

**DEPARTMENT OF ENVIRONMENTAL  
PROTECTION AND NORTHWEST FLORIDA  
WATER MANAGEMENT DISTRICT  
ENVIRONMENTAL RESOURCE PERMIT  
APPLICANT'S HANDBOOK**

**VOLUME I  
(GENERAL & ENVIRONMENTAL)**

**FOR USE WITHIN THE GEOGRAPHIC LIMITS OF THE  
NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT**

**[EFFECTIVE DATE] October 1, 2007**



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## PART I -- BACKGROUND AND PROCEDURES

### 1.0 Introduction

#### 1.1 Overview of Handbook

This Handbook consists of two volumes that explain and provide detail on the environmental resource permit (ERP) rule criteria and procedures for processing applications and taking agency action on activities regulated under Chapters 62-341 and 62-346 of the Florida Administrative Code (F.A.C.), within the geographical area of the Northwest Florida Water Management District (NFWFMD). In cases where the information in this Handbook conflicts with the provisions in Chapters 62-341 or 62-346, F.A.C., the provisions in those rule chapters will control.

~~The ERP rules under Chapter 62-346, F.A.C., are authorized under Section 373.4145(1)(a), F.S., which provides the authority for the Department and NFWFMD to regulate stormwater management systems as the first phase of a comprehensive ERP regulatory program within the geographical area of the NFWFMD. For this reason, the Section 373.4145(1)(a), F.S. rules are referred to herein as the "Phase I rules." The second phase rules are authorized under Section 373.4145(1)(b), F.S., and cannot become effective any sooner than January 1, 2008. Those rules, which will be referred to herein as the "Phase II rules," will regulate surface water management systems, including dredging and filling in wetlands and other surface waters, including isolated wetlands. The two volumes of this handbook will be amended during development of the Phase II rules.~~

**Applicant's Handbook This Volume I** is applicable to all ERP applications stormwater management systems regulated under Phase I. It provides:

- General background information on the ERP program, including points of contact;
- A summary of the statutes and rules that are used to authorize and implement the ERP program;
- A summary of the types of activities that are regulated by the ERP program;
- A summary of the types of permits, permit thresholds, and exemptions;
- A discussion of the procedures used in the review of ERPs;
- A discussion of the required conditions for issuance of an ERP, including a discussion of the environmental criteria that are used for activities located in wetlands and other surface waters;
- A discussion of erosion and sediment control practices to prevent water quality violations;
- A discussion of operation and maintenance requirements; and
- Copies of maps used in implementing the provisions of the ERP program.

**Applicant's Handbook Volume II** (Design Requirements for Stormwater ~~Treatment and Management Systems~~ — Water Quality and Water Quantity) is applicable only to ~~those~~ stormwater management systems that require a design by a registered professional and incorporation of performance standards necessary to meet certain water quality, water quantity, and general design criteria, as established in that Volume. ~~an individual permit under Chapter 62-346, F.A.C.~~ Activities that do not involve engineered stormwater management systems, such as the construction of an individual single-family residence, duplex, triplex, or quadruplex that is not part of a larger plan of development, construction of "stand-alone" private seawalls and docks, "stand-alone, in-water" types of activities such as installation of channel markers and buoys, and activities that qualify for an exemption (as provided in Rule 62-346.051, F.A.C., and discussed in **sections 3.4 through 3.4.2.8 of this Volume**) or a noticed general permit (as provided in Chapter

62-341, F.A.C., and discussed in **section 3.2.1 of this Volume**) generally do not have to meet the provisions in **Applicant's Handbook Volume II**. An "engineered stormwater management system" is defined in Rule 62-346.030, F.A.C., as "a stormwater management system that requires a design by a registered professional and incorporation of performance standards necessary to meet the water quality, water quantity, and general design criteria established in Applicant's Handbook Volume II."

Both volumes of this Handbook are incorporated by reference in Rule 62-346.091, F.A.C., and are therefore a rule of the Department. The rules adopted pursuant to Section 373.4145, F.S., may be implemented by the NFWFMD (also called "District") without further rule adoption by the NFWFMD under Section 120.54, F.S. When implemented by the NFWFMD, the term "Department" shall mean "NFWFMD" or "District," and references to Department offices shall mean references to district offices of the NFWFMD.

Until the effective date of the Phase II rules, the criteria and procedures in this Handbook and in Chapter 62-346, F.A.C., are limited to the rules authorized under Section 373.4145(1)(a), F.S., which regulate the construction, operation, alteration, maintenance, abandonment, and removal of stormwater management systems. Until the Phase II rules become effective, any dredging or filling in surface waters of the state, as defined in Rule 62-312.030, F.A.C., that does not qualify for an exemption under Rule 62-346.051, F.A.C., or a noticed general permit under Chapter 62-341, F.A.C., must be authorized under Chapter 62-312, F.A.C., in addition to any permits required under Chapter 62-346, F.A.C. Additional information on noticed general permits and exemptions is contained in **sections 3.2.1 and 3.4 through 3.4.2.8 of this Volume**.

This Handbook ~~does not apply~~ is not applicable to applications under Chapters 62-25 or 62-312, F.A.C.

## 1.2 Contacts and Division of Responsibilities

The Department of Environmental Protection and the NFWFMD have executed an Operating Agreement that divides responsibilities for reviewing and taking agency action ~~based on different types of project activity~~ activities types. Applications, notices, and inquiries must be sent to the agency that is responsible for the type of activity that is proposed. A copy of the Operating Agreement is in Appendix A.

The geographic limits and office responsibilities of the Department's Northwest District and branch offices and of the NFWFMD are shown in **Figures 1A and 1B**. The boundary of the Department's Northwest District corresponds to that of the NFWFMD. Section 373.069(2)(a), F.S., contains a legal description of the boundary of the NFWFMD. Staff in the offices shown in **Figures 1A and 1B** may be contacted for additional information regarding:

- Submittal of ~~stormwater management~~ applications for ERP activities that are the responsibility of the Department or NFWFMD under the Operating Agreement;
- Questions about permit requirements, and submittal and processing procedures;
- Assistance in interpreting the ERP stormwater management rules, or completing an application;
- Complaints related to potential violations under Part IV of Chapter 373, F.S.

## 1.3 Relationship to Other Governmental Entities

Permits required under Chapter 62-346, F.A.C., and this Handbook are in addition to, and are not superseded by other state, federal, or local requirements. Persons are advised to obtain all

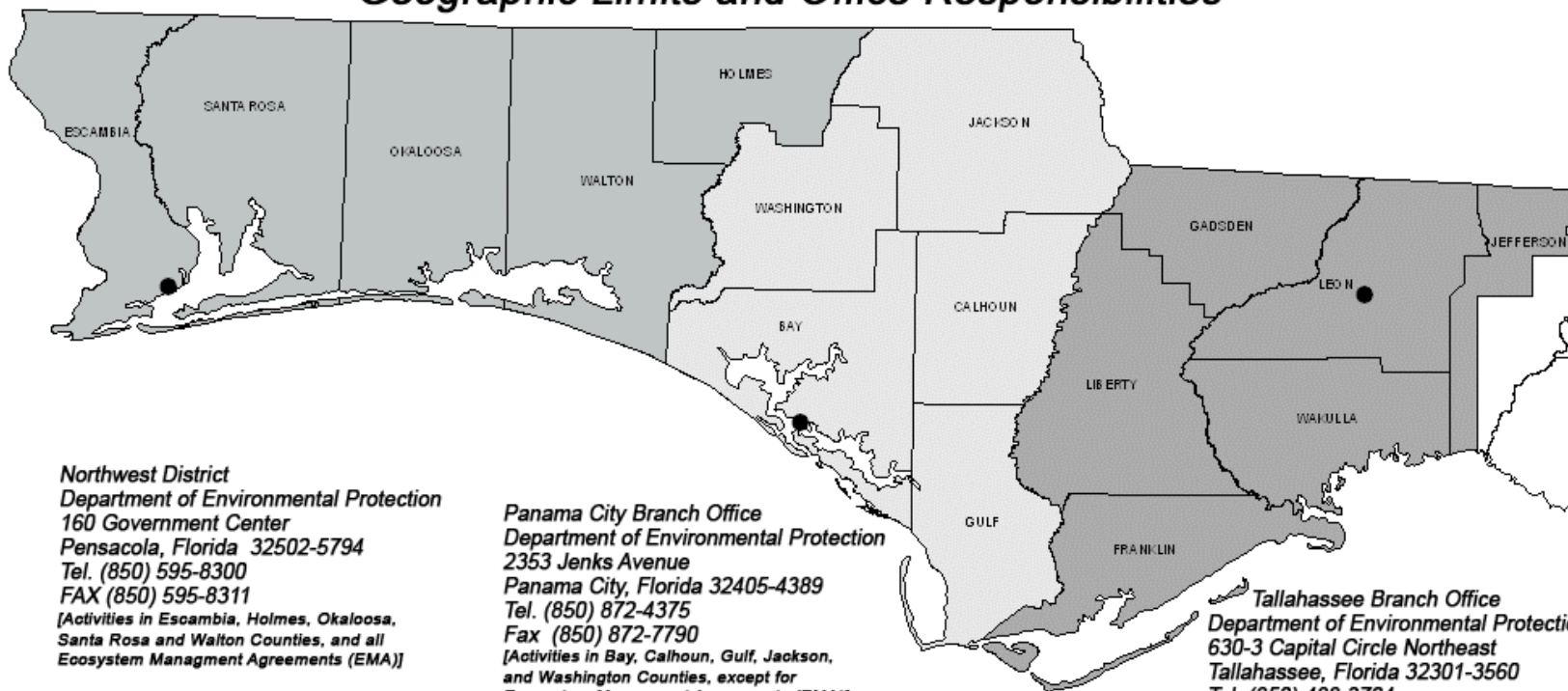
authorizations that are required from other governmental entities. ~~To the extent authorizations are required from other governmental entities, persons are advised to obtain such authorization prior to proceeding with activities authorized under the ERP program.~~

