Mr. Chris W. Oliver
Assistant Administrator for Fisheries
NOAA Fisheries Directorate
1315 East-West Highway, 14th Floor
Silver Spring, Maryland 20910

Dr. Roy E. Crabtree,
Regional Administrator
Directorate Office
NOAA Fisheries Service
Southeast Regional Office
263 13th Avenue South
St. Petersburg, Florida 33701

Subject: Notice of Receipt of a Complete Package from the State of Florida Requesting to Assume Administration of a CWA Section 404 Program

Dear Mr. Oliver and Dr. Crabtree:

The U.S. Environmental Protection Agency is hereby providing notice that on August 20, 2020, we received a complete package from the State of Florida requesting to assume administration of a Clean Water Act (CWA) Section 404 program. With this letter, we are including a copy of the State's submission for your review and invite your comments on Florida's proposed program's consistency with the CWA.

The Clean Water Act (CWA) established the Section 404 permit program, under which the U.S. Army Corps of Engineers (Corps) may issue permits for the discharge of dredged or fill material into "waters of the United States" as identified in the CWA. Section 404(g)(1) of the CWA provides states and tribes the option of submitting to the United States Environmental Protection Agency (EPA) a request to assume administration of a CWA Section 404 program in certain waters within state or tribal jurisdiction.

To assume the Section 404 program, a state or tribe must have authority to administer a permit program that regulates discharges of dredged or fill material consistent with the requirements of the Clean Water Act and its implementing regulations at 40 CFR Part 233, and submit to the EPA a request to assume the program. To be eligible to assume administration of a CWA section 404 program, a state's or tribe's program must: (1) be at least as stringent as required by the CWA and its implementing regulations; (2) provide for sufficient public participation; (3) ensure compliance with the *Section 404(b)(l) Guidelines* (40 CFR Part 230), which provide environmental criteria for permit decisions; and (4) have adequate enforcement authority.

Any state that seeks to administer a Section 404 program under 40 CFR Part 233 shall submit to the EPA Regional Administrator: (a) a letter from the Governor of the state requesting program approval; (b) a complete program description, as set forth in 40 CFR § 233.11; (c) an Attorney General's statement, or a statement from the attorney for those state or interstate agencies which have independent legal counsel, as set forth in 40 CFR § 233.12; (d) a Memorandum of Agreement with the EPA Regional Administrator, as set forth in 40 CFR § 233.13; (e) a Memorandum of Agreement with the Secretary of the Army, as set forth in 40 CFR § 233.14; and (f) copies of all applicable state statutes and regulations, including those governing applicable state administrative procedures.

The EPA's receipt of the request by the State of Florida triggered the EPA's statutory review. The EPA has reviewed the State of Florida's submission and consistent with 40 CFR §233.15 has determined that it is a complete request that meets the submittal requirements of 40 CFR § 233.10. The EPA will approve or disapprove the program on or before December 17, 2020. The EPA is also publishing notice of Florida's submission in the Federal Register.

With this letter, the EPA is inviting your comments on Florida's program. The link [HYPERLINK \h] provides a copy of Florida's submittal, which includes the following components: a letter from Florida Governor Ron DeSantis requesting program approval; a complete program description; Florida DEP General Counsel Justin G. Wolfe's statement; a Memorandum of Agreement with the EPA Regional Administrator; a Memorandum of Agreement with the Secretary of the Army; and copies of all applicable Florida statutes and regulations, including those governing applicable Florida administrative procedures. In case of any technical difficulties, please let us know and we will provide the documents via an alternative mechanism. The regulations at 40 C.F.R. § 233.15(f) provide for the submission of written agency comments from the Corps, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to the EPA within 90 days. Accordingly, we request that you submit your comments by no later than November 17, 2020.

If you have any questions regarding this matter, please do not hesitate to call me at (404) 562-9345 or have a member of your staff contact Mr. Kelly Laycock of my staff at (404) 562-4045 or 404Assumption-FL@epa.gov.

Sincerely,

Jeaneanne M. Gettle, Director
Water Division