants. Volume I, section 10.2.4.4 Mixing Zones A temporary mixing zone for water quality during construction or alteration may be requested by the applicant. The Agency shall review such requests pursuant to Rule 62-4.242 and subsection 62-4.244(5), F.A.C. Volume I, section 10.2.4.5 Where Ambient Water Quality Does Not Meet Standards If the site of the proposed activity currently does not meet water quality standards, the applicant must demonstrate compliance with the water quality standards by meeting the provisions in sections 10.2.4.1, 10.2.4.2, and 10.2.4.3, above, as applicable, and for the parameters that do not meet water quality standards, the applicant must demonstrate that the proposed activity will not contribute to the existing violation. If the proposed activity will contribute to the existing violation, mitigation may be proposed as described in section 10.3.1.4, below.	
230.23(a) and (b)	(a) Current patterns and water circulation are the physical movements of water in the aquatic ecosystem. Currents and circulation respond to natural forces as modified by basin shape and cover, physical and chemical characteristics of water strata and masses, and energy dissipating factors. (b) Possible loss of environmental characteristics and values: The discharge of dredged or fill material can modify current patterns and water circulation by obstructing flow, changing the direction or velocity of water flow, changing the direction or velocity of water flow and circulation, or otherwise changing the dimensions of a water body. As a	See §230.11(b), above, for F.A.C. rule citations Applicant's Handbook Volume I, section 10.2.3.3	Volume I, section 10.2.3.3 Navigation, Water Flow, Erosion and Shoaling In reviewing and balancing the criterion on navigation, erosion and shoaling in section 10.2.3(c), above, the Agency will evaluate whether the regulated activity located in, on or over wetlands or other surface waters will: (a) Significantly impede navigability or enhance navigability. The Agency will consider the current navigational uses of the surface waters and will not speculate on uses that may occur in the future. Applicants proposing to construct bridges or other traversing works must address adequate horizontal and vertical clearance for the type of watercraft currently navigating the surface waters. Applicants proposing to construct docks, piers and other works that extend into surface waters must address the continued navigability of these waters. An encroachment into a marked or customarily used navigation channel is an example of a significant impediment to navigability. Applicants proposing temporary activities in navigable surface waters, such as the mooring of construction barges, must address measures for clearly marking the work as a hazard to navigation, including nighttime lighting. The addition of navigational aids may be beneficial to navigation. If an applicant has a U.S. Coast Guard permit issued pursuant to 14 U.S.C. Section 81 or 33 C.F.R. Part 62 for a regulated activity in, on or over wetlands or other	We review projects for impacts to current patterns, circulation and water fluctuations. The state does this in many ways and may require testing as needed. Certain project types, such as groins, jetties, large docking facilities, or any other project that is likely to significantly impact the flow of water trigger hydrographic testing requirements.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	result, adverse changes can occur in: Location, structure, and dynamics of aquatic communities; shoreline and substrate erosion and deposition rates; the deposition of suspended particulates; the rate and extent of mixing of dissolved and suspended components of the water body; and water stratification.		surface waters, submittal of this permit with the application may assist the applicant in addressing this criterion. (b) Cause or alleviate harmful erosion or shoaling. Applicants proposing activities such as channel relocation, artificial reefs, construction of jetties, breakwaters, groins, bulkheads and beach nourishment must address existing and expected erosion or shoaling in the proposed design. Compliance with erosion control best management practices referenced in Part IV of this Volume, will be an important consideration in addressing this criterion. Each permit will have a general condition that requires applicants to utilize appropriate erosion control practices and to correct any adverse erosion or shoaling resulting from the regulated activities. (c) Significantly impact or enhance water flow. Applicants must address significant obstructions to sheet flow by assessing the need for structures that minimize the obstruction such as culverts or spreader swales in fill areas. Compliance with the water quantity criteria found in section 10.2.2.4, above, shall be an important consideration in addressing this criterion.	
230.24(a) and (b)	(a) Normal water fluctuations in a natural aquatic system consist of daily, seasonal, and annual tidal and flood fluctuations in water level. Biological and physical components of such a system are either attuned to or characterized by these periodic water fluctuations. (b) Possible loss of environmental characteristics and values: The discharge of dredged or fill material can alter the normal water-level fluctuation pattern of an area, resulting in prolonged periods of inundation, exaggerated extremes of high and low water, or a static, nonfluctuating water level. Such water level modifications may change salinity patterns, alter erosion or sedimentation rates, aggravate water temperature extremes, and upset the nutrient and dissolved oxygen balance of the aquatic ecosystem. In addition, these modifications can alter or destroy communities and populations of aquatic animals and vegetation, induce populations of nuisance organisms, modify habitat, reduce food supplies, restrict movement of aquatic fauna, destroy spawning areas, and change adjacent, upstream, and downstream areas.	See § 230.11(b), above, for F.A.C. rule citations. Applicant's Handbook Volume I, section 10.2.2.4	Volume I, section 10.2.2.4 - Water Quantity Impacts to Wetlands and Other Surface Waters Pursuant to section 10.1.1(a), above, an applicant must provide reasonable assurance that the regulated activity will not change the hydroperiod of a wetland or other surface water, so as to adversely affect wetland functions or other surface water functions as follows: (a) Whenever portions of a system, such as constructed basins, structures, stormwater ponds, canals, and ditches, could have the effect of reducing the depth, duration or frequency of inundation or saturation in a wetland or other surface water, the applicant must perform an analysis of the drawdown in water levels or diversion of water flows resulting from such activities and provide reasonable assurance that these drawdowns or diversions will not adversely impact the functions that wetlands and other surface waters provide to fish and wildlife and listed species; (b) Increasing the depth, duration, or frequency of inundation through changing the rate or method of discharge of water to wetlands or other surface waters or by impounding water in wetlands or other surface waters must also be addressed to prevent adverse effects to functions that wetlands and other surface waters provide to fish and wildlife and listed species. Different types of wetlands respond differently to increased depth, duration, or frequency of inundation. Therefore, the applicant must provide reasonable assurance that activities that have the potential to increase discharge or water levels will not adversely affect the functioning of the specific wetland or other surface water subject to the increased discharge or water level; and (c) Whenever portions of an activity could have the effect of altering water levels in wetlands or other surface waters, applicants shall be required to either: monitor the wetland or other surface waters to demonstrate that such alteration has not resulted in adverse impacts; or modify the activity to prevent adverse impacts. Monitoring parameters, methods, schedules, and reporting requirements shall be specified in permit conditions.	We review projects for impacts to current patterns, circulation and water fluctuations. The state does this in many ways and may require testing as needed. Certain project types, such as groins, jetties, large docking facilities, or any other project that is likely to significantly impact the flow of water trigger hydrographic testing requirements.
230.25(a) and (b)	(a) Salinity gradients form where salt water from the ocean meets and mixes with fresh water from land.	See § 230.11(b), above, for rule citations.	Volume I, section 10.2.3.4 - Fisheries, Recreation, Marine Productivity	Potential impacts to salinity gradients are determined

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	(b) Possible loss of environmental characteristics and values: Obstructions which divert or restrict flow of either fresh or salt water may change existing salinity gradients. For example, partial blocking of the entrance to an estuary or river mouth that significantly restricts the movement of the salt water into and out of that area can effectively lower the volume of salt water available for mixing within that estuary. The downstream migration of the salinity gradient can occur, displacing the maximum sedimentation zone and requiring salinity-dependent aquatic biota to adjust to the new conditions, move to new locations if possible, or perish. In the freshwater zone, discharge operations in the upstream regions can have equally adverse impacts. A significant reduction in the volume of fresh water moving into an estuary below that which is considered normal can affect the location and type of mixing thereby changing the characteristic salinity patterns. The resulting changed circulation pattern can cause the upstream migration of the salinity gradient displacing the maximum sedimentation zone. This migration may affect those organisms that are adapted to freshwater environments. It may also affect municipal water supplies.	Applicant's Handbook Volume I, section 10.2.3.4 Applicant's Handbook Volume I, section 10.2.4	In reviewing and balancing the criterion regarding fishing or recreational values and marine productivity in section 10.2.3(d), above, the Agency will evaluate whether the regulated activity in, on, or over wetlands or other surface waters will cause: (a) Adverse effects to sport or commercial fisheries or marine productivity. Examples of activities that may adversely affect fisheries or marine productivity are the elimination or degradation of fish nursery habitat, change in ambient water temperature, change in normal salinity regime, reduction in detrital export, change in nutrient levels, or other adverse effects on populations of native aquatic organisms. (b) Adverse effects or improvements to existing recreational uses of a wetland or other surface water. Wetlands and other surface waters may provide recreational uses such as boating, fishing, swimming, waterskiing, hunting, and birdwatching. An example of potential adverse effects to recreational uses is the construction of a traversing work, such as a road crossing a waterway, which could impact the current use of the waterway for boating. Volume I, section 10.2.4 Water Quality - Pursuant to section 10.1.1(c), above, an applicant must provide reasonable assurance that the regulated activity will not cause or contribute to violations of water quality standards in areas where water quality standards apply. Reasonable assurances regarding water quality must be provided both for the short term and the long term, addressing the proposed construction, alteration, operation, maintenance, removal and abandonment of the project. The following requirements are in addition to the water quality requirements found in sections 8.2.3 and 8.3 through 8.3.3, above.	through water quality and hydrographic testing/modelling.
Subpart D	**Potential impacts on biological characteristics of the aquatic ecosystem**			
230.30(a), (b), and (c)	(a) An endangered species is a plant or animal in danger of extinction throughout all or a significant portion of its range. A threatened species is one in danger of becoming an endangered species in the foreseeable future throughout all or a significant portion of its range. Listings of threatened and endangered species as well as critical habitats are maintained by some individual States and by the U.S. Fish and Wildlife Service of the Department of the Interior (codified annually	62-330.301(1)(d), and (f), F.A.C. 62-330.302(1)(a)2., F.A.C. 62-331.053(3)(a)4., F.A.C. Applicant's Handbook Volume I, sections 10.2.2 (see Handbook text),	62-330.301(1), F.A.C. - To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter: (d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters (f) Will not cause adverse secondary impacts to the water resources. In addition to the criteria in this subsection and in subsection 62-330.301(2), F.A.C., in accordance with section 373.4132, F.S., an applicant proposing the construction, alteration, operation, maintenance, abandonment, or removal of a dry storage facility for 10 or more vessels that is functionally associated with a boat launching area must also provide reasonable assurance that the facility,	DEP, WMDs and delegated local governments send projects with wetland or surface water impacts to FWC for review. If FWC determines that listed species may be impacted, they provide suggestions for project revision to minimize or eliminate impact and may provide conditions to be added to a permit. If FWC determines that a

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	at 50 CFR § 17.11). The Department of Commerce has authority over some threatened and endangered marine mammals, fish and reptiles. (b) Possible loss of values: The major potential impacts on threatened or endangered species from the discharge of dredged or fill material include: (1) Covering or otherwise directly killing species; (2) The impairment or destruction of habitat to which these species are limited. Elements of the aquatic habitat which are particularly crucial to the continued survival of some threatened or endangered species include adequate good quality water, spawning and maturation areas, nesting areas, protective cover, adequate and reliable food supply, and resting areas for migratory species. Each of these elements can be adversely affected by changes in either the normal water conditions for clarity, chemical content, nutrient balance, dissolved oxygen, pH, temperature, salinity, current patterns, circulation and fluctuation, or the physical removal of habitat; and (3) Facilitating incompatible activities. (c) Where consultation with the Secretary of the Interior occurs under section 7 of the Endangered Species Act, the conclusions of the Secretary concerning the impact(s) of the discharge on threatened and endangered species and their habitat shall be considered final.	10.2.3.2, and 10.2.7 (see Handbook text)	taking into consideration any secondary impacts, will meet the provisions of paragraph 62-330.302(1)(a), F.A.C., including the potential adverse impacts to manatees; 62-330.302(1), F.A.C. - In addition to the conditions in Rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project: (a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such activities significantly degrade or are within an Outstanding Florida Water, are clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Volume I: 2. Whether the activities will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats 62-331.053(3)(a)4., F.A.C. - (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: 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. If an exemption has been granted by the Endangered Species Committee, the terms of such exemption shall apply in lieu of this subparagraph; Volume I, section 10.2.3.2 - The Agency's public interest review of that portion of a proposed activity in, on, or over wetlands and other surface waters for impacts to "the conservation of fish and wildlife, including endangered or threatened species, or their habitats" is encompassed within the required review of the entire activity under section 10.2.2, above. An applicant must always provide the reasonable assurances required under section 10.2.2, above. Volume I, section10.2.7 – Secondary Impacts – (see Handbook text) (prevention of incompatible activities)	project will threaten the continued existence of a listed species, they can file a CZM objection to the project, in which case the permit would be denied. The agencies also send projects to the Department of Agriculture and Consumer Services (DACS) for review and comment if a project is in Class II (shellfish harvesting) waters. DACS may also provide comments, suggestions, or object to the project. All projects are reviewed to make sure they will meet state water quality standards, which are designed to maintain the integrity of the waterbodies for certain categories of use. These categories can be found in 62-302.400, F.A.C. Most waters in Florida are Class II or III: CLASS II: Shellfish Propagation or Harvesting CLASS III: Fish Consumption; Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife
230.31(a) and (b)	(a) Aquatic organisms in the food web include, but are not limited to, finfish, crustaceans, mollusks, insects, annelids, planktonic organisms, and the plants and animals on which they feed and depend upon for their needs. All forms and life stages of an	62-330.301(1)(d) and (e), F.A.C. 62-330.302(1)(a)1., 2., and 4., F.A.C.	62-330.301(1), F.A.C. - To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter: (d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters; (e) Will not adversely affect the quality of receiving waters such that the state water quality standards set forth in Chapters 62-4, 62-302,	(Same as §230.30, above) DEP, WMDs and delegated local governments send projects with wetland or surface water impacts to FWC for review. If FWC determines that listed