### **1.3.1 Joint Application, Water Quality Certification, and Coastal Zone Consistency Concurrence**

An Operating Agreement Between the U.S. Army Corps of Engineers, the Florida Department of Environmental Protection, and the Water Management District executed on November 30, 1998 (accessible at: [http://www.dep.state.fl.us/water/wetlands/erp/corps\\_op\\_ag.htm](http://www.dep.state.fl.us/water/wetlands/erp/corps_op_ag.htm)) serves to coordinate the permitting, compliance, and enforcement of activities that are regulated under Part IV of Chapter 373, F.S., and that require a federal dredge and fill permit under Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act of 1899, or Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972. Among other things this agreement:

- (a) Provides the process by which the Department, water management districts, and the U.S. Army Corps of Engineers (USACE) will use a joint application to facilitate submittal of applications that require a permit under Part IV of Chapter 373, F.S., and a federal dredge and fill permit. The agreement further provides that the Department will be a lead agency to receive ERP applications, and that such applications will be forwarded to the USACE within five days of receipt (except as may be provided in a future State Programmatic General Permit — see section 1.3.2, below). In this way, applicants will not be required to submit separate applications to the Department and the USACE for the USACE to begin processing any required federal dredge and fill permit. Applicants should be advised that many activities require both a state and federal permit, and that work should not commence without all applicable state, federal, and local authorizations.
- (b) Establishes that issuance of an ERP permit (including noticed general permits) shall also constitute a water quality certification or waiver thereto under Public Law 92-500 of the Clean Water Act. Any required federal dredge and fill permit cannot be issued without a state water quality certification or waiver thereto. The state water quality certification has been affirmatively waived for activities that are exempt from the need for an ERP permit. See <http://www.dep.state.fl.us/water/wetlands/erp/fwqc.htm> for additional information.
- (c) Establishes that issuance of the ERP permit (including noticed general permits) in coastal counties shall also constitute a finding of consistency or waiver thereto of the State's statutory authorities under Florida's federally approved coastal zone management program. Any required federal dredge and fill permit cannot be issued without applicable coastal zone consistency concurrence or waiver thereto. Coastal zone consistency concurrence has been affirmatively waived for activities in coastal counties that are exempt from the need for an ERP permit.

**Figure 1A:  
Florida Department of Environmental Protection Northwest District  
Geographic Limits and Office Responsibilities**



**Northwest District**  
 Department of Environmental Protection  
 160 Government Center  
 Pensacola, Florida 32502-5794  
 Tel. (850) 595-8300  
 FAX (850) 595-8311  
 [Activities in Escambia, Holmes, Okaloosa,  
 Santa Rosa and Walton Counties, and all  
 Ecosystem Management Agreements (EMA)]

**Panama City Branch Office**  
 Department of Environmental Protection  
 2353 Jenks Avenue  
 Panama City, Florida 32405-4389  
 Tel. (850) 872-4375  
 Fax (850) 872-7790  
 [Activities in Bay, Calhoun, Gulf, Jackson,  
 and Washington Counties, except for  
 Ecosystem Management Agreements (EMA)]

**Tallahassee Branch Office**  
 Department of Environmental Protection  
 630-3 Capital Circle Northeast  
 Tallahassee, Florida 32301-3560  
 Tel. (850) 488-3704  
 Fax (850) 922-3620  
 [Activities in Franklin, Gadsden,  
 Jefferson, Leon, Liberty, and Wakulla  
 Counties, except for Ecosystem  
 Management Agreements(EMA)].

**Additional Office information Listed below**

**Bureau of Mining and Mineral Regulation**  
 Department of Environmental Protection  
 2051 E. Paul Dirac Drive (Collins Building)  
 Tallahassee, FL 32310-3760  
 Tel. (850) 488-8217  
 FAX (850) 488-1254  
 (For applications for mines as defined  
 in 62-346.030(27), F.A.C.)

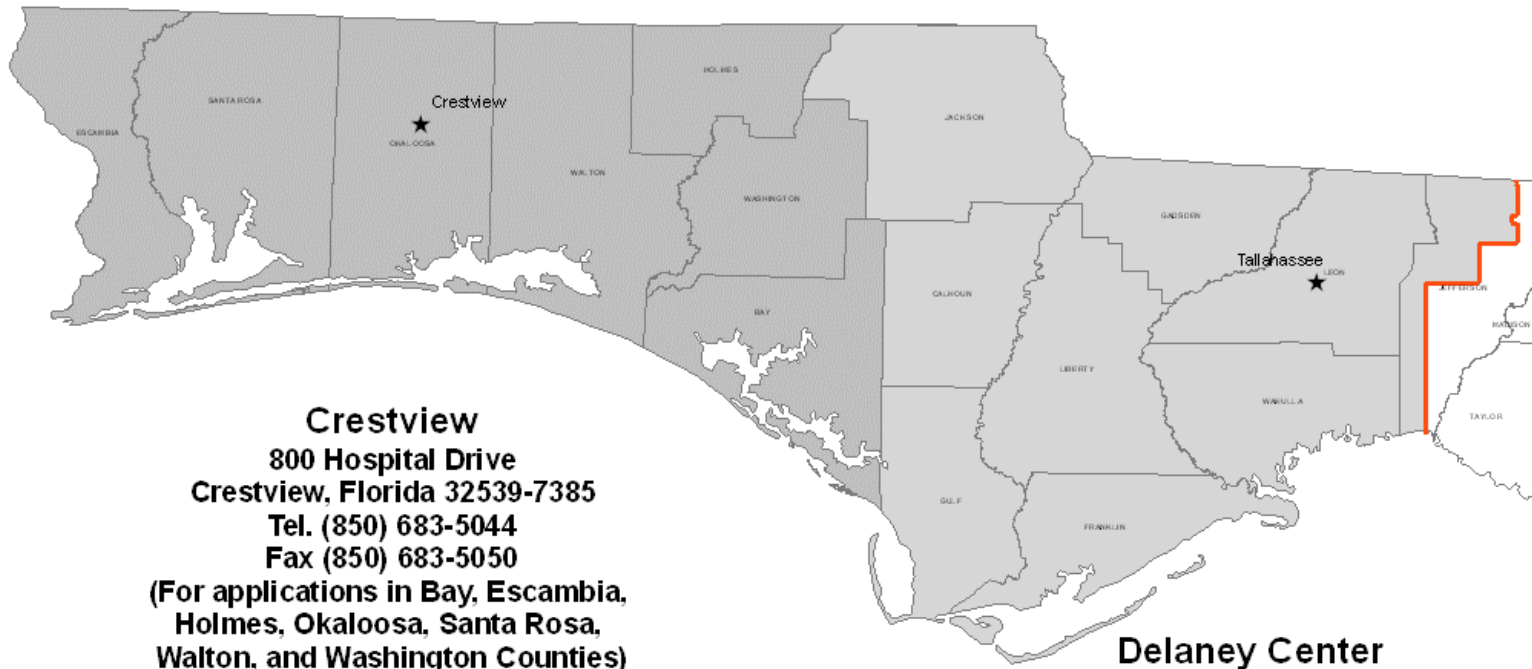
**Bureau of Beaches and Coastal Systems**  
 3900 Commonwealth Blvd MS 300  
 Tallahassee, FL 32399-3000  
 Tel. (850) 922-7881  
 FAX (850) 488-5257  
 (Activities that affect the movement of sand along natural, sandy  
 beaches along the Atlantic or Gulf coasts, e.g., beach restoration,  
 beach nourishment, inlet dredging with sand bypassing, jetties,  
 groins, breakwaters, and revetments that extend into the water.  
 Navigational dredging for deepwater ports.)

**Office of Submerged Lands and Environmental Resources**  
 Department of Environmental Protection  
 2600 Blair Stone Road, MS 2500  
 Tallahassee, FL 32399-2400  
 Tel. (850) 488-8474  
 FAX (850) 488-8499  
 (For Petitions for Formal Determinations  
 and Mitigation Banks)



**Figure 1B:  
Northwest Florida Water Management District Geographic Limits  
and Office Responsibilities**

*Note: Electronic applications can be submitted to the NFWMD via the web. Paper applications can be submitted to the office covering the geographic area in which the project is located.*



**Crestview**  
800 Hospital Drive  
Crestview, Florida 32539-7385  
Tel. (850) 683-5044  
Fax (850) 683-5050  
(For applications in Bay, Escambia,  
Holmes, Okaloosa, Santa Rosa,  
Walton, and Washington Counties)

**Delaney Center**  
2252 Killearn Center Blvd, Suite 2D  
Tallahassee, Florida 32309-3573  
Tel. (850) 921-2986  
Fax (850) 921-3082  
(For applications in Calhoun, Franklin, Gadsden,  
Gulf, Jackson, Jefferson, Leon, Liberty, Wakulla)

### 1.3.2 State Programmatic General Permit

The USACE has issued the Department a State Programmatic General Permit (SPGP) that enables the Department to issue required federal dredge and fill permits for certain activities as part of the processing of the associated ERP permit. This provides streamlining by enabling the Department and NFWMD to provide both the authorization required under Part IV of Chapter 373, F.S., and the federal dredge a fill permit under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

### 1.3.3 1.4 Relationship to National Pollutant Discharge Elimination System (NPDES) Permit Program

In October of 2000, the U.S. Environmental Protection Agency authorized the Department to implement the National Pollutant Discharge Elimination System (NPDES) stormwater permitting program. However, the NPDES stormwater permitting program is a separate federal permit that is not linked to the state ERP surface water/stormwater management permit required under Chapter 62-346, F.A.C.. Therefore, applicants are advised to obtain *both* any required NPDES and ERP prior to construction. The following construction activities are subject to NPDES stormwater permitting, as set forth in Section 403.0885, F.S. (see <http://www.dep.state.fl.us/water/stormwater/npdes/index.htm>): ~~In October of 2000, the U.S. Environmental Protection Agency authorized the Department to implement the National Pollutant Discharge Elimination System (NPDES) stormwater permitting program. The program regulates all construction activities that:~~

- (a) ~~Contribution of~~ Contribute stormwater discharges to surface waters of the State or into a municipal separate storm sewer system (MS4); and ~~or~~
- (b) Disturbance of one or more acres of land. Less than one acre also is included if the activity is part of a larger common plan of development or sale that will exceed the one-acre threshold. Disturbance includes clearing, grading, and excavating.

Sediment and erosion control measures related to construction activities are a critical component to both the ERP and NPDES permit programs, although the permit required under the Department's NPDES stormwater permitting program is separate from the ~~stormwater management~~ permit required under Chapter 62-346, F.A.C. In addition to obtaining applicable permits under Chapters 62-341 or 62-346, F.A.C., the operator of a regulated construction site that meets the above thresholds must obtain a separate NPDES stormwater permit, and must implement appropriate pollution prevention techniques to minimize erosion and sedimentation and properly manage stormwater discharges. For NPDES purposes, ~~the~~ Department has adopted a Generic Permit for Construction Activities in paragraph 62-621.300(4)(a), F.A.C. Coverage under the Generic Permit for Construction Activities may be obtained electronically using the Department's Interactive Notice of Intent (iNOI) available at <http://www.dep.state.fl.us/water/stormwater/npdes/index.htm>. As an alternative, notices may be submitted by paper copy ~~by filling out a Notice of Intent (NOI) to use the Generic Permit and filing the NOI,~~ along with the appropriate application fee to the Department's Notice Processing Center in Tallahassee. See the Department's NPDES Internet site at: <http://www.dep.state.fl.us/water/stormwater/npdes/index.htm> for the address of that processing center and for additional information on the NPDES program. Additional information on the NPDES program ~~also~~ is found in Part IV of this Volume and may be obtained from any Department office.

### **1.3.4 Linkage with State-owned Submerged Lands Authorizations**

Activities located on state-owned submerged lands require an authorization to use such lands from the Board of Trustees of the Internal Improvement Trust Fund under Chapter 253, F.S., in addition to any required regulatory permit under Part IV of Chapter 373, F.S. State-owned submerged lands include those lands, generally lying beneath the Gulf of Mexico, rivers, streams, lakes, bays, bayous, and sounds, that were conveyed to the State of Florida from the Federal government at the time Florida acquired statehood in 1845. These are also referred to as “sovereignty submerged lands.” The state also has title to other submerged lands that were not acquired at statehood, and therefore are not “sovereignty submerged lands.” Authorization to use both kinds of lands is required from the Board of Trustees.

The joint application form adopted as Form 62-346.900(1), includes an application for a permit under Part IV of Chapter 373, F.S., as well as a request for authorization to use state-owned submerged lands, when such lands are involved; applicants are not required to submit a separate application for such authorization. Upon receipt of the joint application, staff will initially examine the application to determine the potential that such state-owned submerged lands are involved. Where necessary, staff will request a title determination from the Department’s Division of State Lands. If it is determined that the activity will involve state-owned submerged lands, authorization from the Board of Trustees will be required prior to any use or construction on such lands. The Department serves as staff to the Board of Trustees, and will be the agency who will review and process the application to use state-owned submerged lands on behalf of the Board of Trustees. The Department has delegated authority from the Board to approve or deny most projects, but for some types of projects, the final decision to approve or deny the state-owned submerged lands authorization rests with the Governor and Cabinet, who serve as the Board of Trustees (see Rule 18-21.0051, F.A.C., October 27, 2005)

In accordance with Section 373.427, F.S., the approval or denial of an individually processed ERP application is linked with the approval or denial of any required state-owned submerged lands application. This process is described in detail in Rules 62-346.075 and 18-21.00401, F.A.C. (February 25, 1985). Under this process, activities that require an individually-processed ERP cannot become complete until all related, required state-owned submerged lands information has been submitted as part of the permit application. In addition, the ERP permit cannot be issued unless a determination has been made that the related state-owned submerged lands application also can be issued. In other words, in cases where an activity meets all the requirements for issuance of an ERP, but does not meet all the requirements for issuance of the state-owned submerged lands authorization, the ERP must be denied. Conversely, if the activity meets all the state-owned submerged lands requirements, but does not meet the conditions for issuance of the ERP, the state-owned submerged lands application will be denied.

Activities that qualify for a noticed general ERP permit or that are exempt from needing an individual ERP permit are not linked. In such cases, even though an activity may be authorized by the noticed general permit or an exemption, construction, alteration, modification, maintenance, operation, abandonment, or removal of an activity should not commence until the required state-owned submerged lands authorization also has been granted.

## **1.4 1.5 Statutes and Rules**

### **1.4.1 1.5.1 Statutes**

The ~~ERP stormwater management~~ program covered by this Handbook is authorized under Section 373.4145(1)(a), F.S., and is additionally governed by certain provisions in the following Florida Statutes (F.S.):

- Chapter 120, F.S. (Administrative Procedures Act)
- Chapter 373, F.S. (Water Resources)
- Chapter 403, F.S. (Environmental Control)

Copies of these statutes are available on the Internet web at: <http://www.leg.state.fl.us/Statutes/index.cfm?Tab=statutes&submenu=1> and from any office of the Department or NFWFMD.

### **1.4.2 1.5.2 Rules**

The Department has adopted the following rules in the Florida Administrative Code to implement the ERP program:

- Chapter 62-341 (Noticed General Environmental Resource Permits) — provides for permits that are pre-issued for specified activities that have been determined by rule to have minimal individual and cumulative impact. An activity that complies with all the requirements for a noticed general permit is not required to obtain an individual permit under Chapter 62-346, F.A.C., but must provide written notice prior to undertaking the activity in accordance with paragraph 62-346.070(2)(b), F.A.C., and **sections 4.4 through 4.4.3.2 4.4.4.2 of this Volume**, which will be evaluated in accordance with subsection 62-346.090(1), F.A.C., and **sections 5.3 through 5.3.3 of this Volume**. ~~Until the adoption of the Phase II rules, applicants may alternatively qualify for and use the general permits in Part V of Chapter 62-312, F.A.C., instead of the noticed general permits in Chapter 62-341, F.A.C.;~~
- Chapter 62-344 (Delegation of the Environmental Resource Permit Program to Local Governments) — provides procedures for delegating all or a portion of the ERP program to qualified local governments; and
- Chapter 62-346 (Environmental Resource Permitting in Northwest Florida) — establishes procedures and criteria that must be met to obtain a permit, identifies activities that do not require a permit, and adopts Applicant's Handbook Volumes I and II by reference.

The following additional rules in the Florida Administrative Code are related to the implementation of the above rules:

- ~~Chapters Title 28-103 through 28-108, F.A.C., Administrative Commission (Uniform Rules)~~ — provides uniform rules of procedure for all state agencies regarding activities such as rulemaking, processing of variances, administrative hearings, mediation, and licensing. Many ~~Some~~ of these uniform procedures have been superseded by Department specific procedures in Chapter 62-110, F.A.C.

- Chapter 62-4 (Permits) — the portions of this chapter that are most commonly applicable to the ERP program are Rule 62-4.242, F.A.C., which provides antidegradation requirements and requirements for activities located in Outstanding Florida Waters, and Rule 62-4.244, F.A.C., which provides criteria for mixing zones.
- Chapter 62-25 (Regulation of Stormwater Discharge) — applicable for stormwater systems that qualify for grandfathering under Section 373.4145(6), F.S. Systems constructed under Chapter 62-25, F.A.C., are authorized to be operated for the life of the system, and routine custodial maintenance may be conducted under such systems without a permit under Chapter 62-346, F.A.C., for the life of the system, provided the terms and conditions of the permit, exemption, or other authorization under Chapter 62-25, F.A.C., continue to be met, and provided the work is conducted in a manner that does not cause violations of water quality standards. However, if the system is altered, modified, expanded, abandoned, or removed, that activity will be regulated under Chapter 62-346, F.A.C.
- Chapter 62-40 (Water Resource Implementation Rule) — provides water resource implementation goals, objectives, and guidance relating to water resources. This includes guiding principles for stormwater and surface water management programs (including the basis for minimum design criteria for the stormwater management systems), flood protection, natural systems protection and management, minimum flows and levels, and protection measures for surface water resources (including the goals for implementation of erosion and sediment control measures).
- Chapter 62-110 (Exceptions to the Uniform Rules of Procedure) — provides exceptions to the ~~procedures~~ ~~Uniform Rules of Procedure~~ in Chapters 28-103 ~~through 28-107~~, F.A.C., that are specific to the Department of Environmental Protection. This addresses requirements for such things as the content and processing of petitions for variances and agency decisions that may affect persons, including noticing of receipts of application, noticing of intended agency action, and time frames for making licensing decisions.
- Chapter 62-302 (Surface Water Quality Standards) — provides the State’s numeric and narrative water quality standards criteria for surface waters, lists the classes of waters in Florida, and lists waters that are designated as Outstanding Florida Waters.
- Chapter 62-312 (Dredge and Fill Activities) — establishes procedures and criteria that must be met to obtain a permit, and identifies activities that do not require a permit, for dredging and filling activities in surface waters of the state (as defined in Rule 62-312.030, F.A.C.). This chapter is only applicable to activities that are “grandfathered” in accordance with Section 373.4145(6), F.S. Until the effective date of the Phase II rules, a separate dredge and fill permit may be required under Chapter 62-312, F.A.C., for any portion of a stormwater management system that involves dredging and filling in surface waters of the state.
- Chapter 62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters) — provides the procedures and methodology used by all state and local government agencies in Florida to delineate the landward extent of wetlands and other surface waters.
- Chapter 62-345 (Uniform Wetland Mitigation Assessment Method) — provides a uniform methodology for determining the amount of mitigation required to offset otherwise unpermissible adverse impacts to wetlands and other surface waters, and the amount of mitigation bank credits to be awarded or deducted from a mitigation bank. In accordance with