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	organism, throughout its geographic range, are included in this category. (b) Possible loss of values: The discharge of dredged or fill material can variously affect populations of fish, crustaceans, mollusks and other food web organisms through the release of contaminants which adversely affect adults, juveniles, larvae, or eggs, or result in the establishment or proliferation of an undesirable competitive species of plant or animal at the expense of the desired resident species. Suspended particulates settling on attached or buried eggs can smother the eggs by limiting or sealing off their exposure to oxygenated water. Discharge of dredged and fill material may result in the debilitation or death of sedentary organisms by smothering, exposure to chemical contaminants in dissolved or suspended form, exposure to high levels of suspended particulates, reduction in food supply, or alteration of the substrate upon which they are dependent. Mollusks are particularly sensitive to the discharge of material during periods of reproduction and growth and development due primarily to their limited mobility. They can be rendered unfit for human consumption by tainting, by production and accumulation of toxins, or by ingestion and retention of pathogenic organisms, viruses, heavy metals or persistent synthetic organic chemicals. The discharge of dredged or fill material can redirect, delay, or stop the reproductive and feeding movements of some species of fish and crustacea, thus preventing their aggregation in accustomed places such as spawning or nursery grounds and potentially leading to reduced populations. Reduction of detrital feeding species or other representatives of lower trophic levels can impair the flow of energy from primary consumers to higher trophic levels. The reduction or potential elimination of food	Applicant's Handbook Volume I, sections 10.2.3.1(a) and (b), 10.2.3.4(a) and (b), and 10.2.5 (see Handbook text)	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 62-330.302(1), F.A.C. - In addition to the conditions in Rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project: (a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such activities significantly degrade or are within an Outstanding Florida Water, are clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Volume I: 1. Whether the activities will adversely affect the public health, safety, or welfare or the property of others, 2. Whether the activities will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats, 4. Whether the activities will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity Volume I, section 10.2.3.1 - In reviewing and balancing the criterion regarding public health, safety, welfare and the property of others in section 10.2.3(a), above, the Agency will evaluate whether the regulated activity located in, on, or over wetlands or other surface waters will cause: (a) An environmental hazard to public health or safety or improvement to public health or safety with respect to environmental issues. Each applicant must identify potential environmental public health or safety issues resulting from their project. Examples of these issues include: mosquito control; proper disposal of solid, hazardous, domestic or industrial waste; aids to navigation; hurricane preparedness or cleanup; environmental remediation, enhancement or restoration; and similar environmentally related issues. For example, the installation of navigational aids may improve public safety and may reduce impacts to public resources; (b) Impacts to areas classified by the Department of Agriculture and Consumer Services as approved, conditionally approved, restricted or conditionally restricted for shellfish harvesting. Activities that would cause closure or a more restrictive classification or management plan for a shellfish harvesting area would result in a negative factor in the public interest balance with respect to this criterion; Volume I, section 10.2.3.4 - In reviewing and balancing the criterion regarding fishing or recreational values and marine productivity in section 10.2.3(d), above, the Agency will evaluate whether the regulated activity in, on, or over wetlands or other surface waters will cause: (a) Adverse effects to sport or commercial fisheries or marine productivity. Examples of activities that may adversely affect fisheries or marine productivity are the elimination or degradation of fish nursery habitat, change in ambient water temperature, change in normal	species may be impacted, they provide suggestions for project revision to minimize or eliminate impact and may provide conditions to be added to a permit. If FWC determines that a project will threaten the continued existence of a listed species, they can file a CZM objection to the project, in which case the permit would be denied. The agencies also send projects to the Department of Agriculture and Consumer Services (DACS) for review and comment if a project is in Class II (shellfish harvesting) waters. DACS may also provide comments, suggestions, or object to the project. All projects are reviewed to make sure they will meet state water quality standards, which are designed to maintain the integrity of the waterbodies for certain categories of use. These categories can be found in 62-302.400, F.A.C. Most waters in Florida are Class II or III: CLASS II: Shellfish Propagation or Harvesting CLASS III: Fish Consumption; Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	chain organism populations decreases the overall productivity and nutrient export capability of the ecosystem.		salinity regime, reduction in detrital export, change in nutrient levels, or other adverse effects on populations of native aquatic organisms. (b) Adverse effects or improvements to existing recreational uses of a wetland or other surface water. Wetlands and other surface waters may provide recreational uses such as boating, fishing, swimming, waterskiing, hunting, and birdwatching. An example of potential adverse effects to recreational uses is the construction of a traversing work, such as a road crossing a waterway, which could impact the current use of the waterway for boating. Volume I, section 10.2.5 – Class II Waters, Waters Approved for Shellfish Harvesting (See Handbook text)	
230.32(a) and (b)	(a) Wildlife associated with aquatic ecosystems are resident and transient mammals, birds, reptiles, and amphibians. (b) Possible loss of values: The discharge of dredged or fill material can result in the loss or change of breeding and nesting areas, escape cover, travel corridors, and preferred food sources for resident and transient wildlife species associated with the aquatic ecosystem. These adverse impacts upon wildlife habitat may result from changes in water levels, water flow and circulation, salinity, chemical content, and substrate characteristics and elevation. Increased water turbidity can adversely affect wildlife species which rely upon sight to feed, and disrupt the respiration and feeding of certain aquatic wildlife and food chain organisms. The availability of contaminants from the discharge of dredged or fill material may lead to the bioaccumulation of such contaminants in wildlife. Changes in such physical and chemical factors of the environment may favor the introduction of undesirable plant and animal species at the expense of resident species and communities. In some aquatic environments lowering plant and animal species diversity may disrupt the normal functions of the ecosystem and lead to reductions in overall biological productivity.	62-330.301(1)(d), (e), and (f), F.A.C. 62-331.302(1)(a)2., 3., 4., 7., F.A.C. Applicant's Handbook Volume I, Sections 10.2.2 (see Handbook text) and 10.2.3.2	62-330.301(1), F.A.C. - To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter: (d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters (e) 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; (f) Will not cause adverse secondary impacts to the water resources. In addition to the criteria in this subsection and in subsection 62-330.301(2), F.A.C., in accordance with section 373.4132, F.S., an applicant proposing the construction, alteration, operation, maintenance, abandonment, or removal of a dry storage facility for 10 or more vessels that is functionally associated with a boat launching area must also provide reasonable assurance that the facility, taking into consideration any secondary impacts, will meet the provisions of paragraph 62-330.302(1)(a), F.A.C., including the potential adverse impacts to manatees; 62-330.302(1), F.A.C. - In addition to the conditions in Rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project: (a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such activities significantly degrade or are within an Outstanding Florida Water, are clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Volume I: 2. Whether the activities will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats 3. Whether the activities will adversely affect navigation or the flow of water or cause harmful erosion or shoaling; 4. Whether the activities will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;	The state must review a project for impacts to all wildlife, not just listed species. The review is done using available scientific literature, and appropriate wildlife protection guidance documents, if available.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			7. The current condition and relative value of functions being performed by areas affected by the proposed activities. Volume I, section 10.2.3.2 - The Agency's public interest review of that portion of a proposed activity in, on, or over wetlands and other surface waters for impacts to "the conservation of fish and wildlife, including endangered or threatened species, or their habitats" is encompassed within the required review of the entire activity under section 10.2.2, above. An applicant must always provide the reasonable assurances required under section 10.2.2, above.	
Subpart E	**Potential impacts in special aquatic sites**	See definition in 404 Handbook section 2.0		
230.40-45 (combined because they are similarly addressed)	• Sanctuaries and refuges • Wetlands • Mud flats • Vegetated shallows • Coral reefs • Riffle and pool complexes	62-330.301(1)(a)-(f), F.A.C. 62-330.302(1)(a)2., 3., 4., and 7., F.A.C. 404 Handbook, section 2.0 62-331.053(1)(c), F.A.C. 62-302.700, F.A.C. (Special Protection, Outstanding Florida Waters, Outstanding National Resource Waters) (see rule for full text) Chapter 258, F.S. (Aquatic Preserves) (see chapter text) Chapter 18-20, F.A.C. (Aquatic Preserves) (see chapter text) Chapter 18-18, F.A.C. (Biscayne Bay Aquatic Preserve) (see chapter text) Chapter 62-312, F.A.C. (Dredge and fill activities within Monroe County Outstanding Florida Waters) (see rule text)	62-330.301(1)(a)-(f), F.A.C. – (1) To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter: (a) Will not cause adverse water quantity impacts to receiving waters and adjacent lands; (b) Will not cause adverse flooding to on-site or off-site property; (c) Will not cause adverse impacts to existing surface water storage and conveyance capabilities; (d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters; (e) 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; (f) Will not cause adverse secondary impacts to the water resources. In addition to the criteria in this subsection and in subsection 62-330.301(2), F.A.C., in accordance with section 373.4132, F.S., an applicant proposing the construction, alteration, operation, maintenance, abandonment, or removal of a dry storage facility for 10 or more vessels that is functionally associated with a boat launching area must also provide reasonable assurance that the facility, taking into consideration any secondary impacts, will meet the provisions of paragraph 62-330.302(1)(a), F.A.C., including the potential adverse impacts to manatees; 62-330.302(1)(a)2., 3., 4., and 7., F.A.C. – (1) In addition to the conditions in rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project: (a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such activities significantly degrade or are within an Outstanding Florida Water, are clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Volume I: … 2. Whether the activities will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;	**Sanctuaries and refuges** The state has many ways to protect sanctuaries and refuges. In addition to rules to protect Aquatic Preserves and Outstanding Florida waters, special criteria for review of sensitive areas can be found in our Sovereignty Submerged Lands Management rules and ERP rules. Any project within an Aquatic Preserve or special managed area must be consistent with any existing management plan. Our Coastal Zone Management commenting agencies and Aquatic Preserve staff also assist with these protections by providing comments and conditions to add to ERP permits. To receive a permit, an applicant has to have sufficient real property interest. This means that any activities within a park or preserve are applied for by park or preserve staff in accordance with any management plans or objectives or are endorsed by the park through the park being a co-

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			3. Whether the activities will adversely affect navigation or the flow of water or cause harmful erosion or shoaling; 4. Whether the activities will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity; … 7. The current condition and relative value of functions being performed by areas affected by the proposed activities. 404 Handbook, section 2.0 – 43. "Special aquatic sites" means sanctuaries and refuges under state and federal laws or local ordinances, wetlands, mud flats, vegetated shallows, coral reefs, and riffle and pool complexes. They are geographic areas, large or small, possessing special ecological characteristics of productivity, habitat, wildlife protection, or other important and easily disrupted ecological values. These areas are generally recognized as significantly influencing or positively contributing to the general overall environmental health or vitality of the entire ecosystem of a region. 62-331.053(1)(c), F.A.C. - 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. (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. 62-302.700, F.A.C. - Special Protection, Outstanding Florida Waters, Outstanding National Resource Waters. (1) It shall be the Department policy to afford the highest protection to Outstanding Florida Waters and Outstanding National Resource Waters. No degradation of water quality, other than that allowed in subsections 62-4.242(2) and (3), F.A.C., is to be permitted in Outstanding Florida Waters and Outstanding National Resource Waters, respectively, notwithstanding any other Department rules that allow water quality lowering. (2) A complete listing of Outstanding Florida Waters and Outstanding National Resource Waters is provided in subsections (9) and (10). Outstanding Florida Waters generally include the following surface waters (unless named as Outstanding National Resource Waters): (a) Waters in National Parks, Preserves, Memorials, Wildlife Refuges and Wilderness Areas;	applicant on a permit application. Staff also evaluate each project for potential impact to the property of others. This includes any adverse environmental impact or flooding. **Other Special Aquatic Sites** Wetlands, mud flats, coral reefs, vegetated shallows, and riffle and pool complexes are delineated as wetlands or other surface waters under 62-340, F.A.C., and are regulated. Special consideration is given to sites that are rare, or that have exceptional wetland functional value. Many General Permits are excluded from use or contain special protections for areas that contain submerged or emergent aquatic vegetation, corals, or hard-bottom habitat. For individual permits, these types of habitats are considered to provide highly valuable functions and are regulated accordingly. The state has a special statute for assessing civil penalties for destruction of coral – 403.93345, F.S.

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			(b) Waters in the State Park System and Wilderness Areas; (c) Waters within areas acquired through donation, trade, or purchased under the Environmentally Endangered Lands Bond Program, Conservation and Recreation Lands Program, Land Acquisition Trust Fund Program, and Save Our Coast Program; (d) Rivers designated under the Florida Scenic and Wild Rivers Program, federal Wild and Scenic Rivers Act of 1968 as amended, and Myakka River Wild and Scenic Designation and Preservation Act; (e) Waters within National Seashores, National Marine Sanctuaries, National Estuarine Research Reserves, and certain National Monuments; (f) Waters in Aquatic Preserves created under the provisions of Chapter 258, F.S.; (g) Waters within the Big Cypress National Preserve; (h) Special Waters as listed in paragraph 62-302.700(9)(i), F.A.C.; and, (i) Certain Waters within the Boundaries of the National Forests.	
Subpart F	**Potential effects on human use characteristics**			
230.50(a) and (b)	(a) Municipal and private water supplies consist of surface water or ground water which is directed to the intake of a municipal or private water supply system. (b) Possible loss of values: Discharges can affect the quality of water supplies with respect to color, taste, odor, chemical content and suspended particulate concentration, in such a way as to reduce the fitness of the water for consumption. Water can be rendered unpalatable or unhealthy by the addition of suspended particulates, viruses and pathogenic organisms, and dissolved materials. The expense of removing such substances before the water is delivered for consumption can be high. Discharges may also affect the quantity of water available for municipal and private water supplies. In addition, certain commonly used water treatment chemicals have the potential for combining with some suspended or dissolved substances from dredged or fill material to form other products that can have a toxic effect on consumers.	62-330.301(1)(e), F.A.C. 62-330.302(1)(a)1., F.A.C. 62-331.201(3)(f), F.A.C.	62-330.301(1)(e), F.A.C. - (1) To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter: (e) 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; 62-330.302(1)(a)1., F.A.C. - (1) In addition to the conditions in rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project: (a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such activities significantly degrade or are within an Outstanding Florida Water, are clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Volume I: 1. Whether the activities will adversely affect the public health, safety, or welfare or the property of others; 62-331.201(3)(f), F.A.C. - (3) In addition, general permits under this Chapter are subject to the following conditions: (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.	

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
230.51(a) and (b)	(a) Recreational and commercial fisheries consist of harvestable fish, crustaceans, shellfish, and other aquatic organisms used by man. (b) Possible loss of values: The discharge of dredged or fill materials can affect the suitability of recreational and commercial fishing grounds as habitat for populations of consumable aquatic organisms. Discharges can result in the chemical contamination of recreational or commercial fisheries. They may also interfere with the reproductive success of recreational and commercially important aquatic species through disruption of migration and spawning areas. The introduction of pollutants at critical times in their life cycle may directly reduce populations of commercially important aquatic organisms or indirectly reduce them by reducing organisms upon which they depend for food. Any of these impacts can be of short duration or prolonged, depending upon the physical and chemical impacts of the discharge and the biological availability of contaminants to aquatic organisms.	62-330.301(1)(e), F.A.C. 62-330.302(1)(a)1., 2., 4., 7., and (c), F.A.C.	62-330.301(1)(e), F.A.C. - (1) To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter: (e) 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; 62-330.302(1)(a)1., 2., 4., 7., and (c), F.A.C. - (1) In addition to the conditions in rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project: (a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such activities significantly degrade or are within an Outstanding Florida Water, are clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Volume I: 1. Whether the activities will adversely affect the public health, safety, or welfare or the property of others; 2. Whether the activities will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats; 4. Whether the activities will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity; 7. The current condition and relative value of functions being performed by areas affected by the proposed activities. (c) Located in, adjacent to or in close proximity to Class II waters or located in Class II waters or Class III waters classified by the Department of Agriculture and Consumer Services as approved, restricted, conditionally approved, or conditionally restricted for shellfish harvesting will comply with the additional criteria in section 10.2.5 of Volume I.	
230.52(a) and (b)	(a) Water-related recreation encompasses activities undertaken for amusement and relaxation. Activities encompass two broad categories of use: consumptive, e.g., harvesting resources by hunting and fishing; and non-consumptive, e.g. canoeing and sight-seeing. (b) Possible loss of values: One of the more important direct impacts of dredged or fill disposal is to impair or destroy the resources which support recreation activities. The	62-330.302(1)(a)4., F.A.C.	62-330.302(1)(a)4., F.A.C. - (1) In addition to the conditions in rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project: (a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such activities significantly degrade or are within an Outstanding Florida Water, are clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Volume I: 1. Whether the activities will adversely affect the public health, safety, or welfare or the property of others; 4. Whether the activities will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	disposal of dredged or fill material may adversely modify or destroy water use for recreation by changing turbidity, suspended particulates, temperature, dissolved oxygen, dissolved materials, toxic materials, pathogenic organisms, quality of habitat, and the aesthetic qualities of sight, taste, odor, and color.			
230.53(a) and (b)	(a) Aesthetics associated with the aquatic ecosystem consist of the perception of beauty by one or a combination of the senses of sight, hearing, touch, and smell. Aesthetics of aquatic ecosystems apply to the quality of life enjoyed by the general public and property owners. (b) Possible loss of values: The discharge of dredged or fill material can mar the beauty of natural aquatic ecosystems by degrading water quality, creating distracting disposal sites, inducing inappropriate development, encouraging unplanned and incompatible human access, and by destroying vital elements that contribute to the compositional harmony or unity, visual distinctiveness, or diversity of an area. The discharge of dredged or fill material can adversely affect the particular features, traits, or characteristics of an aquatic area which make it valuable to property owners. Activities which degrade water quality, disrupt natural substrate and vegetational characteristics, deny access to or visibility of the resource, or result in changes in odor, air quality, or noise levels may reduce the value of an aquatic area to private property owners.	62-331.053(2), F.A.C. 404 Handbook, section 8.3.2	62-331.053(2), F.A.C. - (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. 404 Handbook, section 8.3.2 – Aesthetics Review Aesthetics shall be considered as part of the evaluation of potential adverse effects on human-use characteristics that may occur as a result of the proposed project. Aesthetics associated with the aquatic ecosystem consist of the perception of beauty by one or a combination of the senses of sight, hearing, touch, and smell. Aesthetics of aquatic ecosystems apply to the quality of life enjoyed by the general public and property owners. Possible loss of values (adverse effects) include: The dredge or fill projects can mar the beauty of natural aquatic ecosystems by degrading water quality, creating distracting project areas, inducing inappropriate development, encouraging unplanned and incompatible human access, and by destroying vital elements that contribute to the compositional harmony or unity, visual distinctiveness, or diversity of an area. Dredging or filling can adversely affect the particular features, traits, or characteristics of an aquatic area which make it valuable to property owners. Activities which degrade water quality, disrupt natural substrate and vegetational characteristics, deny access to or visibility of the resource, or result in changes in odor, air quality, or noise levels may reduce the value of an aquatic area to private property owners. The Agency shall also consider any comments received during the public comment period that apply to aesthetics.	
230.54(a) and (b)	Parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves (a) These preserves consist of areas designated under Federal and State laws or local ordinances to be managed for their	62-330.301(1)(e), and (j), F.A.C. 62-330.302(1)(a)4., 6., F.A.C. 62-330.350(1)(n), F.A.C.	62-330.301(1), F.A.C. - To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter: (e) 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	Such preserves typically have management plans. The applicant must have sufficient ownership and/or control of the property to conduct the activity. This means that the park, preserve, etc. is typically the