Section 373.414(18), F.S., this shall be the sole methodology to be used. This rule does not assess whether the adverse impacts meet other criteria for issuance of a permit nor the extent that such impacts may be approved. ~~Those determinations are made in accordance with Chapter 62-312, F.A.C., until the effective date of the Phase II rules.~~

- Chapter 62-520 (Ground Water Classes, Standards, and Exemptions)
- Chapter 62-522 (Ground Water Permitting and Monitoring Requirements)
- Chapter 62-532 (Water Well Permitting and Construction Requirements)
- Chapter 62-550 (Drinking Water Standards, Monitoring, and Reporting)
- Chapter 62-555 (Permitting, Construction, Operation, and Maintenance of Public Water Systems)
- Chapter 62-621 (NPDES Generic Permits)
- Chapter 40A-2 (as amended February 27, 2006, Regulation of Consumptive Uses of Water) — rules of the NFWFMD that provide the regulatory requirements covering withdrawals, reservations, and other uses of water.
- Chapter 40A-4 (as amended March 2, 2000, Management and Storage of Surface Waters) — rules of the NFWFMD that provides the permitting requirements primarily for dam safety.
- Chapter 40A-6 (as amended March 2, 2000, Works of the District) — rules of the NFWFMD that provides the permitting requirements for activities that withdraw water from, discharge to, are located on, or otherwise utilize a Works of the NFWFMD; primarily certain lands within Megginis Creek-Megginis Arm in Leon County.
- Chapter 40A-44 (as amended July 1, 1998, Regulation of Agricultural and Forestry Surface Water Management Projects) — rules of the NFWFMD that provides the permitting requirements for agriculture and silviculture activities that do not qualify for the exemptions in Section 373.406, F.S.

Copies of these rules are available on the Internet at: <http://www.dep.state.fl.us/legal/Rules/rulelistnum.htm>, at <http://fac.dos.state.fl.us/faconline/chapter62.pdf>, at <http://www.nwfwmd.state.fl.us>, and from any office of the Department's Northwest District.

## **1.5 Administrative Criteria**

### **1.5.1 Ownership and Control**

- (a) In accordance with subsection 62-346.070(3) and paragraph 62-346.301(1)(h), F.A.C., an applicant must provide reasonable assurance that permitted activities will be conducted by an entity with 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. Compliance with this requirement must be demonstrated through the provisions in paragraph 62-346.070(3)(a), F.A.C., and, as applicable, 62-346.070(3)(b) through (d), F.A.C., the certification required in the Form 62-346.900(1), "Joint Application for Environmental Resource Permit / Authorization to Use State-Owned Submerged Lands /

Federal Dredge and Fill Permit in Northwest Florida, Permit in Northwest Florida,” and the provisions of **section 12 of this Handbook.**

- (b) Applicants must provide staff of the Department or NFWMD access to enter onto, inspect, and conduct sampling of the site that is subject to the application. In the event the applicant does not have fee simple ownership or an easement over such lands, the applicant must supply the Department with written authorization from the owner or easement holder, or secure other means for staff to enter onto, inspect, and conduct sampling of the site in a manner that prevents trespass.
- (c) Persons requesting activities on state-owned submerged land must submit satisfactory evidence of sufficient upland interest in accordance with paragraph 18-21.004(3)(b), F.A.C. (April 14, 2008). Such applicants are advised that necessary consent, lease, easement, or other form of authorization as required under the authority of Chapter 253 and, as applicable, Chapter 258, F.S., and the rules adopted thereunder is required prior to initiating such activities.

### **1.5.2 Phased Projects**

Projects that are to be developed in phases will normally require the submission of a master plan of the applicant's contiguous land holdings. The primary concerns of the Department are to ensure continuity between phases, satisfactory completion of individual phases should the project not be completed as planned, and protection of adjacent property owners' rights. This includes adjacent property owners created by the sale of incomplete phases. An application for a conceptual permit encompassing the total master plan should be submitted first. An application for a construction permit for the first phase may also be included as a part of the initial application. Applications for phases of a project for which no conceptual permit has been obtained may be considered only when each phase can be constructed, operated, and maintained totally independent of the future phases, and, an overall plan for the full build out is submitted with the application, including an overall schedule for implementing the plan and identification of any future lands that may need to implement the future phases.

### **1.5.3 Land Use Considerations**

The proposed land use to be served by a surface water management system for which an ERP is requested is not required to be consistent with the affected local government's comprehensive plan or existing zoning for the site. However, it is strongly recommended that an applicant obtain the necessary land use approvals from the affected local government prior to permit application, since these approvals often contain conditions which impact the overall project design and, hence, the type of surface water management system design which is proposed. By obtaining these local government approvals first, the applicant can reduce or eliminate the need for subsequent permit modifications which may be necessary as a result of conditions imposed by the local government.

Should these local land use approvals be obtained subsequent to the issuance of the Environmental Resource Permit, the applicant should be aware that a permit modification may be necessary prior to initiation of construction. Due to the amount of time which may be involved in processing such a modification, the applicant is encouraged to initiate an application for modification as soon as possible in order to prevent construction delays.

### **1.5.4 Water and Wastewater Service**

~~Potable water and wastewater facilities must be identified.~~ The applicant for an Environmental Resource Permit must provide information on how utilities, such as wells, sewage treatment or disposal (including septic tanks), lift station wet wells, and sewage force mains within the project area may affect any stormwater treatment and conveyance system, and whether activities to install or alter utility services may involve any work in wetlands or other surface waters, or any work that may affect surface water flows on or off-site, such as through the creation of temporary dikes and trenches during the installation of utility pipes and lines. ~~these services are to be provided~~ Include ~~including~~ the status of any existing or proposed water use permit, if applicable. If wastewater disposal is accomplished on-site, additional information will normally be requested regarding separation of wastewater and storm water systems.

### **1.5.5 Water Management Areas**

Such areas shall be shown on construction plans and, when appropriate, legally reserved for that purpose by dedication on the plat and protected through deed restrictions, easements, or other binding covenants so that subsequent owners or others may not remove such areas from their permitted use. Management areas, including maintenance easements, shall be connected to a public road or other location from which operation and maintenance access is legally and physically available. Impervious areas designed for purposes such as roads, parking lots, sidewalks, or public access shall not be used as water management areas if the level or duration of standing or flowing water on these areas is a potential risk to vehicular traffic or pedestrian use.



## **2.0 Definitions and Terms**

Definitions and terms used in this **Handbook** are provided in Rules 62-341.021 and 62-346.030, F.A.C., ~~and~~ in Appendix B of this Volume, and in Chapters 373 and 403, F.S.

### 3.0 Activities Regulated Under Chapters 62-341 and 62-346, F.A.C.

#### 3.1 Date of Implementation

~~The ERP program within the geographical extent of the NFWFMD (the “Panhandle”) was implemented in two phases. Phase 1, which was limited to the regulation of Chapter 62-346, F.A.C., and the Applicant’s Handbook Volumes I and II implementing the Phase I stormwater management systems, regulatory program within the geographical extent of the NFWFMD became effective on October 1, 2007. Phase 2, which added regulation of all surface water management systems, including dredging and filling, (including which includes construction), in, on or over wetlands (including isolated wetlands) and other surface waters, of the state became effective on [effective date of rule], as defined in Rule 62-312.030, F.A.C., shall require applicable separate permits under Chapter 62-312, F.A.C. Activities “grandfathered” under Section 373.4145(6), F.S., as discussed in section 3.4.1, below, shall continue to be subject to Chapter 62-25 or 62-312, F.A.C., as applicable, and are not regulated under Chapter 62-346, F.A.C., and this Handbook.~~

#### 3.2 Permits Required

Subsection 62-346.050(1), F.A.C., provides that a noticed general permit under Chapter 62-341, F.A.C., or an individual permit under Chapter 62-346, F.A.C., is required prior to the commencement of construction, alteration, operation, maintenance, removal, or abandonment of any surface water ~~stormwater~~ management system, including any dam, impoundment, reservoir, appurtenant work or works that is part of the surface water ~~stormwater~~ management system, when such systems do not meet the grandfathering provisions of Section 373.4145(6), F.S., or are not exempt under Sections 373.406, 373.4145(3), or 403.813, F.S., or Rule 62-346.051, F.A.C. The types of permits are described in **sections 3.2.1 through 3.3.6, below**. Activities that are grandfathered or exempt from permit requirements are discussed in **sections 3.4 through 3.4.3.7 3.4.2.8, below**.