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	aesthetic, educational, historical, recreational, or scientific value. (b) Possible loss of values: The discharge of dredged or fill material into such areas may modify the aesthetic, educational, historical, recreational and/or scientific qualities thereby reducing or eliminating the uses for which such sites are set aside and managed.	62-330.405(16), F.A.C.	Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C., will be violated; (j) Will be conducted by a person with the financial, legal and administrative capability of ensuring that the activity will be undertaken in accordance with the terms and conditions of the permit, if issued; 62-330.302(1), F.A.C. - In addition to the conditions in rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project: (a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such activities significantly degrade or are within an Outstanding Florida Water, are clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Volume I: 4. Whether the activities will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity; 6. Whether the activities will adversely affect or will enhance significant historical and archaeological resources under the provisions of section 267.061, F.S.; and 62-330.350(1)(n), F.A.C. – General Conditions for Individual Permits - If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, stone tools, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the vicinity of the discovery. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section (DHR), at (850)245-6333, as well as the appropriate permitting agency office. Project activities shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and the proper authorities notified in accordance with section 872.05, F.S. For project activities subject to prior consultation with the DHR and as an alternative to the above requirements, the permittee may follow procedures for unanticipated discoveries as set forth within a cultural resources assessment survey determined complete and sufficient by DHR and included as a specific permit condition herein. 62-330.405(16), F.A.C. – General Conditions for General Permits - If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, stone tools, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the vicinity of the discovery. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section (DHR), at (850)245-6333, as well as the appropriate permitting agency office. Project activities shall not resume without verbal or written authorization from the Division of Historical Resources. If	applicant, and aware of their management plans. Other preserve areas that might be under private ownership are protected under state rules for Outstanding Florida Waters and Aquatic Preserves. The rules governing review of aesthetics and recreation also apply. Historical resources are also protected.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			unmarked human remains are encountered, all work shall stop immediately and the proper authorities notified in accordance with section 872.05, F.S. 404 Handbook, section 5.2.2 Florida Division of Historical Resources/State Historic Preservation Office The State Historic Preservation Office (SHPO) shall review proposed projects to determine whether the project is likely to have an adverse effect on properties listed, or eligible for listing on the National Register of Historic Places. SHPO may provide any of the following determinations for the project: • Request for additional information, and/or a request for a Cultural Resources Assessment Survey (CRAS); • No effect to historic properties; • No adverse effect to historic properties; • Conditional no adverse effect to historic properties (recommended project modifications and/or special conditions for the permit); or • Adverse effect to historic properties. If SHPO sends a request for additional information or a CRAS, or recommends project modifications, the information shall be included in an Agency request for additional information. Once the additional information is received by the Agency, the additional information shall be immediately forwarded to SHPO for review and additional determination. (a) General Permits – Pre-coordination with SHPO is required for those activities that may qualify for a general permit without notice to the Agency (no-notice general permit). Pre-coordination shall be the responsibility of the prospective permittee, and shall be conducted in accordance with paragraph 62-331.200(3)(d), F.A.C. If use of a general permit requires notice to the Agency, the Agency shall forward a copy of the notice to SHPO for review. A prospective permittee may choose to pre-coordinate with SHPO, in which case the prospective permittee shall submit a copy of the outcome of such review with the notice. (b) Individual permits that also require an ERP individual permit – The Agency shall send a copy of the application to SHPO upon receipt, and shall include a notice to SHPO that the project also requires a State 404 Program permit. At such time that the Agency publishes the public notice for the project in accordance with Rule 62-331.060, F.A.C., a copy of the public notice shall be sent to SHPO. The notice shall contain the ERP application and/or permit number. SHPO may have additional comments pertaining to the State 404 authorization, or may state that any information sent to the Agency during the ERP review period shall also apply to the State 404 Program review. (c) Individual permits that do not require an ERP individual permit – The agency shall send SHPO a copy of the public notice in accordance with Rule 62-331.060, F.A.C.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
Subpart G	**Evaluation and testing**			
230.60 and 230.61	General Evaluation of dredged or fill material; and Chemical, biological, and physical evaluation and testing.	62-4.246(1)-(3), F.A.C. – Sampling, Testing Methods, and Method Detection Limits for Water Pollution Sources 62-330.301(1)(d), (e), and (f), and (2), F.A.C. – Conditions for Issuance of Individual and Conceptual Approval Permits 62-330.302(1)(a)1, 2, 4, and (c), F.A.C. – Additional Conditions for Issuance of Individual and Conceptual Approval Permits	62-4.246(1)-(3), F.A.C. – (1) The Department shall require monitoring and sampling for pollutants reasonably expected to be contained in the discharge and to violate the water quality criteria in Chapter 62-302, F.A.C. (2) Field testing, sample collection and preservation, laboratory testing, including quality control procedures, and all record keeping shall comply with Chapter 62-160, F.A.C. (3) Subsections (4)-(11) of this rule apply only to permit applications, permits, monitoring reports, and other sources of data relating to discharges to surface waters. 62-330.301(1)(d), (e), and (f), and (2), F.A.C. – (1) To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter: (d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters; (e) 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; (f) Will not cause adverse secondary impacts to the water resources. In addition to the criteria in this subsection and in subsection 62-330.301(2), F.A.C., in accordance with Section 373.4132, F.S., an applicant proposing the construction, alteration, operation, maintenance, abandonment, or removal of a dry storage facility for 10 or more vessels that is functionally associated with a boat launching area must also provide reasonable assurance that the facility, taking into consideration any secondary impacts, will meet the provisions of paragraph 62-330.302(1)(a), F.A.C., including the potential adverse impacts to manatees (2) In instances where an applicant is unable to meet state water quality standards because existing ambient water quality does not meet standards and the system will contribute to this existing condition, the applicant must implement mitigation measures that are proposed by or acceptable to the applicant that will cause net improvement of the water quality in the receiving waters for those parameters that do not meet standards. 62-330.302(1)(a)1, 2, 4, and (c), F.A.C. - (1) In addition to the conditions in Rule 62-330.301, F.A.C., to obtain an individual or conceptual approval permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, repair, removal, and abandonment of a project: (a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such activities significantly degrade or are within an Outstanding Florida Water, are clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Volume I: 1. Whether the activities will adversely affect the public health, safety, or welfare or the property of others, 2. Whether the activities will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats, 4. Whether the activities will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity	The authority to require water quality and sediment testing is in the rules listed. The state implements a review process very similar to the process described in the guidelines. Contamination thresholds are addressed in our state water quality standards. When testing is required, applicants must test for specific parameters determined by the agency to be appropriate for the project and location, and labs are required to follow certain approved testing procedures, and to report the data in a specified, useable format. Processors then compare the data to the applicable standards as listed in 62-330.301(1)(e), F.A.C. for water quality, sediments, or groundwater. If testing testing results indicate, elutriate testing will also be required. The testing requirements are tailored to the project and the final disposal site, similar to the guidance in 40 CFR § 230.60 and .61.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			(c) Located in, adjacent to or in close proximity to Class II waters or located in Class II waters or Class III waters classified by the Department of Agriculture and Consumer Services as approved, restricted, conditionally approved, or conditionally restricted for shellfish harvesting will comply with the additional criteria in section 10.2.5 of Volume I, as described in subsection 62-330.010(5), F.A.C.	
Subpart H	**Actions to Minimize Adverse Effects**			
230.70-77	These sections give examples of ways to minimize adverse effects of a project.	Applicant's Handbook Volume I, section 10.2.1 except section 10.2.1.2 and the 1st sentence of the second paragraph of 10.2.1.1, which are not applicable to the State 404 Program.	Volume I, section 10.2.1 Elimination or Reduction of Impacts - Protection of wetlands and other surface waters is preferred to destruction and mitigation due to the temporal loss of ecological value and uncertainty regarding the ability to recreate certain functions associated with these features. The following factors are considered in determining whether an application will be approved by the Agency: the degree of impact to wetland and other surface water functions caused by a proposed activity; whether the impact to these functions can be mitigated; and the practicability of design modifications for the site that could eliminate or reduce impacts to these functions, including alignment alternatives for a proposed linear system. Design modifications to reduce or eliminate adverse impacts must be explored, as described in section 10.2.1.1, below. Adverse impacts remaining after practicable design modifications have been made may be offset by mitigation as described in sections 10.3 through 10.3.8, below. An applicant may propose mitigation, or the Agency may suggest mitigation, to offset the adverse impacts caused by regulated activities as identified in sections 10.2 through 10.2.8.2, below. To receive Agency approval, an activity cannot cause a net adverse impact on wetland functions and other surface water functions that is not offset by mitigation. 10.2.1.1 Except as provided in section 10.2.1.2, below, if the proposed activity will result in adverse impacts to wetland functions and other surface water functions such that it does not meet the requirements of sections 10.2.2 through 10.2.3.7, below, then the Agency in determining whether to grant or deny a permit shall consider whether the applicant has implemented practicable design modifications to reduce or eliminate such adverse impacts. The term "modification" shall not be construed as including the alternative of not implementing the activity in some form, nor shall it be construed as requiring a project that is significantly different in type or function. A proposed modification that is not technically capable of being completed, is not economically viable, or that adversely affects public safety through the endangerment of lives or property is not considered "practicable." A proposed modification need not remove all economic value of the property in order to be considered not "practicable." Conversely, a modification need not provide the highest and best use of the property to be "practicable." In determining whether a proposed modification is practicable, consideration shall also be given to the cost of the modification compared to the environmental benefit it achieves. Volume I, section 10.2.1.2 - The Agency will not require the applicant to implement practicable design modifications to reduce or eliminate impacts when: a. The ecological value of the functions provided by the area of wetland or other surface water to be adversely affected is low, based on a site specific analysis using the factors in section	ERP Applicant's Handbook Volume I gives instructions for avoiding and minimizing (aka eliminating and reducing) impacts but is not as specific as the Guidelines. The regulatory outcome is the same. The highlighted portions are not applicable to the State 404 Program.

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			10.2.2.3, below, and the proposed mitigation will provide greater long term ecological value than the area of wetland or other surface water to be adversely affected, or b. The applicant proposes mitigation that implements all or part of a plan that provides regional ecological value and that provides greater long term ecological value than the area of wetland or other surface water to be adversely affected. Volume I, section 10.2.1.3 - Should such mutual consideration of modification and mitigation not result in a permittable activity, the Agency must deny the application. Nothing herein shall imply that the Agency may not deny an application for a permit as submitted or modified, if it fails to meet the conditions for issuance, or that mitigation must be accepted by the Agency.	
Subpart I	**Planning to shorten permit processing time**			
230.80	Advanced identification of disposal areas (a) Consistent with these Guidelines, EPA and the permitting authority, on their own initiative or at the request of any other party and after consultation with any affected State that is not the permitting authority, may identify sites which will be considered as: (1) Possible future disposal sites, including existing disposal sites and non-sensitive areas; or (2) Areas generally unsuitable for disposal site specification; (b) The identification of any area as a possible future disposal site should not be deemed to constitute a permit for the discharge of dredged or fill material within such area or a specification of a disposal site. The identification of areas that generally will not be available for disposal site specification should not be deemed as prohibiting applications for permits to discharge dredged or fill material in such areas. Either type of identification constitutes information to facilitate individual or General permit application and processing.	373.4144, F.S.	373.4144, F.S. - It is the intent of the Legislature to: (a) Facilitate coordination and a more efficient process of implementing regulatory duties and functions between the Department of Environmental Protection, the water management districts, the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the United States Environmental Protection Agency, the Fish and Wildlife Conservation Commission, and other relevant federal and state agencies. (b) Authorize the Department of Environmental Protection to obtain issuance by the United States Army Corps of Engineers, pursuant to state and federal law and as set forth in this section, of an expanded state programmatic general permit, or a series of regional general permits, for categories of activities in waters of the United States governed by the Clean Water Act and in navigable waters under the Rivers and Harbors Act of 1899 which are similar in nature, which will cause only minimal adverse environmental effects when performed separately, and which will have only minimal cumulative adverse effects on the environment. (c) Use the mechanism of such a state general permit or such regional general permits to eliminate overlapping federal regulations and state rules that seek to protect the same resource and to avoid duplication of permitting between the United States Army Corps of Engineers and the department for minor work located in waters of the United States, including navigable waters, thus eliminating, in appropriate cases, the need for a separate individual approval from the United States Army Corps of Engineers while ensuring the most stringent protection of wetland resources. (d) Direct the department not to seek issuance of or take any action pursuant to any such permit or permits unless such conditions are at least as protective of the environment and natural resources as existing state law under this part and federal law under the Clean Water Act and the Rivers and Harbors Act of 1899. (2)(a) In order to effectuate efficient wetland permitting and avoid duplication, the department and water management districts are authorized to implement a voluntary state programmatic general permit for all dredge and fill activities impacting 10 acres or less of wetlands or other surface waters, including navigable waters, subject to agreement with the United States Army Corps of Engineers, if the general permit is at least as protective of the environment and natural resources as existing state law under this part and federal law under the Clean Water Act and the Rivers and Harbors Act of 1899. (b) By seeking to use a statewide programmatic general permit, an applicant consents to applicable federal wetland jurisdiction criteria, which are not included pursuant to this part, but which are authorized by the regulations implementing s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of	The state has the ability to do this, and may at some point in the future.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	(c) An appropriate public notice of the proposed identification of such areas shall be issued; (d) To provide the basis for advanced identification of disposal areas, and areas unsuitable for disposal, EPA and the permitting authority shall consider the likelihood that use of the area in question for dredged or fill material disposal will comply with these Guidelines. To facilitate this analysis, EPA and the permitting authority should review available water resources management data including data available from the public, other Federal and State agencies, and information from approved Coastal Zone Management programs and River Basin Plans; (e) The permitting authority should maintain a public record of the identified areas and a written statement of the basis for identification.		the Rivers and Harbors Act of 1899 as required by the United States Army Corps of Engineers, notwithstanding s. [HYPERLINK "http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0373/Sections/0373.4145.html"] and for the limited purpose of implementing the state programmatic general permit authorized by this subsection. (3) The department may pursue a series of regional general permits for construction activities in wetlands or surface waters or delegation or assumption of federal permitting programs regulating the discharge of dredged or fill material pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors Act of 1899.	
Subpart J	**Compensatory mitigation for losses of aquatic resources**			
230.91	Purpose and general considerations	NA		Not necessary to include in state law
230.91(a) and (b)	Purpose and applicability	NA		Not necessary to include in state law
230.91(c)	Sequencing			
230.91(c)(1)	(1) Nothing in this section affects the requirement that all DA permits subject to section 404 of the Clean Water Act comply with applicable provisions of this part.	Applicant's Handbook Volume I, section 10.3, paragraph 1	Volume I, section 10.3 - Mitigation will be approved only after the applicant has complied with the requirements of sections 10.2.1 through 10.2.1.3, above, regarding practicable modifications to reduce or eliminate adverse impacts. However, any mitigation proposal submitted for review shall be reviewed concurrently with the analysis of any modification pursuant to section 10.2, above. This section establishes criteria to be followed in evaluating mitigation proposals in light of the programmatic and project permitting goal of no net loss of wetland and other surface waters functions.	
230.91(c)(2)	(2) Pursuant to these requirements, the district engineer will issue an individual section 404 permit only upon a determination that the proposed discharge complies with applicable provisions of 40 CFR part 230, including those which require the permit	Applicant's Handbook Volume I, section 10.3	Volume I, section 10.3 - Mitigation will be approved only after the applicant has complied with the requirements of sections 10.2.1 through 10.2.1.3, above, regarding practicable modifications to reduce or eliminate adverse impacts. However, any mitigation proposal submitted for review shall be reviewed concurrently with the analysis of any modification pursuant to section 10.2, above. This section establishes criteria to be followed in evaluating	

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	applicant to take all appropriate and practicable steps to avoid and minimize adverse impacts to waters of the United States. Practicable means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. Compensatory mitigation for unavoidable impacts may be required to ensure that an activity requiring a section 404 permit complies with the Section 404(b)(1) Guidelines.		mitigation proposals in light of the programmatic and project permitting goal of no net loss of wetland and other surface waters functions. Mitigation as described in sections 10.3 through 10.3.8, below, is required only to offset the adverse impacts to the functions identified in sections 10.2 through 10.2.8.2, above, caused by regulated activities. In certain cases, mitigation cannot offset impacts sufficiently to yield a permittable project. Such cases include activities that significantly degrade Outstanding Florida Waters, adversely impact habitat for listed species, or adversely impact those wetlands or other surface waters that are not likely to be successfully recreated. Applicants are encouraged to consult with Agency staff in pre-application conferences or during the application process to identify appropriate mitigation options.	
230.91(c)(3)	(3) Compensatory mitigation for unavoidable impacts may be required to ensure that an activity requiring a section 404 permit complies with the Section 404(b)(1) Guidelines. During the 404(b)(1) Guidelines compliance analysis, the district engineer may determine that a DA permit for the proposed activity cannot be issued because of the lack of appropriate and practicable compensatory mitigation options.	Applicant's Handbook Volume I, section 10.3	Volume I, section 10.3 - Mitigation will be approved only after the applicant has complied with the requirements of sections 10.2.1 through 10.2.1.3, above, regarding practicable modifications to reduce or eliminate adverse impacts. However, any mitigation proposal submitted for review shall be reviewed concurrently with the analysis of any modification pursuant to section 10.2, above. This section establishes criteria to be followed in evaluating mitigation proposals in light of the programmatic and project permitting goal of no net loss of wetland and other surface waters functions. Mitigation as described in sections 10.3 through 10.3.8, below, is required only to offset the adverse impacts to the functions identified in sections 10.2 through 10.2.8.2, above, caused by regulated activities. In certain cases, mitigation cannot offset impacts sufficiently to yield a permittable project. Such cases include activities that significantly degrade Outstanding Florida Waters, adversely impact habitat for listed species, or adversely impact those wetlands or other surface waters that are not likely to be successfully recreated. Applicants are encouraged to consult with Agency staff in pre-application conferences or during the application process to identify appropriate mitigation options.	
230.91(d)	Accounting for regional variations	See comment		State uses the concept of "conceptual reference site". This means considering literature, local examples, and site specific details to determine the appropriate functions for a specific community in a specific location.
230.91(e)	Relationship to other guidance documents	NA for state program		
230.92	Definitions	See definition table (first table)		See definitions section (next table)
230.93	General compensatory mitigation requirements			

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
230.93(a)(1)	Fundamental objective is to offset environmental losses…	Applicant's Handbook Volume I, section 10.3.1	Volume I, section 10.3 - Mitigation usually consists of restoration, enhancement, creation, or preservation of wetlands, other surface waters, or uplands. Uplands that function as a hydrologic contributing area to wetlands, and are necessary to maintain the ecological value of those wetlands, may be appropriate for mitigation of impacts to wetlands, as well as impacts to uplands that are used by bald eagles, and listed aquatic and wetland dependent species for nesting or denning. The evaluation of the appropriateness of incorporating uplands as part of a mitigation plan shall include consideration of the proximity of uplands to wetlands and the degree to which uplands support the functions of the associated wetlands. In some cases, a combination of mitigation types is the best approach to offset adverse impacts resulting from the regulated activity. Restoration is usually preferred over creation as it often has a greater chance of success due to soil characteristics, hydrologic regime, landscape position, or other factors that favor re-establishment of wetland or other surface water communities. Preservation of important ecosystems can provide an improved level of protection over current regulatory programs when it ensures that the values of the preserved area are protected and maintained in the long term. Areas proposed to be preserved to prevent secondary or cumulative impacts (sections 10.2.7 and 10.2.8, above) may also be considered part of a mitigation plan if those areas also serve to offset adverse impacts.	
230.93(a)(2)	(2) Compensatory mitigation may be performed using the methods of restoration, enhancement, establishment, and in certain circumstances preservation. Restoration should generally be the first option…	Applicant's Handbook Volume I, section 10.3.1	Volume I, section 10.3.1Mitigation usually consists of restoration, enhancement, creation, or preservation of wetlands, other surface waters, or uplands. Uplands that function as a hydrologic contributing area to wetlands, and are necessary to maintain the ecological value of those wetlands, may be appropriate for mitigation of impacts to wetlands, as well as impacts to uplands that are used by bald eagles, and listed aquatic and wetland dependent species for nesting or denning. The evaluation of the appropriateness of incorporating uplands as part of a mitigation plan shall include consideration of the proximity of uplands to wetlands and the degree to which uplands support the functions of the associated wetlands. In some cases, a combination of mitigation types is the best approach to offset adverse impacts resulting from the regulated activity. Restoration is usually preferred over creation as it often has a greater chance of success due to soil characteristics, hydrologic regime, landscape position, or other factors that favor re-establishment of wetland or other surface water communities. Preservation of important ecosystems can provide an improved level of protection over current regulatory programs when it ensures that the values of the preserved area are protected and maintained in the long term. Areas proposed to be preserved to prevent secondary or cumulative impacts (sections 10.2.7 and 10.2.8, above) may also be considered part of a mitigation plan if those areas also serve to offset adverse impacts.	
230.93(a)(3)	(3) Compensatory mitigation projects may be sited on public or private lands. Credits for compensatory mitigation projects on public land must be based solely on aquatic resource functions provided by the compensatory	Section 373.4135, F.S.	373.4135, F.S. - Mitigation banks and offsite regional mitigation. — (1) The Legislature finds that the adverse impacts of activities regulated under this part may be offset by the creation, maintenance, and use of mitigation banks and offsite regional mitigation. Mitigation banks and offsite regional mitigation can enhance the certainty of mitigation and provide ecological value due to the improved likelihood of environmental success associated	Section 373.4135, F.S. limits mitigation on public lands except under certain circumstances.