~~Until the Phase II rules authorized take effect, the term “surface water management system” shall be limited to stormwater management systems. A “stormwater management system” is defined in Section 373.403(10), F.S., to mean “A system that is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system.” Note that the word “construction” includes land clearing, earth-moving, and the erection of structures that will result in the creation of a system [see paragraph 62-346.030(9), F.A.C.]. This includes “works,” which are all artificial structures, such as canals, conduits, channels, culverts, pipes, and other construction that connects to, draws water from, drains water into, or is placed on or across the waters in the state [see Section 373.403(5), F.S., and Appendix B of this Volume].~~

##### 3.2.1 Noticed General Permits

~~Noticed general permits are pre-issued to~~ authorize specific activities described in Chapter 62-341, F.A.C. To qualify, a person must submit notice of intent to use a noticed general permit as described in subsection 62-346.070(2)(b), F.A.C., and **sections 4.4 through 4.4.3.2 4.4.4.2 of this Volume**. Activities that comply with all the general conditions of Rule 62-341.215, F.A.C., and all the specific limitations and conditions stated in the applicable noticed general permit may

commence 30 days after submittal of the notice of intent to the Department, unless the Department timely informs the person who submitted the notice that the activity does not qualify to use the noticed general permit, or where the conditions of the noticed general permit rule requires such written verification from the Department. Specific details on processing noticed general permits are contained in subsection 62-346.090(1), F.A.C., and **sections 5.3 through 5.3.3 of this Volume**. Notices to use a noticed general permit are not circulated for comments, but a copy of the notice is distributed to the USACE for separate federal dredge and fill permit review.

The following noticed general permits, adopted for use in Chapter 62-341, F.A.C., are applicable within the geographic limits of the NFWFMD:

- General Permit for Construction, Alteration or Maintenance of Boat Ramps and Associated Accessory Docks (Rule 62-341.417, F.A.C.).
- General Permit for Certain Piers and Associated Structures (Rule 62-341.427, F.A.C.)
- General Permit for Installation of Riprap (Rule 62-341.431, F.A.C.).
- General Permit for Installation of Fences (Rule 62-341.437, F.A.C.).
- General Permit for the Construction or Maintenance of Culverted Driveway or Roadway Crossings and Bridges of Artificial Waterways (Rule 62-341.439, F.A.C.).
- General Permit to the Florida Department of Transportation, Counties and Municipalities for Minor Bridge Alteration, Replacement, Maintenance and Operation (Rule 62-341.443, F.A.C.).
- General Permit to the Florida Department of Transportation, Counties and Municipalities for Minor Activities within Existing Rights-of-Way or Easements (Rule 62-341.447, F.A.C.).
- General Permit to Counties and Municipalities to Pave Existing County or Municipally Owned and Maintained Roads, including the Repair and Replacement of Bridges that are Part of the Roadway (Rule 62-341.448, F.A.C.).
- ~~General Permit to U.S. Army Corps of Engineers for Environmental Restoration or Enhancement Activities (Rule 62-341.486, F.A.C.)~~
- General Permit for Installation, Maintenance, Repair and Removal of Underground Cable, Conduit, or Pipeline (Rule 62-341.453, F.A.C.).
- General Permit for the Construction of Aerial Pipeline, Cable, and Conduit Crossings of Certain Waters (Rule 62-341.455, F.A.C.).
- General Permit for Subaqueous Utility Crossings of Artificial Waterways (Rule 62-341.457, F.A.C.).
- General Permit for Minor Activities (Rule 62-341.475, F.A.C.).
- General Permit to the Water Management Districts to Conduct Minor Activities (Rule 62-341.483, F.A.C.).

- General Permit to Water Management Districts for Environmental Restoration and Enhancement (Rule 62-341.485, F.A.C.).
- General Permit to U.S. Army Corps of Engineers for Environmental Restoration or Enhancement Activities (Rule 62-341.486, F.A.C.).
- General Permit to Water Management Districts to Change Operating Schedules for Department Water Control Structures (Rule 62-341.487, F.A.C.).
- Noticed General Permit for Raising the Height of Existing Earthen Embankments for Impoundments at Facilities for Mining Sand and Limestone (Rule 62-341.491, F.A.C.).
- Noticed General Permit for Prospecting (Rule 62-341.492, F.A.C.).
- General Permit for U.S. Forest Service for Minor Works within National Forests (Rule 62-341.495, F.A.C.).
- General Permit for Construction, Operation, Maintenance Alteration, Abandonment or Removal of Minor Silvicultural Surface Water Management Systems (Rule 62-341.500, F.A.C.).
- General Permit for the Construction of Artificial Reefs (see Rule 62-341.600, F.A.C.).
- General Permit for Installation and Maintenance of Intake and Discharge Pipes Associated with Marine Bivalve Facilities (Rule 62-341.602, F.A.C.).
- General Permit for Non-nursery Cultivation and Wild Collection of Aquatic Plants (Rule 62-341.603, F.A.C.).
- General permit for Low Water Crossings (Rule 62-341.612, F.A.C.).
- General Permit for the Construction and Maintenance of Electric Power Lines by Electric Utilities (Rule 62-341.620, F.A.C.).
- General permit for relocation of aerial electric and communication lines associated with road improvement projects (Rule 62-341.621, F.A.C.).

### 3.2.2 Individual Permits

In accordance with subsection 62-346.050(3), F.A.C., activities requiring a permit that do not qualify for a noticed general permit require an individual permit.

Conceptual approval permits are a type of individual permit (see Rule 62-346.060, F.A.C., and sections **3.3 through 3.3.6**, below, for additional information on conceptual approval permits).

Individual permits are subject to detailed site review and consideration of comments received during processing of the application. Fees for individual permits are determined per subsection paragraph 62-346.071(1)(a), F.A.C. Individual permits are processed in accordance with subsection 62-346.090(2), F.A.C., and **sections 5.2 through 5.2.4.4 5.2.4.5 of this Volume**.

**3.2.3** In accordance with Section 373.4132, F.S., an individual permit shall be required for the construction, alteration, operation, maintenance, abandonment, or removal of any dry storage facility for 10 or more vessels that is functionally associated with a boat launching area, including when the dry storage facility does not involve any work within the landward extent of wetlands and other surface waters of the state.

**3.2.4** The requirements to obtain a permit under Chapter 62-346, F.A.C., as described in this Volume, ~~applies apply~~ to any alteration, modification, expansion, abandonment, or removal of existing surface water stormwater management systems, whether previously permitted or exempted under Chapter 17-4.248, F.A.C., between March 1, 1979 and February 1, 1982, or Chapter 17-25, F.A.C. (which became Chapter 62-25, F.A.C., in 1994), after February 1, 1982.

### **3.2.5 Alteration, Maintenance or Repair, and Operation**

An understanding of the terms “alteration,” “maintenance or repair,” and “operation” is critical in understanding when a permit may be required whenever a system is maintained, repaired, altered, or operated under the permit requirements of **section 3.2, above**.

**3.2.5.1** “Alter” is defined in Section 373.403(7), F.S., to mean “to extend a dam or works beyond maintenance in its original condition, including changes that may increase or diminish the flow or storage of surface that may affect the safety of such dam or works.” The phrase “beyond maintenance in its original condition” includes activities such as:

- (a) Addition to an existing surface water stormwater management system;
- (b) Change of any part of an existing system to capacities or locations different from those originally constructed; or
- (c) Addition of, or changes to an existing surface water stormwater management system that will result in changes in the rate, volume, or timing of discharges from those authorized under the provisions of Chapter 62-346, F.A.C., or other permits previously issued by the Department or the NFWFMD.

**3.2.5.2** A permit ~~Permits~~ as described in **section 3.2, above**, ~~is are~~ required prior to the maintenance or repair, or alteration of an existing system. The term “maintain or repair” is defined in Section 373.403(8), F.S., as “remedial work of a nature as may affect the safety of any dam, impoundment, reservoir, or appurtenant work or works, but excludes routine custodial maintenance. Routine custodial maintenance is exempt from needing an ERP, as discussed in **section 3.4.3.4(b) 3.4.2.5(b), below**.

**3.2.5.3** All individual ERPs, except conceptual approval permits or unless otherwise specified in the rule, must be converted to an operation phase that extends for the life of the system after construction has been completed in conformance with the terms and conditions of the permit. Noticed general permits under Chapter 62-341, F.A.C, shall be considered converted to the operation and maintenance phase upon completion of construction in conformance with the terms and conditions of the general permit. The terms “operate” and “operation” mean “to cause or to allow a system to function.” The term also means a phase of an environmental resource permit authorizing the operation and maintenance of a surface water management system in accordance with the terms and conditions of the permit. A request for authorization to operate and maintain must be included in the application requesting authorization to construct or alter a system. If an application for authorization to alter, maintain, abandon, or remove an existing system or to operate

and maintain a alteration to an existing system is denied, such denial will not affect the applicant's right to the continued operation of the existing system. Additional information on operation of systems is contained in Rule 62-346.095, F.A.C., and Part V of this Volume.

~~3.2.6~~ The Department will not issue separate permits for parts of a system, except for a system that is to be constructed and operated in phases.

~~3.2.7~~ Applicants are advised that activities conducted under Chapters 62-341 or 62-346, F.A.C., that also involve or require the withdrawal of groundwater may require a consumptive use permit from the NFWMD under Chapters 40A-2 (February 27, 2006) and 40A-3, F.A.C. (March 2, 2000). Additional discussion on the consumptive use of water is contained in **section 3.4.3.1 3.4.2.1, below.**

~~3.2.7 3.2.8~~ Applicants are advised that alterations, repair or maintenance (other than routine custodial maintenance) of structures or works that were permitted stormwater management systems authorized under Chapters 62-25 or 62-312 62-346, F.A.C., requires a permit under Chapter 62-346, F.A.C., except where the activity can continue to be conducted under the Chapter 62-25 or 62-312, F.A.C., permit in accordance with Section 373.4145(6), F.S. that involve construction in, on, or over surface waters of the state (as defined in Rule 62-312.030, F.A.C.) may require separate authorization under Chapter 62-312, F.A.C.