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	mitigation project, over and above those provided by public programs already planned or in place. All compensatory mitigation projects must comply with the standards in this part, if they are to be used to provide compensatory mitigation for activities authorized by DA permits, regardless of whether they are sited on public or private lands and whether the sponsor is a governmental or private entity.		with their proper construction, maintenance, and management. Therefore, the department and the water management districts are directed to participate in and encourage the establishment of private and public mitigation banks and offsite regional mitigation. Mitigation banks and offsite regional mitigation should emphasize the restoration and enhancement of degraded ecosystems and the preservation of uplands and wetlands as intact ecosystems rather than alteration of landscapes to create wetlands. This is best accomplished through restoration of ecological communities that were historically present. (a) The Legislature intends that the provisions for establishing mitigation banks apply equally to both public and private entities, except that the rules of the department and water management districts may set forth different measures governing financial responsibility, and different measures governing legal interest, needed to ensure the construction and perpetual protection of a mitigation bank. (b) Notwithstanding the provisions of this section, a governmental entity may not create or provide mitigation for a project other than its own unless the governmental entity uses land that was not previously purchased for conservation and unless the governmental entity provides the same financial assurances as required for mitigation banks permitted under s. 373.4136. This paragraph does not apply to: 1. Mitigation banks permitted before December 31, 2011, under s. 373.4136; 2. Offsite regional mitigation areas established before December 31, 2011, under subsection (6); 3. Mitigation for transportation projects under ss. 373.4137 and 373.4139; 4. Mitigation for impacts from mining activities under s. 373.41492; 5. Mitigation provided for single-family lots or homeowners under subsection (7); 6. Entities authorized in chapter 98-492, Laws of Florida; 7. Mitigation provided for electric utility impacts certified under part II of chapter 403; or 8. Mitigation provided on sovereign submerged lands under subsection (6). (c) It is the further intent of the Legislature that mitigation banks and offsite regional mitigation be considered appropriate and a permittable mitigation option under the conditions specified by the rules of the department and water management districts. (d) Offsite mitigation, including offsite regional mitigation, may be located outside the regional watershed in which the adverse impacts of an activity regulated under this part are located, if such adverse impacts are offset by the offsite mitigation. (e) The department or water management district may allow the use of a mitigation bank or offsite regional mitigation alone or in combination with other forms of mitigation to offset adverse impacts of activities regulated under this part. (f) When an applicant for a permit under the provisions of this part other than this section and s. 373.4136 submits more than one mitigation proposal to the department or a water management district, the department or water management district shall, in evaluating each proposal, ensure that such proposal adequately offsets the adverse impacts. (2) Local governments shall not deny the use of a mitigation bank or offsite regional mitigation due to its location outside of the jurisdiction of the local government. (3) Nothing in this section or s. 373.4136 shall be construed to eliminate or diminish any of the regulatory requirements applicable to applicants seeking permits pursuant to other provisions of this part.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			(4) Except as otherwise provided herein, nothing in this section or s. 373.4136 shall be construed to diminish or limit the existing authority of the department, water management districts, or local governments. (5) Nothing in this section or s. 373.4136 shall be construed to limit the consideration of forms of mitigation other than mitigation banks and offsite regional mitigation. (6) An environmental creation, preservation, enhancement, or restoration project, including regional offsite mitigation areas, for which money is donated or paid as mitigation, that is sponsored by the department, a water management district, or a local government and provides mitigation for five or more applicants for permits under this part, or for 35 or more acres of adverse impacts, shall be established and operated under a memorandum of agreement. The memorandum of agreement shall be between the governmental entity proposing the mitigation project and the department or water management district, as appropriate. Such memorandum of agreement need not be adopted by rule. For the purposes of this subsection, one creation, preservation, enhancement, or restoration project shall mean one or more parcels of land with similar ecological communities that are intended to be created, preserved, enhanced, or restored under a common scheme. (a) For any ongoing creation, preservation, enhancement, or restoration project and regional offsite mitigation area sponsored by the department, a water management district, or a local government, for which money was or is paid as mitigation, that was begun prior to the effective date of this subsection and has operated as of the effective date of this subsection, or is anticipated to operate, in excess of the mitigation thresholds provided in this subsection, the governmental entity sponsoring such project shall submit a draft memorandum of agreement to the water management district or department by October 1, 2000. The governmental entity sponsoring such project shall make reasonable efforts to obtain the final signed memorandum of agreement within 1 year after such submittal. The governmental entity sponsoring such project may continue to receive moneys donated or paid toward the project as mitigation, provided the requirements of this paragraph are met. (b) The memorandum of agreement shall establish criteria that each environmental creation, preservation, enhancement, or restoration project must meet. These criteria must address the elements listed in paragraph (c). The entity sponsoring such project, or category of projects, shall submit documentation or other evidence to the water management district or department that the project meets, or individual projects within a category meet, the specified criteria. (c) At a minimum, the memorandum of agreement must address the following for each project authorized: 1. A description of the work that will be conducted on the site and a timeline for completion of such work. 2. A timeline for obtaining any required environmental resource permit. 3. The environmental success criteria that the project must achieve. 4. The monitoring and long-term management requirements that must be undertaken for the project. 5. An assessment of the project in accordance with s. 373.4136(4)(a)-(i), until the adoption of the uniform wetland mitigation assessment method pursuant to s. 373.414(18). 6. A designation of the entity responsible for the successful completion of the mitigation work.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			7. A definition of the geographic area where the project may be used as mitigation established using the criteria of s. 373.4136(6). 8. Full cost accounting of the project, including annual review and adjustment. 9. Provision and a timetable for the acquisition of any lands necessary for the project. 10. Provision for preservation of the site. 11. Provision for application of all moneys received solely to the project for which they were collected. 12. Provision for termination of the agreement and cessation of use of the project as mitigation if any material contingency of the agreement has failed to occur. (d) A single memorandum of understanding may authorize more than one environmental creation, preservation, enhancement, or restoration project, or category of projects, as long as the elements listed in paragraph (c) are addressed for each project. (e) Projects governed by this subsection, except for projects established pursuant to subsection (7), shall be subject to the provisions of s. 373.414(1)(b)1. (f) The provisions of this subsection shall not apply to mitigation areas established to implement the provisions of s. 373.4137. (g) The provisions of this subsection shall not apply when the department, water management district, or local government establishes, or contracts with a private entity to establish, a mitigation bank permitted under s. 373.4136. The provisions of this subsection shall not apply to other entities that establish offsite regional mitigation as defined in this section and s. 373.403. (7) The department, water management districts, and local governments may elect to establish and manage mitigation sites, including regional offsite mitigation areas, or contract with permitted mitigation banks, to provide mitigation options for private single-family lots or homeowners. The department, water management districts, and local governments shall provide a written notice of their election under this subsection by United States mail to those individuals who have requested, in writing, to receive such notice. The use of mitigation options established under this subsection are not subject to the full-cost-accounting provision of s. 373.414(1)(b)1. To use a mitigation option established under this subsection, the applicant for a permit under this part must be a private, single-family lot or homeowner, and the land upon which the adverse impact is located must be intended for use as a single-family residence by the current owner. The applicant must not be a corporation, partnership, or other business entity. However, the provisions of this subsection shall not apply to other entities that establish offsite regional mitigation as defined in this section and s. 373.403	
230.93(b)(1)	(1) When considering options for successfully providing the required compensatory mitigation, the district engineer shall consider the type and location options in the order presented in paragraphs (b)(2) through (b)(6) of this section. … (Mitigation hierarchy)	62-331.130(1), F.A.C. 404 Handbook, sections 8.5 and 8.5.1	62-331.130, F.A.C. - Compensatory mitigation shall be considered only after requirements of Rule 62-331.053(1), F.A.C., regarding practicable alternatives 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. 404 Handbook, section 8.5 – Compensatory Mitigation Compensatory mitigation for State 404 Program permits shall be conducted in accordance with Rule 62-331.130, F.A.C., and this section.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			404 Handbook, section 8.5.1 – Compensatory Mitigation Hierarchy When considering options for successfully providing the required compensatory mitigation, the Agency shall consider the type and location options in the order presented in paragraphs (a) through (e) of this section. It is recognized that flexibility may be needed to address watershed needs and allow for the consideration of mitigation projects that are environmentally preferable based on a watershed approach, if such projects are consistent with this section. Subject to the provisions in paragraphs (a) through (e), below, and section 8.5.2 of this Handbook, the required compensatory mitigation should be located within the same watershed as the impact site, and should be located where it is most likely to successfully replace lost functions and services, taking into account such watershed scale features as aquatic habitat diversity, habitat connectivity, relationships to hydrologic sources (including the availability of water rights), trends in land use, ecological benefits, and compatibility with adjacent land uses. When compensating for impacts to marine resources, the location of the compensatory mitigation site should be chosen to replace lost functions and services within the same marine ecological system (e.g., reef complex, littoral drift cell). Compensation for impacts to aquatic resources in coastal watersheds (watersheds that include a tidal water body) should also be located in a coastal watershed where practicable. Compensatory mitigation projects should not be located where they will increase risks to aviation by attracting wildlife to areas where aircraft-wildlife strikes may occur (e.g., near airports). (a) Mitigation bank credits. When permitted impacts are located within the service area of an approved mitigation bank, and the bank has the appropriate number and resource type of credits available, the permittee's compensatory mitigation requirements may be met by the purchase of mitigation bank credits. Mitigation banks are preferred over all other mitigation options, when the appropriate type and number of credits are available, because mitigation banks are approved through a mitigation bank permit or instrument that includes an approved mitigation plan and appropriate real estate and financial assurances. The permit or instrument is required to be in place before the bank's credits can begin to be used to compensate for impacts. This means that use of a mitigation bank can help reduce risk and uncertainty, as well as temporal loss of resource functions and services. Mitigation bank credits are not released for debiting until specific milestones associated with the mitigation bank site's protection and development are achieved, thus use of mitigation bank credits can also help reduce risk that mitigation will not be fully successful. Mitigation banks typically involve larger, more ecologically valuable parcels, and more rigorous scientific and technical analysis, planning and implementation than permittee-responsible mitigation. Also, development of a mitigation bank requires site identification in advance, project-specific planning, and significant investment of financial resources that is often not practicable for many in-lieu fee programs. For these reasons, the Agency shall give preference to the use of mitigation bank credits when these considerations are applicable. However, these same considerations may also be used to override this preference, where appropriate, as, for example, where an in-lieu fee program has released credits available from a specific approved	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			in-lieu fee project, or a permittee-responsible project will restore an outstanding resource based on rigorous scientific and technical analysis. (b) Corps authorized in-lieu fee program credits. Where permitted impacts are located within the service area of a Corps authorized in-lieu fee program, and the in-lieu fee program has the appropriate number and resource type of credits available, the permittee's compensatory mitigation requirements may be met by securing those credits from the in-lieu fee program. In-lieu fee projects typically involve larger, more ecologically valuable parcels, and more rigorous scientific and technical analysis, planning and implementation than permittee-responsible mitigation. They also devote significant resources to identifying and addressing high-priority resource needs on a watershed scale, as reflected in their compensation planning framework. For these reasons, the Agency shall give preference to in- lieu fee program credits over permittee-responsible mitigation, where these considerations are applicable. However, as with the preference for mitigation bank credits, these same considerations may be used to override this preference where appropriate. Additionally, in cases where permittee-responsible mitigation is likely to successfully meet performance standards before advance credits secured from an in-lieu fee program are fulfilled, the Agency shall also consider this factor in deciding between in-lieu fee mitigation and permittee-responsible mitigation. (c) Permittee-responsible mitigation under a watershed approach. Where permitted impacts are not in the service area of an approved mitigation bank or in-lieu fee program that has the appropriate number and resource type of credits available, permittee-responsible mitigation is the only option. Where practicable and likely to be successful and sustainable, the resource type and location for the required permittee-responsible compensatory mitigation shall be determined using the principles of a watershed approach as outlined in section 8.5 of the 404 Handbook. (d) Permittee-responsible mitigation through on-site and in-kind mitigation. In cases where a watershed approach is not practicable, the Agency shall consider opportunities to offset anticipated aquatic resource impacts by requiring on-site and in-kind compensatory mitigation. The Agency shall also consider the practicability of on-site compensatory mitigation and its compatibility with the proposed project. (e) Permittee-responsible mitigation through off-site and/or out-of-kind mitigation. If, after considering opportunities for on-site, in-kind compensatory mitigation as provided in paragraph (d), above, the Agency determines that these compensatory mitigation opportunities are not practicable, are unlikely to compensate for the permitted impacts, or will be incompatible with the proposed project, and an alternative, practicable off-site and/or out-of-kind mitigation opportunity is identified that has a greater likelihood of offsetting the permitted impacts or is environmentally preferable to on-site or in-kind mitigation, the Agency shall require that this alternative compensatory mitigation be provided.	
230.93(c)(1) – (4)	(1) The district engineer must use a watershed approach to establish compensatory	62-331.130, F.A.C.	62-331.130, F.A.C. - Compensatory mitigation shall be considered only after requirements of Rule 62-331.053(1), F.A.C., regarding practicable alternatives have been met. Compensatory	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	mitigation requirements in DA permits to the extent appropriate and practicable. …	Volume I, section 10.2.8 404 Handbook, section 8.5.2	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: Volume I, section 10.2.8: Pursuant to section 10.1.1(g), above, an applicant must provide reasonable assurance that a regulated activity will not cause unacceptable cumulative impacts upon wetlands and other surface waters within the same drainage basin as the regulated activity for which a permit is sought. The impact on wetlands and other surface waters shall be reviewed by evaluating the impacts to water quality as set forth in section 10.1.1(c), above, and by evaluating the impacts to functions identified in section 10.2.2, above. (a) If an applicant proposes to mitigate these adverse impacts within the same drainage basin as the impacts, and if the mitigation fully offsets these impacts, then the Agency will consider the regulated activity to have no unacceptable cumulative impacts upon wetlands and other surface waters, and consequently, the condition for issuance in section 10.1.1(g) will be satisfied. The drainage basins within each District are reproduced below in Figures 10.2.8-1 through 10.2.8-5. (b) If an applicant proposes to mitigate adverse impacts through mitigation physically located outside of the drainage basin where the impacts are proposed, an applicant may demonstrate that such mitigation fully offsets the adverse impacts within the impacted drainage basin (as measured from the impacted drainage basin), based on factors such as connectivity of waters, hydrology, habitat range of affected species, and water quality. If the mitigation fully offsets the impacts (as measured from the impacted drainage basin), then the Agency will consider the regulated activity to have no unacceptable cumulative impacts upon wetlands and other surface waters, and consequently, the condition for issuance in section 10.1.1(g), above, will be satisfied. In other words, if the functions provided by the proposed out-of-basin-mitigation will "spill over" into the impacted basin, and are sufficient to offset the impacts within the impacted basin, then the condition for issuance in section 10.1.1(g) will be satisfied. (c) When adverse impacts to water quality or adverse impacts to the functions of wetlands and other surface waters, as referenced in paragraphs (a) and (b) above, are not fully offset within the same drainage basin as the impacts, then an applicant must provide reasonable assurance that the proposed activity, when considered with the following activities, will not result in unacceptable cumulative impacts to water quality or the functions of wetlands and other surface waters, within the same drainage basin: 1. Projects that are existing or activities regulated under Part IV, Chapter 373, F.S., that are under construction or projects for which permits or determinations pursuant to Section 373.421, F.S., or Section 403.914, F.S. (1991), have been sought. 2. Activities that are under review, approved, or vested pursuant to Section 380.06, F.S., or other activities regulated under Part IV of Chapter 373, F.S., which may reasonably be expected to be located within wetlands or other surface waters, in the same drainage basin, based upon	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			the comprehensive plans, adopted pursuant to Chapter 163, F.S., of the local governments having jurisdiction over the activities, or applicable land use restrictions and regulations. Only those activities listed in sections (c)1. and 2., above, that have similar types of impacts (adverse effects) to those that will be caused by the proposed activity and for which those impacts are not fully offset within the drainage basin, as described in section (a) or (b), above, will be considered. Activities are considered to have similar impacts if they affect similar types of water resources and functions, regardless of whether the activities themselves are similar to one another. The cumulative impact evaluation is conducted using an assumption that reasonably expected future applications with like impacts will be sought, thus necessitating equitable distribution of acceptable impacts among future applications. 404 Handbook, section 8.5.2: Watershed approach The Agency shall use a watershed approach to establish compensatory mitigation requirements in State 404 Program permits to the extent appropriate and practicable. Where a watershed plan is available, the Agency will determine whether the plan is appropriate for use in the watershed approach for mitigation. In cases where the Agency determines that an appropriate watershed plan is available, the watershed approach shall be based on that plan. Where no such plan is available, the watershed approach shall be based on information provided by the applicant or available from other sources. The ultimate goal of a watershed approach is to maintain and improve the quality and quantity of aquatic resources within watersheds through strategic selection of mitigation sites. (a) Considerations 1. A watershed approach to mitigation considers the importance of landscape position and resource type of mitigation projects for the sustainability of aquatic resource functions within the watershed. Such an approach considers how the types and locations of mitigation projects will provide the desired aquatic resource functions and will continue to function over time in a changing landscape. It also considers the habitat requirements of important species, habitat loss or conversion trends, sources of watershed impairment, and current development trends, as well as the requirements of other regulatory and non-regulatory programs that affect the watershed, such as storm water management or habitat conservation programs. It includes the protection and maintenance of terrestrial resources, such as non-wetland riparian areas and uplands, when those resources contribute to or improve the overall ecological functioning of aquatic resources in the watershed. Mitigation requirements determined through the watershed approach shall not focus exclusively on specific functions (e.g., water quality or habitat for certain species), but shall provide, where practicable, the suite of functions typically provided by the affected aquatic resource. 2. Locational factors (e.g., hydrology, surrounding land use) are important to the success of mitigation for impacted habitat functions and may lead to siting of such mitigation away from the project area. However, consideration shall also be given to functions and services (e.g., water quality, flood control, shoreline protection) that will likely need to be addressed at or near the impacted areas. 3. A watershed approach may include on-site mitigation, off-site mitigation (including mitigation banks or in-lieu fee programs), or a combination of on-site and off-site mitigation. 4. A watershed approach to mitigation shall include, to the extent practicable, inventories of historical and existing aquatic resources, including identification of degraded aquatic resources, and identification of immediate and long-term aquatic resource needs within watersheds that can be met	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			through permittee-responsible mitigation projects, mitigation banks, or in-lieu fee programs. Planning efforts shall identify and prioritize aquatic resource restoration, creation, and enhancement activities, and preservation of existing aquatic resources that are important for maintaining or improving ecological functions of the watershed. The identification and prioritization of resource needs shall be as specific as possible, to enhance the usefulness of the approach in determining mitigation requirements. (b) Information Needs 1. In the absence of a watershed plan determined by the Agency to be appropriate for use in the watershed approach, the Agency shall use a watershed approach based on analysis of information regarding watershed conditions and needs, including potential sites for aquatic resource restoration activities and priorities for aquatic resource restoration and preservation. Such information includes: Current trends in habitat loss or conversion; cumulative impacts of past development activities, current development trends, the presence and needs of sensitive species; site conditions that favor or hinder the success of mitigation projects; and chronic environmental problems such as flooding or poor water quality. 2. This information may be available from sources such as wetland maps; soil surveys; U.S. Geological Survey topographic and hydrologic maps; aerial photographs; information on rare, endangered and threatened species and critical habitat; local ecological reports or studies; and other information sources that could be used to identify locations for suitable mitigation projects in the watershed. (c) Watershed Scale The cumulative impact basins described in Volume I, section 10.2.8 shall be used when considering watershed scale in mitigation for State 404 Program permits.	
230.93(d)(1) – (3)	Site selection	Applicant's Handbook Volume I, sections 10.3.3.1, 10.3.3.2 (b)-(e), and 10.2.8.1	Volume I, section 10.3.3.1 - Applicants shall provide reasonable assurance that proposed mitigation will: (a) Offset adverse impacts due to regulated activities; and (b) Achieve mitigation success by providing viable and sustainable ecological and hydrological functions. The use of credits from a mitigation bank permitted under Part IV of Chapter 373, F.S., or a Regional Offsite Mitigation Area under Section 373.4135, F.S., is not subject to sections 10.3.3.2 through 10.3.8, below. Volume I, section 10.3.3.2 (b)-(e) - (b) A topographic map of the mitigation area and adjacent hydrologic contributing and receiving areas; (c) A hydrologic features map of the mitigation area and adjacent hydrologic contributing and receiving areas; (d) A description of current hydrologic conditions affecting the mitigation area; (e) A map of vegetation communities in and around the mitigation area;	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			Volume I, section 10.2.8.1 - Cumulative impacts are considered unacceptable when the proposed activity, considered in conjunction with the past, present, and future activities as described in section 10.2.8, above, would then result in a violation of state water quality standards as set forth in section 10.1.1(c)above, or significant adverse impacts to functions of wetlands or other surface waters identified in section 10.2.2, above, within the same drainage basin when considering the basin as a whole. This analysis asks the question whether the proposed system, considered in conjunction with past, present, and future activities, would be the proverbial "straw that breaks the camel's back" regarding the above referenced water quality or wetland and other surface water functions in the basin.	
230.93(e)	Mitigation type	Applicant's Handbook Volume I, section 10.3.1.1	Volume I, section 10.3.1.1 - In general, mitigation is best accomplished through creation, restoration, enhancement, or preservation of ecological communities similar to those being impacted. However, when the area proposed to be impacted is degraded, compared to its historic ecological community and hydrologic condition, mitigation is best accomplished through creation, restoration, enhancement or preservation of the ecological community that was historically present. When impacts are proposed to wholly artificial systems, such as borrow pits, ditches, and canals, mitigation is best accomplished through creation, restoration, enhancement or preservation of the native ecological community to which it is most analogous in function. For wetlands or other surface waters that have been altered from their native community type, the historic community type at that location shall be used as a reference, unless the alteration has been of such a degree and extent that a different native community type is now present and self sustaining. Mitigation involving other ecological communities is acceptable if impacts are offset and the applicant demonstrates that greater improvement in ecological value will result.	
230.93(f)	Amount of compensatory mitigation	Applicant's Handbook Volume I, section 10.3.2	Volume 1, section 10.3.2 - Guidelines for the Amount of Mitigation Chapter 62-345, F.A.C., Uniform Mitigation Assessment Method (UMAM), establishes a standardized procedure for assessing functions provided by wetlands and other surface waters, the amount those functions are reduced by proposed impact, and the amount of mitigation needed to offset that impact. The Agency will be responsible for verifying the information provided and applying this assessment method to determine the amount of mitigation necessary to offset the proposed impacts. Chapter 62-345, F.A.C., also establishes the criteria to award and deduct mitigation bank or regional offsite mitigation area credits. The Agency will be responsible for verifying that information and applying this assessment method to determine the potential amount of mitigation to be provided by the bank or regional offsite mitigation area.	
230.93(g)	Use of mitigation banks and in-lieu fee programs	Applicant's Handbook Volume I, section 10.3.1.3	Volume I, section 10.3.1.1 - Mitigation through participation in amitigation bank shall be in accordance with Section 373.4136, F.S., and Chapter 62-342, F.A.C. (Mitigation Banks), except that, for purposes of the maps applicable to regional watersheds, the SJRWMD, SWFWMD, and SFWMDs shall use the maps incorporated by reference in the applicable Volume II.	

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
230.93(h)	Preservation	Applicant's Handbook Volume I, section 10.3.1 404 Handbook, section 8.5.5	Volume I, section 10.3.1 - Types of Mitigation Mitigation usually consists of restoration, enhancement, creation, or preservation of wetlands, other surface waters, or uplands. Uplands that function as a hydrologic contributing area to wetlands, and are necessary to maintain the ecological value of those wetlands, may be appropriate for mitigation of impacts to wetlands, as well as impacts to uplands that are used by bald eagles, and listed aquatic and wetland dependent species for nesting or denning. The evaluation of the appropriateness of incorporating uplands as part of a mitigation plan shall include consideration of the proximity of uplands to wetlands and the degree to which uplands support the functions of the associated wetlands. In some cases, a combination of mitigation types is the best approach to offset adverse impacts resulting from the regulated activity. Restoration is usually preferred over creation as it often has a greater chance of success due to soil characteristics, hydrologic regime, landscape position, or other factors that favor re-establishment of wetland or other surface water communities. Preservation of important ecosystems can provide an improved level of protection over current regulatory programs when it ensures that the values of the preserved area are protected and maintained in the long term. Areas proposed to be preserved to prevent secondary or cumulative impacts (sections 10.2.7 and 10.2.8, above) may also be considered part of a mitigation plan if those areas also serve to offset adverse impacts. 404 Handbook, section 8.5.5 - 8.5.5 Use of Preservation as Compensatory Mitigation (a) Preservation may be used to provide compensatory mitigation when all the following criteria are met: 1. The resources to be preserved provide important physical, chemical, or biological functions for the watershed; 2. The resources to be preserved contribute significantly to the ecological sustainability of the watershed. In determining the contribution of those resources to the ecological sustainability of the watershed, the Agency shall use appropriate quantitative assessment tools, where available; 3. Preservation is determined by the Agency to be appropriate and practicable; 4. The resources are under threat of destruction or adverse modifications; and 5. The preserved site will be permanently protected through an appropriate real estate or other legal instrument as described in Volume I, section 10.3.8. (b) Where preservation is used to provide compensatory mitigation, to the extent appropriate and practicable the preservation shall be done in conjunction with aquatic resource restoration, establishment, and/or enhancement activities. This requirement may be waived by the Agency where preservation has been identified as a high priority using a watershed approach described in section 8.5.2 of this Handbook, but compensation ratios shall be higher.	
230.93(i)	(i) Buffers. District engineers may require the restoration, establishment, enhancement, and	Applicant's Handbook Volume I, section 10.3.1	Volume I, section 10.3.1 Types of Mitigation -	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	preservation, as well as the maintenance, of riparian areas and/or buffers around aquatic resources where necessary to ensure the long-term viability of those resources. Buffers may also provide habitat or corridors necessary for the ecological functioning of aquatic resources. If buffers are required by the district engineer as part of the compensatory mitigation project, compensatory mitigation credit will be provided for those buffers.		Mitigation usually consists of restoration, enhancement, creation, or preservation of wetlands, other surface waters, or uplands. Uplands that function as a hydrologic contributing area to wetlands, and are necessary to maintain the ecological value of those wetlands, may be appropriate for mitigation of impacts to wetlands, as well as impacts to uplands that are used by bald eagles, and listed aquatic and wetland dependent species for nesting or denning. The evaluation of the appropriateness of incorporating uplands as part of a mitigation plan shall include consideration of the proximity of uplands to wetlands and the degree to which uplands support the functions of the associated wetlands. In some cases, a combination of mitigation types is the best approach to offset adverse impacts resulting from the regulated activity. Restoration is usually preferred over creation as it often has a greater chance of success due to soil characteristics, hydrologic regime, landscape position, or other factors that favor re-establishment of wetland or other surface water communities. Preservation of important ecosystems can provide an improved level of protection over current regulatory programs when it ensures that the values of the preserved area are protected and maintained in the long term. Areas proposed to be preserved to prevent secondary or cumulative impacts (sections 10.2.7 and 10.2.8, above) may also be considered part of a mitigation plan if those areas also serve to offset adverse impacts.	
230.93(j)	Relationship to other federal, tribal, state, and local programs	Applicant's Handbook Volume I, section 10.3.1.7	Volume I, section 10.3.1.7 - Except as provided in Section 373.414(6), F.S., mitigation or reclamation required or approved by other agencies for a specific project will be acceptable to the Agency to the extent that such mitigation or reclamation fulfills the requirements of sections 10.3 through 10.3.8, and offsets adverse impacts of the same project in accordance with the criteria in sections 10.2 through 10.2.8.2, above.	
230.93(j)(1)	(1) Compensatory mitigation projects for DA permits may also be used to satisfy the environmental requirements of other programs, such as tribal, state, or local wetlands regulatory programs, other federal programs such as the Surface Mining Control and Reclamation Act, Corps civil works projects, and Department of Defense military construction projects, consistent with the terms and requirements of these programs and subject to the following considerations: …	62-331.130(3), F.A.C.	62-331.130(3), F.A.C. - 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.	
230.93(j)(2)	(2) Except for projects undertaken by federal agencies, or where federal funding is specifically authorized to provide compensatory mitigation, federally-funded aquatic resource restoration or conservation projects undertaken for purposes other than compensatory mitigation, such as the	NA to state programs		

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	Wetlands Reserve Program, Conservation Reserve Program, and Partners for Wildlife Program activities, cannot be used for the purpose of generating compensatory mitigation credits for activities authorized by DA permits. However, compensatory mitigation credits may be generated by activities undertaken in conjunction with, but supplemental to, such programs in order to maximize the overall ecological benefits of the restoration or conservation project.			
230.93(j)(3)	(3) Compensatory mitigation projects may also be used to provide compensatory mitigation under the Endangered Species Act or for Habitat Conservation Plans, as long as they comply with the requirements of paragraph (j)(1) of this section.	Applicant's Handbook Volume I, section 10.3.1.7	Volume I, section 10.3.1.7 - Except as provided in Section 373.414(6), F.S., mitigation or reclamation required or approved by other agencies for a specific project will be acceptable to the Agency to the extent that such mitigation or reclamation fulfills the requirements of sections 10.3 through 10.3.8, and offsets adverse impacts of the same project in accordance with the criteria in sections 10.2 through 10.2.8.2, above.	
230.93(k)	Permit conditions			
230.93(k)(1)	(1) The compensatory mitigation requirements for a DA permit, including the amount and type of compensatory mitigation, must be clearly stated in the special conditions of the individual permit or general permit verification (see 33 CFR 325.4 and 330.6(a)). The special conditions must be enforceable.	62-331.054(1), F.A.C. 62-331.201(2), F.A.C. Volume I, section 10.3.7.5 404 Handbook, section 8.5.3(a)	62-331.054(1), F.A.C. - (1) Individual permits shall contain the general conditions for individual permits in subsection 62-330.350(1), F.A.C., 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. 62-331.201(2), F.A.C -(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. Volume I, section 10.3.7.5 - If the permittee fails to comply with the terms and conditions of the permit, including any mitigation requirement, such failure shall be deemed a violation of Chapter 62-330, F.A.C., and the permit issued thereunder. In addition to any other remedies for such violation available to it, the Agency may make demand upon the financial mechanism. Notice of intent to make demand shall be as provided in the mechanism or, if none, upon reasonable notice. 404 Handbook, section 8.5.3(a) - The compensatory mitigation requirements for a permit, including the amount and type of compensatory mitigation, shall be clearly stated in the specific conditions of the individual or general permit verification. The specific conditions must be enforceable.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
230.93(k)(2)	(2) For an individual permit that requires permittee-responsible mitigation, the special conditions must: (i) Identify the party responsible for providing the compensatory mitigation; (ii) Incorporate, by reference, the final mitigation plan approved by the district engineer; (iii) State the objectives, performance standards, and monitoring required for the compensatory mitigation project, unless they are provided in the approved final mitigation plan; and (iv) Describe any required financial assurances or long-term management provisions for the compensatory mitigation project, unless they are specified in the approved final mitigation plan.	404 ndbook, section 8.5.3(b)	404 Handbook, section 8.5.3(b) - For an individual permit that requires permittee-responsible mitigation, the specific conditions shall: 1. Identify the party responsible for providing the compensatory mitigation; 2. Incorporate the final mitigation plan approved by the Agency; 3. State the objectives, performance standards, and monitoring required for the compensatory mitigation project, unless they are provided in the approved final mitigation plan; and 4. Describe any required financial assurances or long-term management provisions for the compensatory mitigation project, unless they are specified in the approved final mitigation plan.	
230.93(k)(3)	(3) For a general permit activity that requires permittee-responsible compensatory mitigation, the special conditions must describe the compensatory mitigation proposal, which may be either conceptual or detailed. The general permit verification must also include a special condition that states that the permittee cannot commence work in waters of the United States until the district engineer approves the final mitigation plan, unless the district engineer determines that such a special condition is not practicable and not necessary to ensure timely completion of the required compensatory mitigation. To the extent appropriate and practicable, special conditions of the general permit verification should also address the requirements of paragraph (k)(2) of this section.	404 Handbook, section 8.5.3(c)	404 Handbook, section 8.5.3(c) - For a general permit activity that requires permittee-responsible mitigation, the specific conditions shall describe the compensatory mitigation proposal, which may be either conceptual or detailed. The general permit verification shall also include a specific condition that states that the permittee cannot commence work until the Agency approves the final mitigation plan, unless the Agency determines that such a specific condition is not practicable and not necessary to ensure timely completion of the required compensatory mitigation. To the extent appropriate and practicable, specific conditions of the general permit verification shall also address the requirements of paragraph (b), above.	
230.93(k)(4)	(4) If a mitigation bank or in-lieu fee program is used to provide the required compensatory mitigation, the special conditions must indicate whether a mitigation bank or in-lieu fee program will be used, and specify the	404 Handbook, section 8.5.3(d)	404 Handbook, section 8.5.3(d) - If a mitigation bank or in-lieu fee program is used to provide the required compensatory mitigation, the specific conditions shall indicate whether a mitigation bank or in-lieu fee program will be used, and specify the number and resource type of credits the permittee is required to purchase. In the case of an individual permit, the specific condition shall also identify the specific mitigation bank or in-lieu fee program that will be used.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	number and resource type of credits the permittee is required to secure. In the case of an individual permit, the special condition must also identify the specific mitigation bank or in-lieu fee program that will be used. For general permit verifications, the special conditions may either identify the specific mitigation bank or in-lieu fee program, or state that the specific mitigation bank or in-lieu fee program used to provide the required compensatory mitigation must be approved by the district engineer before the credits are secured.		For general permit verifications, the specific conditions shall either identify the specific mitigation bank or in-lieu fee program, or state that the specific mitigation bank or in-lieu fee program used to provide the required credits shall be approved by the Agency prior to purchasing credits.	
230.93(l)	Party responsible for compensatory mitigation			
230.93(l)(1)	(1) For permittee-responsible mitigation, the special conditions of the DA permit must clearly indicate the party or parties responsible for the implementation, performance, and long-term management of the compensatory mitigation project.	404 Handbook, section 8.5.3(b)1.	404 Handbook, section 8.5.3(b)1. – (b) For an individual permit that requires permittee-responsible mitigation, the specific conditions shall: 1. Identify the party responsible for providing the compensatory mitigation;	
230.93(l)(2)	(2) For mitigation banks and in-lieu fee programs, the instrument must clearly indicate the party or parties responsible for the implementation, performance, and long-term management of the compensatory mitigation project(s). The instrument must also contain a provision expressing the sponsor's agreement to assume responsibility for a permittee's compensatory mitigation requirements, once that permittee has secured the appropriate number and resource type of credits from the sponsor and the district engineer has received the documentation described in paragraph (l)(3) of this section.	NA to state program		
230.93(l)(3)	(3) If use of a mitigation bank or in-lieu fee program is approved by the district engineer to provide part or all of the required compensatory mitigation for a DA permit, the permittee retains responsibility for providing the compensatory mitigation until the appropriate number and resource type of credits have been secured from a sponsor and			The state requires the applicant to provide proof of purchase of mitigation bank credits before beginning the permitted activity.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	the district engineer has received documentation that confirms that the sponsor has accepted the responsibility for providing the required compensatory mitigation. This documentation may consist of a letter or form signed by the sponsor, with the permit number and a statement indicating the number and resource type of credits that have been secured from the sponsor. Copies of this documentation will be retained in the administrative records for both the permit and the instrument. If the sponsor fails to provide the required compensatory mitigation, the district engineer may pursue measures against the sponsor to ensure compliance.			
230.93(m)	(m) *Timing.* Implementation of the compensatory mitigation project shall be, to the maximum extent practicable, in advance of or concurrent with the activity causing the authorized impacts. The district engineer shall require, to the extent appropriate and practicable, additional compensatory mitigation to offset temporal losses of aquatic functions that will result from the permitted activity.	404 Handbook, section 8.5.4	404 Handbook, section 8.5.4 Timing of Compensatory Mitigation Implementation of the compensatory mitigation project shall be, to the maximum extent practicable, in advance of or concurrent with the authorized impacts. Temporal loss shall be compensated for in accordance with appropriate calculations for time lag in accordance with Rule 62-345.600, F.A.C., except paragraph 62-345.600(1)(b), F.A.C., which is not applicable to the State 404 Program.	
230.93(n)	Financial assurances	62-330.301(1)(j), F.A.C.	62-330.301(1), F.A.C. - To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter: (j) Will be conducted by a person with the financial, legal and administrative capability of ensuring that the activity will be undertaken in accordance with the terms and conditions of the permit, if issued	
230.93(n)(1)	(1) The district engineer shall require sufficient financial assurances to ensure a high level of confidence that the compensatory mitigation project will be successfully completed, in accordance with applicable performance standards. In cases where an alternate mechanism is available to ensure a high level of confidence that the compensatory mitigation will be provided and maintained (e.g., a formal, documented commitment from a government agency or	Applicant's Handbook Volume I, sections 10.3.7 and 10.3.7.1	Volume I, section 10.3.7 - Financial Responsibility for Mitigation. As part of compliance with paragraph 62-330.301(1)(j), F.A.C., where an applicant proposes mitigation, the applicant shall provide proof of financial responsibility to: (a) Conduct the mitigation activities; (b) Conduct any necessary management of the mitigation site; (c) Conduct monitoring of the mitigation;	