### 3.3 Conceptual Approval Permits

A conceptual approval permit is a type of individual permit that is available to applicants, but not required. It is most useful for developments that will be occurring in phases over a long period of time or over a large land area. Conceptual approval permits are binding to the extent of the activity specified in the permit and subject to the provisions in Rule 62-346.060, F.A.C., and **sections 3.3.1 through 3.3.6, below.** ~~However, applications for conceptual approval permits cannot be submitted and will not be reviewed by the Department until the effective date of the Phase II rules.~~

**3.3.1** Issuance of a conceptual approval permit is a determination that the conceptual plans are, within the extent of detail provided in the conceptual approval permit application, consistent with applicable rules at the time of issuance. A conceptual approval permit provides the conceptual approval permit holder with assurance, during the duration of the conceptual approval permit, that the engineering and environmental concepts upon which the designs of the conceptual approval permit are based are (within the extent of detail provided in the conceptual approval permit) likely to meet applicable rule criteria for issuance of permits for subsequent phases of the project, provided:

- (a) There are no changes in the rules governing the conditions of issuance of permits for future phases of the project and the conceptual approval permit is not inconsistent with any Total Maximum Daily Load adopted pursuant to Rule 62-304, F.A.C., or Basin Management Action Plan pursuant to Section 403.067(7), F.S.; and
- (b) Applications for proposed future phase activities under the conceptual approval permit are consistent with the design and conditions of the issued conceptual approval permit. Primary areas for consistency comparisons include the size, location and extent of the system, type of activity, percent imperviousness, allowable discharge and points of discharge, location and extent of wetland and other surface water impacts and proposed mitigation plan (if required), control elevations, extent of stormwater reuse, and

detention/retention volumes. If an application for any subsequent phase activity is made that is not consistent with the terms and conditions of the conceptual approval permit and the conceptual approval permit is not modified to conform to the proposed activity, the conceptual approval permit will no longer be valid and the applicant can no longer rely on the conceptual approval permit as a basis, in part or whole, for issuance of permits for any future phase activities.

- 3.3.2** The duration of conceptual approval permits is as provided in subsection 62-346.060(2), F.A.C., and **section 6.1.5 of this Volume.**
- 3.3.3** An application for a conceptual approval permit will be reviewed pursuant to the applicable standards, criteria, and procedures for processing individual permits established in chapter 62-346, F.A.C. The conceptual approval permit will contain specific conditions necessary to ensure that the future applications for permits to construct, alter, operate, maintain, remove, or abandon the system authorized in the conceptual approval permit are consistent with the conceptual approval permit and provide reasonable assurance that the proposed activity will meet the conditions for issuance.
- 3.3.4** Unless otherwise stated in the permit, issuance of a conceptual approval permit does not authorize construction, alteration, operation, maintenance, removal or abandonment of a surface water management system, and does not relieve the holder of such permit of any requirements to obtain a permit for such activities. An application for construction authorization of the first phase of the project also may be included as a part of the initial application. As the permittee desires to construct, alter, operate, maintain, abandon, or remove additional phases, new applications for such activities shall be processed as an application for an individual permit, consistent with the terms and conditions of the issued conceptual approval permit.
- 3.3.5** Modifications of conceptual approval permits and subsequently issued permits for construction, alteration, operation, maintenance, removal, or abandonment shall be in accordance with Rule 62-346.100, F.A.C.
- 3.3.6** Requests for extension of duration of conceptual approval permits will be reviewed as provided in Rule 62-346.120, F.A.C.

**3.4 Activities that Do Not Require Permits under Chapter 62-346, F.A.C.**

A permit under Chapters 62-341 or 62-346, F.A.C., is not required for: “grandfathered” activities under that meet the provisions of Section 373.4145(6), F.S.; activities that fall below the permitting thresholds in Rule 62-346.050, F.A.C.; or activities that are exempt under Sections 373.406, 373.4145(3), or 403.813, F.S., or Rule 62-346.051, F.A.C., as discussed below.

Except where required by the terms of the exemption, no application or notice to the Department or the NFWFMD is needed for activities that meet all the terms and conditions of an exemption under Chapters 373 or 403, F.S. However, such exemptions do not provide the constitute authorization ~~to conduct work that may be required~~ requires from other local, state, regional, or federal agencies authorizations. For example, exempt activities that occur on state-owned submerged land may require a separate letter of consent, easement, or lease under Chapters 253 and 258, F.S., and Chapters 18-20 (May 27, 1999) and 18-21 (April 14, 2008), F.A.C. If an applicant desires verification that an activity qualifies for an exemption, and information on potential ~~notification of requirements to obtain required~~ state-owned submerged lands authorizations, such request should be submitted as discussed in **section 4.4.2.1.3, below.**

Verification of exempt status may be done electronically in some cases — see the discussion in section 4.2.3.2, below.

### **3.4.1 Activities Authorized under Section 373.4145(6), F.S.**

In accordance with Section 373.4145(6), F.S., the following activities shall continue to be governed by Section 373.4145, F.S. (1994):

- (a) The operation and routine custodial maintenance of activities legally in existence as long as the terms and conditions of the permit, exemption, or other authorization for such activities continue to be met. Additional discussion on routine custodial maintenance is contained in **section 3.4.3.4(b) ~~3.4.2.5(b)~~, below.**
- (b) Activities approved in a permit issued pursuant to Section 373.4145, F.S. (1994).
- (c) Activities proposed in applications under Chapter 62-25, F.A.C., received and completed before [effective date].
- (d) Any modification of the plans, terms, and conditions of a permit issued pursuant to Section 373.4145, F.S. (1994), that lessens the environmental impact, except that any such modification shall not extend the time limit for construction beyond two additional years.

However, these provisions shall not apply to any activity that is altered, modified in a manner that increases the environmental impact or increases duration for construction beyond two additional years, expanded, abandoned, or removed after the effective date of Chapter 62-346, F.A.C.

### **3.4.2. Activities Below Thresholds**

As provided in subsection 62-346.050(1)(b), F.A.C., a permit under this chapter is not required for the construction, alteration, operation, maintenance or repair, removal, or abandonment of a system that complies with the thresholds and criteria in paragraphs (a) through (e) below, and is not part of a larger common plan of development or ownership:

- (a) The system is not located in whole or in part within wetlands or other surface waters;
- (b) The system consists of less than or equal to 4,000 square feet of impervious or semi-impervious surface area subject to vehicular traffic, such as roads, parking lots, driveways, and loading zones;
- (c) The system consists of less than or equal to 5,000 square feet of building area or other impervious area not subject to vehicular traffic;
- (d) The system has less than or equal to one acre total project area;
- (e) The system does not directly discharge into an Outstanding Florida Water, as listed in Rule 62-302.700, F.A.C.;
- (f) The system does not cause any of the following:
  - 1. Adverse water quantity impacts to receiving waters and adjacent lands;



2. Adverse flooding to on-site or off-site property;
  3. Adverse impacts to existing surface water storage and conveyance capabilities;
  4. A violation of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-522, and 62-550, F.A.C., including the provisions of Rules 62-4.243, 62-4.244, and 62-4.246, F.A.C., 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.;
  5. Adverse secondary or cumulative impacts to the water resources.
- (g) The new work, by itself, or in combination with a system that has come into existence since the effective date of Chapter 62-346, F.A.C., cannot cumulatively exceed any of the thresholds in **paragraphs (a) through (e)** or violate the criteria of **paragraph (f)**, above.

The person proposing an activity that meets the criteria of **section 3.4.2(a) through (g)**, above, is advised of the need to obtain any required Works of the District permit pursuant to Chapter 40A-6, F.A.C. (March 2, 2000), if the work involves connection with, placement of structures in or across, or otherwise makes use of Works of the District. In addition, under Section 373.4132, F.S., applicants for systems that involve certain dry storage facilities for 10 or more vessels must obtain an individual permit (see **section 3.2.3, above**).

### **3.4.3 3.4.2 Exemptions**

The following sections discuss specific provisions of some of the exemptions adopted by Florida Statute and in Rule 62-346.051, F.A.C., applicable to the ERP program. The exemptions adopted by statute are provided for the convenience of the reader in **Appendix B of this Volume**.

### **3.4.3.1 ~~3.4.2.1~~ Consumptive Uses of Water**

Section 373.406(1), F.S., states that “Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any natural person to capture, discharge, and use water for purposes permitted by law.” Refer to the applicable consumptive use rules of the NFWFMD for details.

### **3.4.3.2 ~~3.4.2.2~~ Agriculture and Silviculture**

- (a) Applicants are advised that Section 373.406(2), F.S., states that “Nothing herein, or in any rule, regulation or order adopted pursuant hereto, shall be construed to affect the right of any person engaged in the occupation of agriculture, silviculture, floriculture, or horticulture to alter the topography of any tract of land for purposes consistent with the practice of such occupation. However, such alteration may not be for the sole or predominant purpose of impounding or obstructing surface waters.” Within the Panhandle, the NFWFMD is the agency responsible for regulating agriculture activities under Chapter 40A-44, F.A.C. (July 1, 1998).
- (b) Applicants are advised that Section 373.406(3), F.S., states that “Nothing herein, or in any rule, regulation or order adopted pursuant hereto, shall be construed to be applicable to construction, operation, or maintenance of any agricultural closed system.” A “closed system” is defined in Section 373.403(6), F.S., and a surface water management permit is not required for such systems if the activity is not conducted in wetlands. This subsection shall not be construed to eliminate the necessity to meet generally accepted engineering practices for construction, operation, and maintenance of dams, dikes, or levees.