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	public authority) the district engineer may determine that financial assurances are not necessary for that compensatory mitigation project.		(d) Prepare and submit monitoring reports to the Agency; and (e) Conduct any necessary corrective action indicated by the monitoring Volume I, section 10.3.7.1 - Applicants not subject to financial responsibility requirements. The following applicants shall not be subject to the financial responsibility requirements in sections 10.3.7 through 10.3.7.9: (a) Applicants whose mitigation is deemed successful pursuant to section 10.3.6, above, prior to undertaking the construction activities authorized under the permit issued pursuant to Part IV, Chapter 373, F.S. (b) Applicants whose mitigation is estimated to cost less than $25,000. (c) Federal, state, county and municipal governments; state political subdivisions; investor-owned utilities regulated by the Florida Public Service Commission; and rural electric cooperative. (d) Mitigation banks that comply with the financial responsibility provisions of Rule 62-342.700, F.A.C.	
230.93(n)(2)	(2) The amount of the required financial assurances must be determined by the district engineer, in consultation with the project sponsor, and must be based on the size and complexity of the compensatory mitigation project, the degree of completion of the project at the time of project approval, the likelihood of success, the past performance of the project sponsor, and any other factors the district engineer deems appropriate. Financial assurances may be in the form of performance bonds, escrow accounts, casualty insurance, letters of credit, legislative appropriations for government sponsored projects, or other appropriate instruments, subject to the approval of the district engineer. The rationale for determining the amount of the required financial assurances must be documented in the administrative record for either the DA permit or the	Applicant's Handbook Volume I, sections 10.3.7.2, 10.3.7.3, and10.3.7.7	Volume I, section 10.3.7.2 - Amount of financial responsibility. The amount of financial responsibility provided by the applicant shall be in an amount equal to 110 percent of the cost estimate determined pursuant to section 10.3.7.7, below, for each phase of the mitigation plan submitted under the requirements of sections 10.3 through 10.3.8, and under the requirements of Section 373.414(19)(a), F.S., when mitigation is required for the extraction of limestone and phosphate. Volume I, section 10.3.7.3 - Documentation. The permit applicant shall provide draft documentation of the required financial responsibility mechanism described below with the permit application, and shall submit to the Agency the executed or finalized documentation within the time frames specified in the permit. Volume I, section 10.3.7.7 - Cost estimates.	

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	instrument. In determining the assurance amount, the district engineer shall consider the cost of providing replacement mitigation, including costs for land acquisition, planning and engineering, legal fees, mobilization, construction, and monitoring.		For the purposes of determining the amount of financial responsibility that is required by this subsection, the applicant shall submit a detailed written estimate, in current dollars, of the total cost of conducting the mitigation, including any maintenance and monitoring activities, and the applicant shall comply with the following: (a) The cost estimate for conducting the mitigation and monitoring shall include all associated costs for each phase thereof, including earthmoving, planting, structure installation, maintaining and operating any structures, controlling nuisance or exotic species, fire management, consultant fees, monitoring activities, and reports. (b) The applicant shall submit the estimates, together with verifiable documentation, to the Agency along with the draft of the financial responsibility mechanism. (c) The costs shall be estimated based on a third party performing the work and supplying materials at the fair market value of the services and materials. The source of any cost estimates shall be indicated.	
230.93(n)(3)	(3) If financial assurances are required, the DA permit must include a special condition requiring the financial assurances to be in place prior to commencing the permitted activity.	Applicant's Handbook Volume I, section 10.3.7.4(d)	Volume I, section 10.3.7.4(d) - The financial responsibility mechanisms shall be effective on or prior to the date that the activity authorized by the permit commences and shall continue to be effective through the date of notification of final release by the Agency in accordance with section 10.3.7.7.2 below.	
230.93(n)(4)	(4) Financial assurances shall be phased out once the compensatory mitigation project has been determined by the district engineer to be successful in accordance with its performance standards. The DA permit or instrument must clearly specify the conditions under which the financial assurances are to be released to the permittee, sponsor, and/or other financial assurance provider, including, as appropriate, linkage to achievement of performance standards, adaptive management, or compliance with special conditions.	Applicant's Handbook Volume I, sections 10.3.7.7.1, and 10.3.7.7.2	Volume I, section 10.3.7.7.1 - Partial Releases. The permittee may request the Agency to release portions of the financial responsibility mechanism as parts of the mitigation plan, such as earth moving, construction, or other activities for which cost estimates were submitted in accordance with section 10.3.7.7, are successfully completed. The request shall be in writing and include documentation that the activities have been completed and have been paid for or will be paid for upon release of the applicable portion of the financial responsibility mechanism and a revised cost estimate for the completion of the mitigation activities. The Agency shall authorize the release, or shall request the applicable financial institution release, of the portion requested upon verification that the activities have been completed in accordance with the mitigation plans. Volume I, section 10.3.7.7.2 Final Release. Within thirty (30) days of the Agency determining that the mitigation is successful in accordance with section 10.3.6, above, the Agency shall so notify the permittee and shall authorize the return and release of all funds held or give written authorization to the appropriate third party for the cancellation or termination of the financial responsibility mechanism.	

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230.93(n)(5)	(5) A financial assurance must be in a form that ensures that the district engineer will receive notification at least 120 days in advance of any termination or revocation. For third-party assurance providers, this may take the form of a contractual requirement for the assurance provider to notify the district engineer at least 120 days before the assurance is revoked or terminated.	Applicant's Handbook Volume I, section 10.3.7.4(e)	Volume I, section 10.3.7.4(e) - The financial responsibility mechanisms shall provide that they cannot be revoked, terminated, or cancelled without first providing an alternative financial responsibility mechanism that meets the requirements of sections 10.3.7 through 10.3.7.9. Financial mechanisms shall provide that they cannot be revoked, terminated, or cancelled without a 120-day notice to the Agency. Within 90 days of receipt by the permittee of actual or constructive notice of revocation, termination, or cancellation of a financial responsibility mechanism or other actual or constructive notice of cancellation, the permittee shall provide such an alternate financial responsibility mechanism.	
230.93(n)(6)	(6) Financial assurances shall be payable at the direction of the district engineer to his designee or to a standby trust agreement. When a standby trust is used (e.g., with performance bonds or letters of credit) all amounts paid by the financial assurance provider shall be deposited directly into the standby trust fund for distribution by the trustee in accordance with the district engineer's instructions.	Applicant's Handbook Volume I, sections 10.3.7.4(b), and 10.3.7.6	Volume I, section 10.3.7.4(b) - The financial mechanisms shall name the Agency as sole beneficiary or shall be payable solely to the Agency. If the financial mechanism is of a type that is retained by the beneficiary according to industry standards, the original financial responsibility mechanism shall be retained by the Agency. Volume I, section 10.3.7.6 - Financial Responsibility Mechanisms. Financial responsibility for the mitigation, monitoring, and corrective action for each phase of the project may be established by any of the following methods, at the discretion of the applicant: (a) Performance bond; when issued in favor of DEP, the applicant shall also establish a standby trust fund agreement; (b) Irrevocable letter of credit; when issued in favor of DEP, the applicant shall also establish a standby trust fund agreement; (c) Trust fund agreement; (d) Deposit of cash or cash equivalent into an escrow account at a regulated financial institution or at the Florida Department of Financial Services; and (e) Guarantee bond.	
230.93(o)	The compensatory mitigation project must comply with all applicable federal, state, and local laws. The DA permit, mitigation banking instrument, or in-lieu fee program instrument must not require participation by the Corps or any other federal agency in project management, including receipt or management of financial assurances or long-term financing mechanisms, except as determined by the Corps or other agency to	NA		

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	be consistent with its statutory authority, mission, and priorities.			
230.94	Planning and documentation			
230.94(a)	(a) *Pre-application consultations.* Potential applicants for standard permits are encouraged to participate in pre-application meetings with the Corps and appropriate agencies to discuss potential mitigation requirements and information needs.	Applicant's Handbook Volume I, section 10.3 paragraph 3 404 Handbook, section 4.2	Volume I, section 10.3 - Applicants are encouraged to consult with Agency staff in pre-application conferences or during the application process to identify appropriate mitigation options. 404 Handbook, section 4.2 – Pre-application Conferences Applicants are encouraged to have a pre-application phone call, meeting (on-site or in the office), or other conference with the applicable Agency staff, prior to submitting an application or notice. Pre-application conferences may help streamline processing steps and potential time delays by assisting the applicant to understand such things as: (a) The need for a permit or potential qualification for an exemption or general permit, including a determination of what combination of ERP/State 404 Program authorizations will be required; (b) Which Agency or Agencies will be responsible for the review of the application or notice; (c) How to prepare the application or notice, including availability of on-line tools that may assist in completing it, and how to use the long-term conceptual planning process in section 5.3.2 of this Handbook; (d) Information required by the Agency to evaluate an application or notice, including such things as wetland delineations, resources that may be affected, alternatives analysis, surface water data, and other hydrologic, environmental, or water quality data; (e) Application processing, public notice, and evaluation procedures; (f) The need for a pre-application on-site meeting; (g) Avoiding adverse impacts; (h) The existence of available project alternatives that may prevent the proposed activity from meeting applicable permitting or review standards and criteria; (i) Measures that can be taken to reduce or eliminate adverse impacts, and the appropriateness of compensatory mitigation to offset any remaining adverse impacts; and (j) The potential for the project to impact tribal waters or tribal cultural resources (see section 5.2.6 for more information about tribal resources and coordination).	
230.94(b)	Public review and comment			
230.94(b)(1)	(b) *Public review and comment.* (1) For an activity that requires a standard DA permit pursuant to section 404 of the Clean Water Act, the public notice for the proposed activity must contain a statement explaining how impacts associated with the proposed activity are to be avoided, minimized, and compensated for. This explanation shall address, to the extent that such information is provided in the mitigation statement required by 33 CFR 325.1(d)(7), the proposed avoidance and minimization and the amount,	62-331.060(1)(f), F.A.C.	62-331.060(1)(f), F.A.C. - 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;	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	type, and location of any proposed compensatory mitigation, including any out-of-kind compensation, or indicate an intention to use an approved mitigation bank or in-lieu fee program. The level of detail provided in the public notice must be commensurate with the scope and scale of the impacts. The notice shall not include information that the district engineer and the permittee believe should be kept confidential for business purposes, such as the exact location of a proposed mitigation site that has not yet been secured. The permittee must clearly identify any information being claimed as confidential in the mitigation statement when submitted. In such cases, the notice must still provide enough information to enable the public to provide meaningful comment on the proposed mitigation.			
230.94(b)(2)	(2) For individual permits, district engineers must consider any timely comments and recommendations from other federal agencies; tribal, state, or local governments; and the public.	62-331.052, F.A.C. 62-331.060, F.A.C.	62-331.052, F.A.C. - (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 hearing, 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	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			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.	

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			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. 62-331.060, F.A.C. - 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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			(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:	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			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.	
230.94(b)(3)	(3) For activities authorized by letters of permission or general permits, the review and approval process for compensatory mitigation proposals and plans must be conducted in accordance with the terms and conditions of	Not repeated in rule, but is upheld by other requirements that are in rule. (applicants must comply with terms and		

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	those permits and applicable regulations including the applicable provisions of this part.	conditions of general permits)		
230.94(c)	Mitigation plan			
230.94(c)(1)	Preparation and approval			
230.94(c)(1)(i)	(i) For individual permits, the permittee must prepare a draft mitigation plan and submit it to the district engineer for review. After addressing any comments provided by the district engineer, the permittee must prepare a final mitigation plan, which must be approved by the district engineer prior to issuing the individual permit. The approved final mitigation plan must be incorporated into the individual permit by reference. The final mitigation plan must include the items described in paragraphs (c)(2) through (c)(14) of this section, but the level of detail of the mitigation plan should be commensurate with the scale and scope of the impacts. As an alternative, the district engineer may determine that it would be more appropriate to address any of the items described in paragraphs (c)(2) through (c)(14) of this section as permit conditions, instead of components of a compensatory mitigation plan. For permittees who intend to fulfill their compensatory mitigation obligations by securing credits from approved mitigation banks or in-lieu fee programs, their mitigation plans need include only the items described in paragraphs (c)(5) and (c)(6) of this section, and the name of the specific mitigation bank or in-lieu fee program to be used.	Applicant's Handbook Volume I, sections 10.3.3 and 10.3.3.1 (last sentence)	Volume I, section 10.3.3 Mitigation Proposals (see handbook) Volume I, section 10.3.3.1 (last sentence) The use of credits from a mitigation bank permitted under Part IV of Chapter 373, F.S., or a Regional Offsite Mitigation Area under Section 373.4135, F.S., is not subject to sections 10.3.3.2 through 10.3.8, below.	
230.94(c)(1)(ii)	(ii) For general permits, if compensatory mitigation is required, the district engineer may approve a conceptual or detailed compensatory mitigation plan to meet required time frames for general permit verifications, but a final mitigation plan incorporating the elements in paragraphs (c)(2) through (c)(14) of this section, at a level of detail commensurate with the scale and scope of the impacts, must be approved by			State program is more stringent – we will require the mitigation plan before issuance for reasonable assurance.

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	the district engineer before the permittee commences work in waters of the United States. As an alternative, the district engineer may determine that it would be more appropriate to address any of the items described in paragraphs (c)(2) through (c)(14) of this section as permit conditions, instead of components of a compensatory mitigation plan. For permittees who intend to fulfill their compensatory mitigation obligations by securing credits from approved mitigation banks or in-lieu fee programs, their mitigation plans need include only the items described in paragraphs (c)(5) and (c)(6) of this section, and either the name of the specific mitigation bank or in-lieu fee program to be used or a statement indicating that a mitigation bank or in-lieu fee program will be used (contingent upon approval by the district engineer).			
230.94(c)(1)(iii)	(iii) Mitigation banks and in-lieu fee programs must prepare a mitigation plan including the items in paragraphs (c)(2) through (c)(14) of this section for each separate compensatory mitigation project site. For mitigation banks and in-lieu fee programs, the preparation and approval process for mitigation plans is described in §230.98.			NA for state program
230.94(c)(2)	(2) *Objectives.* A description of the resource type(s) and amount(s) that will be provided, the method of compensation (*i.e.*, restoration, establishment, enhancement, and/or preservation), and the manner in which the resource functions of the compensatory mitigation project will address the needs of the watershed, ecoregion, physiographic province, or other geographic area of interest.	Applicant's Handbook Volume I, sections 10.3.3.2(n)-(o), and 10.3.6	Volume I, section 10.3.3.2(n)-(o) (n) A description of anticipated site conditions in and around the mitigation area after the mitigation plan is successfully implemented; (o) A comparison of current fish and wildlife habitat to expected habitat after the mitigation plan is successfully implemented; Volume I, section 10.3.6 - Mitigation Success Mitigation success will be measured in terms of whether the objectives of the mitigation are expected to be realized. The success criteria to be included in permit conditions will specify the minimum requirements necessary to attain a determination of success. The mitigation shall be deemed successful by the Agency when all applicable water quality standards are met, the mitigation area has achieved viable and sustainable ecological and hydrological functions and the specific success criteria contained in the permit are met. If	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			success is not achieved within the time frame specified within the permit, remedial measures shall be required. Monitoring requirements shall remain in effect until success is achieved as specified in the permit. Maintenance requirements shall remain in effect as specified in the permit.	
230.94(c)(3)	(3) *Site selection.* A description of the factors considered during the site selection process. This should include consideration of watershed needs, on-site alternatives where applicable, and the practicability of accomplishing ecologically self-sustaining aquatic resource restoration, establishment, enhancement, and/or preservation at the compensatory mitigation project site. (See §230.93(d).)	Applicant's Handbook Volume I, sections 10.3.3.1, 10.3.3.2, and 10.3.5	Volume I, section 10.3.3.1 - Applicants shall provide reasonable assurance that proposed mitigation will: (a) Offset adverse impacts due to regulated activities; and (b) Achieve mitigation success by providing viable and sustainable ecological and hydrological functions. The use of credits from a mitigation bank permitted under Part IV of Chapter 373, F.S., or a Regional Offsite Mitigation Area under Section 373.4135, F.S., is not subject to sections 10.3.3.2 through 10.3.8, below. Volume I, section 10.3.3.2 - Applicants shall submit detailed plans describing proposed construction, establishment, and management of mitigation areas. These plans shall include the following information, as appropriate for the type of mitigation proposed: (a) A soils map of the mitigation area and other soils information pertinent to the specific mitigation actions proposed; (b) A topographic map of the mitigation area and adjacent hydrologic contributing and receiving areas; (c) A hydrologic features map of the mitigation area and adjacent hydrologic contributing and receiving areas; (d) A description of current hydrologic conditions affecting the mitigation area; (e) A map of vegetation communities in and around the mitigation area; (f) Construction drawings detailing proposed topographic alterations and all structural components associated with proposed activities; (g) Proposed construction activities, including a detailed schedule for implementation; (h) A vegetation-planting scheme if planting is proposed, and schedule for implementation;	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			(i) Sources of plants and soils used in wetland creation or restoration; (j) Measures to be implemented during and after construction to avoid adverse impacts related to proposed activities; (k) A management plan comprising all aspects of operation and maintenance, including water management practices, vegetation establishment, exotic and nuisance species control, fire management, and control of access; (l) A proposed monitoring plan to demonstrate mitigation success; (m) A description of the activities proposed to control exotic and nuisance species should these become established in the mitigation area. The mitigation proposal must include reasonable measures to assure that these species do not invade the mitigation area in such numbers as to affect the likelihood of success of the project; (n) A description of anticipated site conditions in and around the mitigation area after the mitigation plan is successfully implemented; (o) A comparison of current fish and wildlife habitat to expected habitat after the mitigation plan is successfully implemented; (p) For mitigation plans with projected implementation costs in excess of $25,000, an itemized estimate of the cost of implementing mitigation as set forth in **section 10.3.7.7, below**; (q) Evidence that the applicant has legal access to the mitigation area and authority to perform the mitigation, and documentation granting the Agency a reasonable right of legal access to the mitigation area and the authority to conduct the mitigation should the applicant fail to do so; and (r) Any additional necessary supporting information required by Chapter 62-345, F.A.C. Volume I, section 10.3.5 - Protection of Mitigation Areas Applicants shall propose and be responsible for implementing methods that assure that mitigation areas will not be adversely impacted by incidental encroachment or secondary activities that might compromise mitigation success or long-term viability.	
230.94(c)(4)	(4) *Site protection instrument.* A description of the legal arrangements and instrument, including site ownership, that will be used to ensure the long-term protection of the	Applicant's Handbook Volume I, sections 10.3.5 and 10.3.8	Volume I, section 10.3.5 - Protection of Mitigation Areas	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	compensatory mitigation project site (see §230.97(a)).		Applicants shall propose and be responsible for implementing methods that assure that mitigation areas will not be adversely impacted by incidental encroachment or secondary activities that might compromise mitigation success or long-term viability. Volume I, section 10.3.8 - Real property conveyances. (a) All conservation easements, deed restrictions, and restrictive covenants accepted for mitigation purposes shall be granted in perpetuity without encumbrances, unless such encumbrances do not adversely affect the ecological viability of the mitigation. All liens and mortgages shall be released or subordinated to the conservation easement. All conservation easements shall be consistent with Section 704.06, F.S., and shall contain restrictions that ensure the ecological viability of the site. (b) All real property conveyances shall be in fee simple and by statutory warranty deed, special warranty deed, or other deed, without encumbrances that adversely affect the integrity of the preservation. The Agency shall also accept a quit claim deed if necessary to aid in clearing minor title defects or otherwise resolving boundary questions. (c) The use of the applicable Form 62-330.301(8) through 62-330.301(17) shall constitute consistency with Section 704.06, F.S. Where the applicant demonstrates that project specific conditions necessitate deviation from language of the accepted forms, alternative language shall be accepted provided that it meets the provisions of Section 704.06, F.S. and section 10. 3. 8 of this Volume. Each of these forms are in Appendix C of this Volume, and a copy of the form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C.	
230.94(c)(5)	(5) *Baseline information.* A description of the ecological characteristics of the proposed compensatory mitigation project site and, in the case of an application for a DA permit, the impact site. This may include descriptions of historic and existing plant communities, historic and existing hydrology, soil conditions, a map showing the locations of the impact and mitigation site(s) or the geographic coordinates for those site(s), and other site characteristics appropriate to the type of resource proposed as compensation. The baseline information should also include a delineation of waters of the United States on the proposed compensatory mitigation project site. A prospective permittee planning to secure credits from an approved mitigation	Applicant's Handbook Volume I, sections 10.3.3.1(b) and 10.3.3.2	Volume I, section 10.3.3.1(b) - (b) Achieve mitigation success by providing viable and sustainable ecological and hydrological functions. Volume I, section 10.3.3.2 - Applicants shall submit detailed plans describing proposed construction, establishment, and management of mitigation areas. These plans shall include the following information, as appropriate for the type of mitigation proposed: (a) A soils map of the mitigation area and other soils information pertinent to the specific mitigation actions proposed; (b) A topographic map of the mitigation area and adjacent hydrologic contributing and receiving areas; (c) A hydrologic features map of the mitigation area and adjacent hydrologic contributing and receiving areas;	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	bank or in-lieu fee program only needs to provide baseline information about the impact site, not the mitigation bank or in-lieu fee project site.		(d) A description of current hydrologic conditions affecting the mitigation area; (e) A map of vegetation communities in and around the mitigation area; (f) Construction drawings detailing proposed topographic alterations and all structural components associated with proposed activities; (g) Proposed construction activities, including a detailed schedule for implementation; (h) A vegetation-planting scheme if planting is proposed, and schedule for implementation; (i) Sources of plants and soils used in wetland creation or restoration; (j) Measures to be implemented during and after construction to avoid adverse impacts related to proposed activities; (k) A management plan comprising all aspects of operation and maintenance, including water management practices, vegetation establishment, exotic and nuisance species control, fire management, and control of access; (l) A proposed monitoring plan to demonstrate mitigation success; (m) A description of the activities proposed to control exotic and nuisance species should these become established in the mitigation area. The mitigation proposal must include reasonable measures to assure that these species do not invade the mitigation area in such numbers as to affect the likelihood of success of the project; (n) A description of anticipated site conditions in and around the mitigation area after the mitigation plan is successfully implemented; (o) A comparison of current fish and wildlife habitat to expected habitat after the mitigation plan is successfully implemented; (p) For mitigation plans with projected implementation costs in excess of $25,000, an itemized estimate of the cost of implementing mitigation as set forth in **section 10.3.7.7, below**; (q) Evidence that the applicant has legal access to the mitigation area and authority to perform the mitigation, and documentation granting the Agency a reasonable right of legal access to the mitigation area and the authority to conduct the mitigation should the applicant fail to do so; and	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			(r) Any additional necessary supporting information required by Chapter 62-345, F.A.C.	
230.94(c)(6)(i) and (ii)	(6) *Determination of credits.* A description of the number of credits to be provided, including a brief explanation of the rationale for this determination. (See §230.93(f).) (i) For permittee-responsible mitigation, this should include an explanation of how the compensatory mitigation project will provide the required compensation for unavoidable impacts to aquatic resources resulting from the permitted activity. (ii) For permittees intending to secure credits from an approved mitigation bank or in-lieu fee program, it should include the number and resource type of credits to be secured and how these were determined.	Applicant's Handbook Volume I, section 10.3.2	Volume I, section 10.3.2 - Guidelines for the Amount of Mitigation Chapter 62-345, F.A.C., Uniform Mitigation Assessment Method (UMAM), establishes a standardized procedure for assessing functions provided by wetlands and other surface waters, the amount those functions are reduced by proposed impact, and the amount of mitigation needed to offset that impact. The Agency will be responsible for verifying the information provided and applying this assessment method to determine the amount of mitigation necessary to offset the proposed impacts. Chapter 62-345, F.A.C., also establishes the criteria to award and deduct mitigation bank or regional offsite mitigation area credits. The Agency will be responsible for verifying that information and applying this assessment method to determine the potential amount of mitigation to be provided by the bank or regional offsite mitigation area. Paragraphs 62-345.100(3), (5), (6), (7), (8), and (9), F.A.C., provide exceptions from the application of UMAM to determine the amount of mitigation necessary to offset adverse impacts.	
230.94(c)(7)	(7) *Mitigation work plan.* Detailed written specifications and work descriptions for the compensatory mitigation project, including, but not limited to, the geographic boundaries of the project; construction methods, timing, and sequence; source(s) of water, including connections to existing waters and uplands; methods for establishing the desired plant community; plans to control invasive plant species; the proposed grading plan, including elevations and slopes of the substrate; soil management; and erosion control measures. For stream compensatory mitigation projects, the mitigation work plan may also include other relevant information, such as planform geometry, channel form (e.g., typical channel cross-sections), watershed size, design discharge, and riparian area plantings.	Applicant's Handbook Volume I, section 10.3.3.2(g) and (h)	Volume I, section 10.3.3.2(g), and (h) - (g) Proposed construction activities, including a detailed schedule for implementation; (h) A vegetation-planting scheme if planting is proposed, and schedule for implementation;	
230.94(c)(8)	(8) *Maintenance plan.* A description and schedule of maintenance requirements to ensure the continued viability of the resource once initial construction is completed.	Applicant's Handbook Volume I, section 10.3.3.2(k)	Volume I, section 10.3.3.2(k) - A management plan comprising all aspects of operation and maintenance, including water management practices, vegetation establishment, exotic and nuisance species control, fire management, and control of access;	