### **3.4.3.3 ~~3.4.2.3~~ Individual Single-Family Residence, Duplex, Triplex, or Quadruplex**

- (a) Section 373.4145(3)(c), F.S., exempts from the noticing and permitting requirements of Chapter 62-346, F.A.C., the construction or private use of a single-family dwelling unit, duplex, triplex, or quadruplex that:
  - 1. Is not part of a larger common plan of development or sale proposed by the applicant; and
  - 2. Does not involve work in wetlands or other surface waters ~~of the state~~.
- (b) Section 403.813(1)(q), F.S., exempts the construction operation, or maintenance of stormwater management facilities that are designed to serve single-family residential projects, including duplexes, triplexes, and quadruplexes, if they are less than 10 acres total land and have less than 2 acres of impervious surface and if the facilities:
  - 1. Comply with all regulations or ordinances applicable to stormwater management and adopted by a city or county;
  - 2. Are not part of a larger common plan of development or sale; and
  - 3. Discharge into a stormwater discharge facility exempted or permitted by the department under this chapter which has sufficient capacity and treatment capability as specified in this chapter and is owned, maintained, or operated by a city, county, special district with drainage responsibility, or water management district; however,

this exemption does not authorize discharge to a facility without the facility owner's prior written consent.

Activities qualifying for the provisions in **paragraph (a) or (b), above**, are not required to comply with the provisions in the **Applicant's Handbook Volume II**.

#### **3.4.2.4 Activities Below Thresholds**

~~The construction, alteration, operation, and maintenance of a whole and complete project that meets all the following thresholds and is not part of a larger common plan of development or sale, is exempt from the requirements to obtain a permit under Chapter 62-346, F.A.C.:~~

- ~~(a) — Less than or equal to 4,000 square feet of impervious or semi-impervious surface area subject to vehicular traffic, such as roads, parking lots, driveways, and loading zones;~~
- ~~(b) — Less than or equal to 5,000 square feet of building area or other impervious area not subject to vehicular traffic;~~
- ~~(c) — Less than or equal to one acre total project area; and~~
- ~~(d) — The activities in (a) through (c) also must meet all the following criteria:~~
  - ~~1. — There is no direct discharge into Outstanding Florida Waters as listed in Rule 62-302.700, F.A.C. For purposes of Chapter 62-346, F.A.C., this Volume, and Applicant's Handbook Volume II, a discharge is not direct if it enters another water body or is located outside of the boundary of the Outstanding Florida Water, provided that, in either case, there is sufficient mixing to prevent a lowering of the existing ambient water quality in the Outstanding Florida Water.~~
  - ~~2. — Will not cause adverse water quantity impacts to receiving waters and adjacent lands;~~
  - ~~3. — Will not cause adverse flooding to on-site or off-site property;~~
  - ~~4. — Will not cause adverse impacts to existing surface water storage and conveyance capabilities;~~
  - ~~5. — Will not cause a violation of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-522, and 62-550, F.A.C., including the provisions of Rules 62-4.243, 62-4.244, and 62-4.246, F.A.C., 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.; and~~
  - ~~6. — Will not cause adverse secondary impacts to the water resources. Until the adoption of the Phase II rules, this shall be limited to not causing a violation of water quality standards and not lowering or raising seasonal water levels in adjacent surface waters of the state to an extent that prevents the stormwater management system from functioning as designed, not adversely altering normal water level fluctuations in adjacent surface waters of the state, and not otherwise adversely impacting the~~

~~maintenance of surface or ground water levels, or flows or surface water flows established pursuant to Section 373.042, F.S.~~

~~The person proposing an activity that meets the criteria of **section 3.4.2.4(a) through (d)** is advised that such activity is subject to obtaining any required Works of the District permit pursuant to Chapter 40A-6, F.A.C., if the work involves connection with, placement of structures in or across, or otherwise makes use of Works of the District. In addition, under Section 373.4132, F.S., applicants for systems that involve certain dry storage facilities for 10 or more vessels must obtain an individual permit (see **section 3.2.2, above**).~~

### **3.4.3.4 ~~3.4.2.5~~ Operation and Maintenance of Existing Systems**

- (a) The operation and routine custodial maintenance of activities legally in existence are exempt from the requirements to obtain a permit under Chapter 62-346, F.A.C., provided the terms and conditions of the permit, exemption, or other authorization for such activities continue to be met, and provided the work is conducted in a manner that does not cause violations of water quality standards in receiving waters. However, this exemption shall not apply to any such activity that is altered, modified, expanded, abandoned, or removed.
- (b) Routine custodial maintenance.

To be considered routine custodial maintenance that has no more than a minimal adverse impact on the environment, the maintenance must occur on a frequent enough basis to ensure that the system continues to function as originally designed. The Department recognizes that a partial loss of function will occur over a period of time prior to routine custodial maintenance. However, should a system be allowed to deteriorate over a period of time to the extent that it no longer functions, then restoring the system to its original design is not exempt from the requirements to obtain a permit. A system is considered to no longer function when it no longer fulfills its originally intended purpose or the repairs needed to restore the system to original design are so extensive that they would cause more than a minimal adverse environmental impact. Some examples of originally intended purposes of systems are:

1. Stormwater systems;
2. Irrigation ditches – conveying water from a water source to a water use area;
3. Drainage ditches – draining lands to enable specific agricultural, residential, commercial or recreational land use;
4. Drainage ditches – draining lands to enable harvesting, site preparation, and regeneration of silvicultural lands during timber rotations;
5. Canals – conveying water for flood control or draining lands to enable specific land uses or navigational uses;
6. Channels – specific navigational uses; and
7. Dikes – preventing flooding to enable specific agricultural, urban or recreational land uses.

The only instance when repair of a non-functioning system would be routine custodial maintenance is when the system has lost functionality due to a sudden event such as a large storm. In such case, the repair must be conducted as soon as practical after the damage occurs, but in no case later than one year after the damage occurred. If this deadline would result in a substantial hardship or would violate principles of fairness, the maintenance entity may seek a variance or waiver from the requirement pursuant to Section 120.542, F.S.

The evaluation of environmental impacts will compare the environmental conditions prior to conducting the proposed maintenance activity with the expected environmental conditions that would result from the proposed maintenance activity. Environmental impacts that are considered to be more than minimal include: changing water levels in wetlands or other surface waters in a manner that adversely impacts fish and wildlife or their habitat as provided in paragraph 62-346.301(1)(d); changing water levels off-site in a manner that causes flooding or other adverse impacts as described in paragraph 62-346.301(1)(a), (b), or (c), F.A.C.; or causing a violation of state water quality standards in receiving waters, as described in paragraph 62-346.301(1)(~~e~~), F.A.C.

#### **3.4.3.5 ~~3.4.2.6~~ Maintenance Dredging and Maintenance of Insect Control Systems**

Exemptions for certain maintenance activities are provided in Section 403.813(1)(f) and (g), F.S., and are described in detail below. The exemption in Section 403.813(1)(f), F.S., addresses the maintenance dredging of existing manmade canals and channels, which include navigation basins and ship's berths; intake and discharge structures; and previously dredged portions of natural water bodies within recorded drainage rights-of-way or drainage easements. The exemption in Section 403.813(1)(g), F.S., addresses the maintenance of existing insect control structures, dikes, and irrigation and drainage ditches. These exemptions have a number of limitations or conditions, which are further described below.

- (a) The maintenance exemptions in Sections 403.813(1)(f) and (g), F.S., allow only routine custodial maintenance having no more than a minimal adverse environmental impact.
- (b) Original design specifications/configurations.
  - 1. Section 403.813(1)(f), F.S., requires that no more dredging be performed than is necessary to restore the canals, channels, intake and discharge structures and previously dredged portions of natural water bodies, to original design specifications or configurations. Section 403.813(1)(g), F.S., requires that no more dredging be performed than is necessary to restore the dike or irrigation or drainage ditch; to its original design specifications.
  - 2. The entity claiming the maintenance exemption bears the burden of establishing that its activity qualifies for the exemption, including that the maintenance will not extend the system beyond its original design specifications or configuration. However, there is no requirement for the maintenance entity to provide advance notice to the Department that they are planning on performing maintenance that qualifies for the exemptions in Sections 403.813(1)(f) or (g), F.S., except for the 30-day notice required for the maintenance dredging of previously dredged portions of natural water bodies.

Maintenance entities are encouraged to notify the Department of proposed maintenance and to discuss its planned scope and extent with the Department. Maintenance entities may also request confirmation from the Department that they qualify for an exemption. In the event that the planned activity does not qualify for an exemption, such consultation should help to avoid enforcement action by the Department.

3. Direct evidence of original design can include: plans; historical aerial photographs; surveyed cross sections; soil boring reports, if such borings can distinguish between the original soils and the sediment deposited in a system; and other historical documents. Where such documentary evidence does not clearly establish the original design, eyewitness accounts can be submitted to provide further evidence of the original design specifications or configuration. In addition, indirect evidence can be used. Indirect evidence is evidence from which the original design specifications or configuration can be scientifically deduced. Examples of such indirect evidence include historic information of land uses enabled by the system and the sizes and capacities of associated systems, such as culverts or weirs. If the maintenance entity can not establish the original design of a system, the maintenance exemptions in Sections 403.813(1)(f) and (g), F.S., are not applicable.