Federal Law (40 CFR §...)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
230.94(c)(9)	(9) *Performance standards.* Ecologically-based standards that will be used to determine whether the compensatory mitigation project is achieving its objectives. (See §230.95.)	Applicant's Handbook Volume I, section 10.3.6	Volume I, section 10.3.6 - Mitigation Success Mitigation success will be measured in terms of whether the objectives of the mitigation are expected to be realized. The success criteria to be included in permit conditions will specify the minimum requirements necessary to attain a determination of success. The mitigation shall be deemed successful by the Agency when all applicable water quality standards are met, the mitigation area has achieved viable and sustainable ecological and hydrological functions and the specific success criteria contained in the permit are met. If success is not achieved within the time frame specified within the permit, remedial measures shall be required. Monitoring requirements shall remain in effect until success is achieved as specified in the permit. Maintenance requirements shall remain in effect as specified in the permit.	
230.94(c)(10)	(10) *Monitoring requirements.* A description of parameters to be monitored in order to determine if the compensatory mitigation project is on track to meet performance standards and if adaptive management is needed. A schedule for monitoring and reporting on monitoring results to the district engineer must be included. (See §230.96.)	Applicant's Handbook Volume I, section 10.3.4 404 Handbook, section 8.5.6.1	Volume I, section 10.3.4 - Monitoring Requirements for Mitigation Areas If applicable, applicants shall monitor the progress of mitigation areas until success can be demonstrated as provided in section 10.3.6, below. Monitoring parameters, methods, schedules, and reporting requirements will be specified in permit conditions. 404 Handbook, section 8.5.6.1 - Monitoring The compensatory mitigation plan shall provide for a monitoring period that is sufficient to demonstrate that the compensatory mitigation project has met performance standards, but not less than five years. A longer monitoring period shall be required for aquatic resources with slow development rates (e.g., forested wetlands, bogs). Following project implementation, the Agency shall reduce or waive the remaining monitoring requirements upon a determination that the compensatory mitigation project has achieved its performance standards. The Agency may also extend the original monitoring period upon a determination that performance standards have not been met or the compensatory mitigation project is not on track to meet them. The Agency shall revise monitoring requirements when remediation or adaptive management is required.	
230.94(c)(11)	(11) *Long-term management plan.* A description of how the compensatory mitigation project will be managed after performance standards have been achieved to ensure the long-term sustainability of the resource, including long-term financing mechanisms and the party responsible for long-term management. (See §230.97(d).)	Applicant's Handbook Volume I, section 10.3.3.2(k) 404 Handbook, section 8.5.6.3	Volume I, section 10.3.3.2(k) - A management plan comprising all aspects of operation and maintenance, including water management practices, vegetation establishment, exotic and nuisance species control, fire management, and control of access; 404 Handbook, section 8.5.6.3 Long-term Protection and Management - (a) The real estate instrument, management plan, or other long-term protection mechanism must contain a provision requiring 60-day advance notification to the Agency before any action is taken to void or modify the instrument, management plan, or long-term protection mechanism, including transfer of title to, or establishment of any other legal claims over, the compensatory mitigation site. (b) The permit conditions shall identify the party responsible for ownership and all long-term management of the compensatory mitigation project. The permit conditions shall, where applicable, contain provisions allowing the permittee to transfer the long-term management responsibilities of the compensatory mitigation project site to a land	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			stewardship entity, such as a public agency, non-governmental organization, or private land manager, after review and approval by the Agency. The land stewardship entity need not be identified in the original permit, as long as the future transfer of long-term management responsibility is approved by the Agency. (c) A long-term management plan shall include a description of long-term management needs, annual cost estimates for these needs, and identify the funding mechanism that will be used to meet those needs. (d) Any provisions necessary for long-term financing shall be addressed in the original permit. The Agency shall require provisions to address inflationary adjustments and other contingencies, as appropriate. Appropriate long-term financing mechanisms include non-wasting endowments, trusts, contractual arrangements with future responsible parties, and other appropriate financial instruments. In cases where the long-term management entity is a public authority or government agency, that entity shall provide a plan for the long-term financing of the site. (e) Any long-term financing mechanisms shall be approved by the Agency in advance of the authorized impacts.	
230.94(c)(12)	(12) *Adaptive management plan.* A management strategy to address unforeseen changes in site conditions or other components of the compensatory mitigation project, including the party or parties responsible for implementing adaptive management measures. The adaptive management plan will guide decisions for revising compensatory mitigation plans and implementing measures to address both foreseeable and unforeseen circumstances that adversely affect compensatory mitigation success. (See §230.97(c).)	62-331.130(2), F.A.C. 404 Handbook, section 8.5.6.2	62-331.130(2), F.A.C. - 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. 404 Handbook, section 8.5.6.2 - Adaptive Management (a) If the compensatory mitigation project cannot be constructed in accordance with the approved mitigation plans, the permittee shall notify the Agency. Any significant modification of the compensatory mitigation project requires approval from the Agency. (b) If monitoring or other information indicates that the compensatory mitigation project is not progressing towards meeting its performance standards as anticipated, the responsible party shall notify the Agency as soon as possible. The Agency shall evaluate and pursue measures to address deficiencies in the compensatory mitigation project. The Agency shall consider whether the compensatory mitigation project is providing ecological benefits comparable to the original objectives of the compensatory mitigation project. (c) The Agency, in consultation with the responsible party (and other state, federal, tribal, and local agencies, as appropriate), will determine the appropriate measures. The measures may include, but are not limited to, site modifications, design changes, revisions to maintenance requirements, and revised monitoring requirements. The measures shall be designed to ensure that the modified compensatory mitigation project provides aquatic resource functions comparable to those described in the mitigation plan objectives. (d) Performance standards shall be revised in accordance with adaptive management to account for measures taken to address deficiencies in the compensatory mitigation project. Performance standards shall also be revised to reflect changes in management	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			strategies and objectives if the new standards provide for ecological benefits that are comparable or superior to the approved compensatory mitigation project. No other revisions to performance standards shall be allowed except in the case of natural disasters.	
230.94(c)(13)	(13) *Financial assurances.* A description of financial assurances that will be provided and how they are sufficient to ensure a high level of confidence that the compensatory mitigation project will be successfully completed, in accordance with its performance standards (see §230.93(n)).	Applicant's Handbook Volume I, section 10.3.7	Volume I, section 10.3.7 - Financial Responsibility for Mitigation. As part of compliance with paragraph 62-330.301(1)(j), F.A.C., where an applicant proposes mitigation, the applicant shall provide proof of financial responsibility to: (a) Conduct the mitigation activities; (b) Conduct any necessary management of the mitigation site; (c) Conduct monitoring of the mitigation; (d) Prepare and submit monitoring reports to the Agency; and (e) Conduct any necessary corrective action indicated by the monitoring.	
230.94(c)(14)	(14) *Other information.* The district engineer may require additional information as necessary to determine the appropriateness, feasibility, and practicability of the compensatory mitigation project.	Applicant's Handbook Volume I, section 10.3.3.2(r)	Volume I, section 10.3.3.2(r) - Any additional necessary supporting information required by Chapter 62-345, F.A.C.	
230.95(a) and (b)	Ecological performance standards			
230.96(a)	(1) Monitoring the compensatory mitigation project site is necessary to determine if the project is meeting its performance standards, and to determine if measures are necessary to ensure that the compensatory mitigation project is accomplishing its objectives. …	Applicant's Handbook Volume I, sections 10.3.4 and 10.3.6	Volume I, section 10.3.4 - Monitoring Requirements for Mitigation Areas If applicable, applicants shall monitor the progress of mitigation areas until success can be demonstrated as provided in section 10.3.6, below. Monitoring parameters, methods, schedules, and reporting requirements will be specified in permit conditions. Volume I, section 10.3.6 - Mitigation Success Mitigation success will be measured in terms of whether the objectives of the mitigation are expected to be realized. The success criteria to be included in permit conditions will specify the minimum requirements necessary to attain a determination of success. The mitigation shall be deemed successful by the Agency when all applicable water quality standards are met, the mitigation area has achieved viable and sustainable ecological and hydrological functions and the specific success criteria contained in the permit are met. If success is not achieved within the time frame specified within the permit, remedial measures shall be required. Monitoring requirements shall	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
			remain in effect until success is achieved as specified in the permit. Maintenance requirements shall remain in effect as specified in the permit.	
230.96(b)	(b) *Monitoring period.* The mitigation plan must provide for a monitoring period that is sufficient to demonstrate that the compensatory mitigation project has met performance standards, but not less than five years. A longer monitoring period must be required for aquatic resources with slow development rates (e.g., forested wetlands, bogs). Following project implementation, the district engineer may reduce or waive the remaining monitoring requirements upon a determination that the compensatory mitigation project has achieved its performance standards. Conversely the district engineer may extend the original monitoring period upon a determination that performance standards have not been met or the compensatory mitigation project is not on track to meet them. The district engineer may also revise monitoring requirements when remediation and/or adaptive management is required.	404 Handbook, section 8.5.6.1	404 Handbook, section 8.5.6.1 - Monitoring The compensatory mitigation plan shall provide for a monitoring period that is sufficient to demonstrate that the compensatory mitigation project has met performance standards, but not less than five years. A longer monitoring period shall be required for aquatic resources with slow development rates (e.g., forested wetlands, bogs). Following project implementation, the Agency shall reduce or waive the remaining monitoring requirements upon a determination that the compensatory mitigation project has achieved its performance standards. The Agency may also extend the original monitoring period upon a determination that performance standards have not been met or the compensatory mitigation project is not on track to meet them. The Agency shall revise monitoring requirements when remediation or adaptive management is required.	
230.96(c)	(c) *Monitoring reports.* (1) The district engineer must determine the information to be included in monitoring reports. This information must be sufficient for the district engineer to determine how the compensatory mitigation project is progressing towards meeting its performance standards, and may include plans (such as as-built plans), maps, and photographs to illustrate site conditions. Monitoring reports may also include the results of functional, condition, or other assessments used to provide quantitative or qualitative measures of the functions provided by the compensatory mitigation project site. (2) The permittee or sponsor is responsible for submitting monitoring reports in accordance with the special conditions of the DA permit	Applicant's Handbook Volume I, section 10.3.6	Volume I, section 10.3.6 - Mitigation Success Mitigation success will be measured in terms of whether the objectives of the mitigation are expected to be realized. The success criteria to be included in permit conditions will specify the minimum requirements necessary to attain a determination of success. The mitigation shall be deemed successful by the Agency when all applicable water quality standards are met, the mitigation area has achieved viable and sustainable ecological and hydrological functions and the specific success criteria contained in the permit are met. If success is not achieved within the time frame specified within the permit, remedial measures shall be required. Monitoring requirements shall remain in effect until success is achieved as specified in the permit. Maintenance requirements shall remain in effect as specified in the permit.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	or the terms of the instrument. Failure to submit monitoring reports in a timely manner may result in compliance action by the district engineer. (3) Monitoring reports must be provided by the district engineer to interested federal, tribal, state, and local resource agencies, and the public, upon request.			
230.97	Management			
230.97(a)(1)	(a) *Site protection.* (1) The aquatic habitats, riparian areas, buffers, and uplands that comprise the overall compensatory mitigation project must be provided long-term protection through real estate instruments or other available mechanisms, as appropriate. Long-term protection may be provided through real estate instruments such as conservation easements held by entities such as federal, tribal, state, or local resource agencies, non-profit conservation organizations, or private land managers; the transfer of title to such entities; or by restrictive covenants. For government property, long-term protection may be provided through federal facility management plans or integrated natural resources management plans. When approving a method for long-term protection of non-government property other than transfer of title, the district engineer shall consider relevant legal constraints on the use of conservation easements and/or restrictive covenants in determining whether such mechanisms provide sufficient site protection. To provide sufficient site protection, a conservation easement or restrictive covenant should, where practicable, establish in an appropriate third party (e.g., governmental or non-profit resource management agency) the right to enforce site protections and provide the third party the resources necessary to monitor and enforce these site protections.	Applicant's Handbook Volume I, section 10.3.5 and 10.3.8	Volume I, section 10.3.5 - Protection of Mitigation Areas Applicants shall propose and be responsible for implementing methods that assure that mitigation areas will not be adversely impacted by incidental encroachment or secondary activities that might compromise mitigation success or long-term viability. Volume I, section 10.3.8 - Real property conveyances. (a) All conservation easements, deed restrictions, and restrictive covenants accepted for mitigation purposes shall be granted in perpetuity without encumbrances, unless such encumbrances do not adversely affect the ecological viability of the mitigation. All liens and mortgages shall be released or subordinated to the conservation easement. All conservation easements shall be consistent with Section 704.06, F.S., and shall contain restrictions that ensure the ecological viability of the site. (b) All real property conveyances shall be in fee simple and by statutory warranty deed, special warranty deed, or other deed, without encumbrances that adversely affect the integrity of the preservation. The Agency shall also accept a quit claim deed if necessary to aid in clearing minor title defects or otherwise resolving boundary questions. (c) The use of the applicable Form 62-330.301(8) through 62-330.301(17) shall constitute consistency with Section 704.06, F.S. Where the applicant demonstrates that project specific conditions necessitate deviation from language of the accepted forms, alternative language shall be accepted provided that it meets the provisions of Section 704.06, F.S. and section 10. 3. 8 of this Volume. Each of these forms are in Appendix C of this Volume, and a copy of the form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
230.97(a)(2)	(2) The real estate instrument, management plan, or other mechanism providing long-term protection of the compensatory mitigation site must, to the extent appropriate and practicable, prohibit incompatible uses (e.g., clear cutting or mineral extraction) that might otherwise jeopardize the objectives of the compensatory mitigation project. Where appropriate, multiple instruments recognizing compatible uses (e.g., fishing or grazing rights) may be used.	This language is in our incorporated conservation easement forms (62-330.301(6), F.A.C.)	3. Prohibited Uses. Except for activities that are permitted or required by the Permit (or any modification thereto) (which may include restoration, creation, enhancement, maintenance, monitoring activities, or surface water management improvements) or other activities described herein or in the Management Plan (if any), any activity on or use of the Conservation Easement Area inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities are expressly prohibited in or on the Conservation Easement Area: a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground; b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials; c. Removing, destroying or trimming trees, shrubs, or other vegetation, except: i. The removal of dead trees and shrubs or leaning trees that could cause damage to property is authorized; ii. The destruction and removal of noxious, nuisance or exotic invasive plant species as listed on the most recent Florida Exotic Pest Plant Council's List of Invasive Species is authorized; iii. Activities authorized by the Permit or described in the Management Plan or otherwise approved in writing by the Grantee are authorized; and iv. Activities conducted in accordance with a wildfire mitigation plan developed with the Florida Forest Service that has been approved in writing by the Grantee are authorized. No later than thirty (30) days before commencing any activities to implement the approved wildfire mitigation plan, Grantor shall notify the Grantee in writing of its intent to commence such activities. All such activities may only be completed during the time period for which the Grantee approved the plan; d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface; e. Surface use except for purposes that permit the land or water area to remain in its natural, restored, enhanced, or created condition; f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking, clearing, and fencing; g. Acts or uses detrimental to such aforementioned retention of land or water areas; and h. Acts or uses which are detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, archaeological, or cultural significance	
230.97(a)(3)	(3) The real estate instrument, management plan, or other long-term protection mechanism must contain a provision requiring 60-day advance notification to the district engineer before any action is taken to void or modify the instrument, management plan, or long-term protection mechanism, including transfer of title to, or establishment of any other legal claims over, the compensatory mitigation site.	N/A		The state holds the conservation easement in perpetuity, and it cannot be modified without Agency approval.
230.97(a)(4)	(4) For compensatory mitigation projects on public lands, where Federal facility management plans or integrated natural resources management plans are used to	NA for state program (see 373.4135, F.S.)		

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	provide long-term protection, and changes in statute, regulation, or agency needs or mission results in an incompatible use on public lands originally set aside for compensatory mitigation, the public agency authorizing the incompatible use is responsible for providing alternative compensatory mitigation that is acceptable to the district engineer for any loss in functions resulting from the incompatible use.			
230.97(a)(5)	(5) A real estate instrument, management plan, or other long-term protection mechanism used for site protection of permittee-responsible mitigation must be approved by the district engineer in advance of, or concurrent with, the activity causing the authorized impacts.	404 Handbook, section 8.5.4	404 Handbook, section 8.5.4 - Timing of Compensatory Mitigation Implementation of the compensatory mitigation project shall be, to the maximum extent practicable, in advance of or concurrent with the authorized impacts. Temporal loss shall be compensated for in accordance with appropriate calculations for time lag in accordance with Rule 62-345.600, F.A.C., except paragraph 62-345.600(1)(b), F.A.C., which is not applicable to the State 404 Program.	
230.97(b)	(b) *Sustainability.* Compensatory mitigation projects shall be designed, to the maximum extent practicable, to be self-sustaining once performance standards have been achieved. This includes minimization of active engineering features (e.g., pumps) and appropriate siting to ensure that natural hydrology and landscape context will support long-term sustainability. Where active long-term management and maintenance are necessary to ensure long-term sustainability (e.g., prescribed burning, invasive species control, maintenance of water control structures, easement enforcement), the responsible party must provide for such management and maintenance. This includes the provision of long-term financing mechanisms where necessary. Where needed, the acquisition and protection of water rights must be secured and documented in the permit conditions or instrument.	Applicant's Handbook Volume I, section 10.3.3.1	Volume I, section 10.3.3.1 - Applicants shall provide reasonable assurance that proposed mitigation will: (a) Offset adverse impacts due to regulated activities; and (b) Achieve mitigation success by providing viable and sustainable ecological and hydrological functions. The use of credits from a mitigation bank permitted under Part IV of Chapter 373, F.S., or a Regional Offsite Mitigation Area under Section 373.4135, F.S., is not subject to sections 10.3.3.2 through 10.3.8, below.	
230.97(c)(1)	(c) *Adaptive management.* (1) If the compensatory mitigation project cannot be constructed in accordance with the approved mitigation plans, the permittee or sponsor must notify the district engineer. A significant	62-331.130(2), F.A.C. 404 Handbook, section 8.5.6.2(a)	(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.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	modification of the compensatory mitigation project requires approval from the district engineer.		404 Handbook, section 8.5.6.2(a) - Adaptive Management (a) If the compensatory mitigation project cannot be constructed in accordance with the approved mitigation plans, the permittee shall notify the Agency. Any significant modification of the compensatory mitigation project requires approval from the Agency.	
230.97(c)(2)	(2) If monitoring or other information indicates that the compensatory mitigation project is not progressing towards meeting its performance standards as anticipated, the responsible party must notify the district engineer as soon as possible. The district engineer will evaluate and pursue measures to address deficiencies in the compensatory mitigation project. The district engineer will consider whether the compensatory mitigation project is providing ecological benefits comparable to the original objectives of the compensatory mitigation project.	404 Handbook, section 8.5.6.2(b)	404 Handbook section 8.5.6.2(b) - Adaptive Management (b) If monitoring or other information indicates that the compensatory mitigation project is not progressing towards meeting its performance standards as anticipated, the responsible party shall notify the Agency as soon as possible. The Agency shall evaluate and pursue measures to address deficiencies in the compensatory mitigation project. The Agency shall consider whether the compensatory mitigation project is providing ecological benefits comparable to the original objectives of the compensatory mitigation project.	
230.97(c)(3)	(3) The district engineer, in consultation with the responsible party (and other federal, tribal, state, and local agencies, as appropriate), will determine the appropriate measures. The measures may include site modifications, design changes, revisions to maintenance requirements, and revised monitoring requirements. The measures must be designed to ensure that the modified compensatory mitigation project provides aquatic resource functions comparable to those described in the mitigation plan objectives.	404 Handbook, section 8.5.6.2(c)	404 Handbook, section 8.5.6.2(c) - Adaptive Management (c) The Agency, in consultation with the responsible party (and other state, federal, tribal, and local agencies, as appropriate), will determine the appropriate measures. The measures may include, but are not limited to, site modifications, design changes, revisions to maintenance requirements, and revised monitoring requirements. The measures shall be designed to ensure that the modified compensatory mitigation project provides aquatic resource functions comparable to those described in the mitigation plan objectives.	
230.97(c)(4)	(4) Performance standards may be revised in accordance with adaptive management to account for measures taken to address deficiencies in the compensatory mitigation project. Performance standards may also be revised to reflect changes in management strategies and objectives if the new standards provide for ecological benefits that are comparable or superior to the approved compensatory mitigation project. No other revisions to performance standards will be	404 Handbook, section 8.5.6.2(d)	404 Handbook, section 8.5.6.2(d) - Adaptive Management (d) Performance standards shall be revised in accordance with adaptive management to account for measures taken to address deficiencies in the compensatory mitigation project. Performance standards shall also be revised to reflect changes in management strategies and objectives if the new standards provide for ecological benefits that are comparable or superior to the approved compensatory mitigation project. No other revisions to performance standards shall be allowed except in the case of natural disasters.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	allowed except in the case of natural disasters.			
230.97(d)(1)	(d) *Long-term management.* (1) The permit conditions or instrument must identify the party responsible for ownership and all long-term management of the compensatory mitigation project. The permit conditions or instrument may contain provisions allowing the permittee or sponsor to transfer the long-term management responsibilities of the compensatory mitigation project site to a land stewardship entity, such as a public agency, non-governmental organization, or private land manager, after review and approval by the district engineer. The land stewardship entity need not be identified in the original permit or instrument, as long as the future transfer of long-term management responsibility is approved by the district engineer.	404 Handbook, section 8.5.6.3(b)	404 Handbook, section 8.5.6.3(b) - Long-term Protection Management (b)The permit conditions shall identify the party responsible for ownership and all long-term management of the compensatory mitigation project. The permit conditions shall, where applicable, contain provisions allowing the permittee to transfer the long-term management responsibilities of the compensatory mitigation project site to a land stewardship entity, such as a public agency, non-governmental organization, or private land manager, after review and approval by the Agency. The land stewardship entity need not be identified in the original permit, as long as the future transfer of long-term management responsibility is approved by the Agency.	
230.97(d)(2)	(2) A long-term management plan should include a description of long-term management needs, annual cost estimates for these needs, and identify the funding mechanism that will be used to meet those needs.	404 Handbook, section 8.5.6.3(c)	404 Handbook, section 8.5.6.3(c) - Long-term Protection Management (c) A long-term management plan shall include a description of long-term management needs, annual cost estimates for these needs, and identify the funding mechanism that will be used to meet those needs.	
230.97(d)(3)	(3) Any provisions necessary for long-term financing must be addressed in the original permit or instrument. The district engineer may require provisions to address inflationary adjustments and other contingencies, as appropriate. Appropriate long-term financing mechanisms include non-wasting endowments, trusts, contractual arrangements with future responsible parties, and other appropriate financial instruments. In cases where the long-term management entity is a public authority or government agency, that entity must provide a plan for the long-term financing of the site.	404 Handbook, section 8.5.6.3(d)	404 Handbook, section 8.5.6.3 - Long-term Protection and Management (d) Any provisions necessary for long-term financing shall be addressed in the original permit. The Agency shall require provisions to address inflationary adjustments and other contingencies, as appropriate. Appropriate long-term financing mechanisms include non-wasting endowments, trusts, contractual arrangements with future responsible parties, and other appropriate financial instruments. In cases where the long-term management entity is a public authority or government agency, that entity shall provide a plan for the long-term financing of the site.	
230.97(d)(4)	(4) For permittee-responsible mitigation, any long-term financing mechanisms must be	404 Handbook, section 8.5.6.3	404 Handbook, section 8.5.6.3 - Long-term Protection and Management (e) Any long-term financing mechanisms shall be approved by the Agency in advance of the authorized impacts.	

Federal Law (40 CFR §…)	Federal Requirement	State Law (in addition to general authority granted by Section 373.4146, F.S.)	State Law Text	Comments
	approved in advance of the activity causing the authorized impacts.			
230.98	Mitigation banks and in-lieu fee programs	NA for state program		