(c) The following limitations, conditions, and definitions also apply to the exemption in Section 403.813(1)(f), F.S., for maintenance dredging of existing: canals and channels, including navigation basins and ship's berths; intake and discharge structures; and previously dredged portions of natural water bodies within recorded drainage rights-of-way or drainage easements:

1. Spoil material must be deposited in a self-contained, upland spoil disposal site that will prevent the escape of spoil material into the waters of the state. For the purposes of the exemptions in Sections 403.813(1)(f) and (g), F.S., a self-contained, upland disposal site is a disposal site located entirely in uplands which is designed to prevent the spoil material from reentering waters of the state as defined in Section 403.031(13), F.S. Some examples of self-contained upland spoil disposal sites are:
  - a. An upland area separated from waters of the state by a berm, such that the spoil material cannot reenter waters of the state;
  - b. In a system that has an outer berm or dike, placing the spoil on the inner banks of the dike where it could potentially reenter those interior canals which are not waters of the state, and where the spoil material is prevented from being discharged to waters of the state through the operation of a pump or other type of water control structure; and
  - c. In a system involving a road with roadside ditches that are waters of the state, placing spoil in a "V" shaped notch in the center of the road such that it could not be discharged to waters of the state.

Additionally, use of dredged materials to conduct exempt or permitted maintenance of a dike or road shall not be considered spoil disposal, so long as the dredged materials are only used to restore the dike or road to original design

specifications and the dredged material is not deposited into wetlands or other surface waters of the state outside of the original dike or road cross section.

2. Best management practices for erosion and sediment control must be used at the dredge site to prevent bank erosion and scouring and to prevent turbidity, dredged material, and toxic or deleterious substances from discharging into adjacent waters during maintenance dredging. This does not prevent the discharge of water from the disposal site, as long as the discharged water does not exceed the turbidity levels in the waters that are dredged, and provided that water quality standards are not violated in the receiving waters.
3. The maintenance dredging shall not cause significant impacts to previously undisturbed natural areas.
4. Maintenance work must be conducted in accordance with Section 379.2431(2)(d) ~~370.12(2)(d)~~, F.S., which provides that, except as authorized by a state permit issued pursuant to Section 379.2431(2)(c) ~~370.12(2)(c)~~, F.S., or by the terms of a federal permit, the maintenance entity shall not at any time, by any means or in any manner intentionally or negligently:
  - a. Annoy, molest, harass, or disturb or attempt to molest, harass, or disturb any manatee;
  - b. Injure or harm or attempt to injure or harm any manatee;
  - c. Capture or collect or attempt to capture or collect any manatee;
  - d. Pursue, hunt, wound, or kill or attempt to pursue, hunt, wound, or kill any manatee; or
  - e. Possess, literally or constructively, any manatee or any part of any manatee.
5. For canals and previously dredged portions of natural water bodies, the exemption only applies to such systems constructed prior to April 3, 1970, or constructed on or after April 3, 1970, pursuant to all necessary state permits.
6. The exemption does not apply to the removal of any natural or manmade barrier separating a canal or canal system from adjacent waters.
7. Maintenance dredging shall be limited to a depth of no more than 5 feet below mean low water for existing manmade canals or intake or discharge structures that have not been permitted for construction or maintenance dredging by the Department, the water management district, the Board of Trustees of the Internal Improvement Trust Fund, or the United States Army Corps of Engineers.
8. For maintenance dredging of a previously dredged portion of a natural water body, the maintenance entity must notify the Department at least 30 days prior to dredging, and provide documentation of original design specifications or configurations where such exist.

9. The term “natural water bodies” as used in paragraph 403.813(1)(f), F.S., means those surface water bodies extending waterward from the boundary established pursuant to the methodology in Chapter 62-340, F.A.C., except for those waters that were created solely due to human activity, such as borrow pits, ditches, canals, and artificial impoundments located in areas that were uplands prior to construction.
- (d) The following limitations or conditions also apply to the exemption in Section 403.813(1)(g), F.S., for the maintenance of existing insect control structures, dikes, and irrigation and drainage ditches:
1. Spoil material must be deposited on a self-contained, upland spoil site that will prevent the escape of spoil material into waters of the state (see **paragraph 3.4.3.5(c)1 3.4.2.6(e)1, above**, for further explanation of self-contained, upland spoil site);
  2. For insect control structures, if the Department of Health, determines that the cost of new spoil disposal is so excessive that it will inhibit proposed insect control, then existing spoil sites or dikes may be used upon notification to the Department. In such cases, turbidity control devices shall be used when the receiving water body is a potable water supply, is designated as shellfish harvesting waters, or functions as a habitat for commercially or recreationally important shellfish or finfish.

#### **3.4.3.6 3.4.2.7 Swales**

Section 403.813(1)(j), F.S., exempts the construction and maintenance of swales. A swale is defined in Section 403.803(14), F.S., as a manmade trench that:

- (a) Has a top width to depth ratio of the cross-section equal to or greater than 6:1, or side slopes equal to or greater than 3 feet horizontal to 1-foot vertical;
- (b) Contains contiguous areas of standing or flowing water only following a rainfall event;
- (c) Is planted with or has stabilized vegetation suitable for soil stabilization, stormwater treatment, and nutrient uptake; and
- (d) Is designed to take into account the soil erodibility, soil percolation, slope, slope length, and drainage area so as to prevent erosion and reduce pollutant concentration of any discharge.

However, applicants are advised that the construction of a swale system does not qualify for the exemption under Section 403.813(1)(j), F.S. A “swale system,” is a surface water stormwater management system that does not consist entirely of swales. An example is a subdivision served by swales as the primary surface water stormwater management system, but that includes culverted driveway crossings and other pipe conveyance features. Such surface water stormwater management systems must be designed and evaluated to address such things as potential impoundments and flood conveyance restrictions imposed by the culvert crossings and other pipe conveyance features. The entire surface water stormwater management system as a whole must be designed, implemented, operated, and maintained to meet the conditions for issuance of Rule 62-346.301, F.A.C., including the design and performance criteria for swale systems in **sections 9.0**



through 9.5 of Applicant's Handbook Volume II, and the operation requirements in sections 6.2 and Part V of this Volume.

### 3.4.3.7 ~~3.4.2.8~~ Other Exemptions

- (a) Section 403.813(1), F.S., provides that no permit shall be required for certain activities under Chapters 373 and 403, F.S. These exemptions are listed in Rule 62-346.051, F.A.C., and their full content is provided in **Appendix B of this Volume**. ~~Many of these exemptions are from the dredge and fill requirements under Chapter 62-312, F.A.C. However, many of these, such as the repair and replacement of discharge pipes, may involve activities associated with stormwater management systems.~~
- (b) The Department has established additional ~~other~~ exemptions by rule for minor activities that have been determined to have no more than minimal individual and cumulative impacts. They are contained in Rule 62-346.051, F.A.C.
- (c) Section 373.406(6), F.S., provides that "Any district or the department may exempt from regulation under this part those activities that the district or department determines will have only minimal or insignificant individual or cumulative adverse impacts on the water resources of the district." The NFWFMD and the Department are authorized to determine, on a case-by-case basis, whether a specific activity comes within this exemption. Requests to qualify for this exemption shall be submitted in writing to the NFWFMD or Department, and such activities shall not be commenced without a written determination from the Department or NFWFMD confirming that the activity qualifies for the exemption.<sup>22</sup> These are known as "*de minimis*" exemptions.

### 3.5 Related Regulations and Provisions

Approval of an ERP under Chapters 62-341 or 62-346, F.A.C., does not convey to the applicant, or create in the applicant any property right, or any interest in the real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the applicant.

Applicants are also advised that qualification to conduct an activity under Part IV of Chapter 373, F.S., does not relieve the person performing the activity from obtaining all other required licenses, permits, and authorizations under applicable state, federal, or local statute, rule, and ordinance.

Applicants and permittees are advised that dewatering during construction may require a consumptive use permit from the NFWFMD. Depending on the nature of the discharge, other permits may also be required from the Department.

### 3.6 Relinquishment and Abandonment

Permits issued by the Department for a surface water management system that no longer requires a permit or that are no longer going to be constructed and operated pursuant to section 3.2, above, may be abandoned, or the permit relinquished by the permittee, subject to the following:

- (a) Local government may have concurrent jurisdiction with the Department over a surface water management system. The permittee of the system is not relieved of the responsibility to comply with all applicable rules or ordinances which may govern such system.

(b) The permittee must apply to, and receive written authorization from, the Department prior to abandoning the system or relinquishing the permit for the system. The Department will authorize abandonment or relinquishment upon determination that the permittee has provided:

1. Reasonable assurance that there will not be a violation of state water quality standards as set forth in Chapters 62-302 and 62-550, F.A.C., as a result of abandonment or relinquishment of the permit;
2. Reasonable assurance that adjacent or nearby properties not owned or controlled by the applicant will not be adversely affected by drainage or flooding; and
3. Reasonable assurance that there will be no harm to the water resources as a result of abandonment or relinquishment of the permit.

## **4.0 Application Preparation**

### **4.1 Pre-application Conference**

Applicants are encouraged to hold a pre-application meeting with staff to discuss such information as:

- (a) Application completion, processing and evaluation procedures;
- (b) Information which will be required for evaluation of the application;
- (c) Information regarding surface water data which is known to be available at that time;
- (d) The criteria which will be utilized in evaluation of the application; and
- (e) Other hydrologic, environmental or water quality data that may be needed to evaluate the application.

To schedule a pre-application conference, potential applicants should contact the nearest district or branch office of the Department or NFWFMD, in accordance with the type of activity involved. See **Appendix A of this Volume** for the Operating Agreement that identifies which agency should be contacted, and **section 1.2 of this Volume** for the addresses and phone numbers of the respective offices of the agencies.

### **4.2 Forms and Instructions**

#### **4.2.1 Individual Permit**

The form that must be used to apply for an individual permit under Chapter 62-346, F.A.C., is the “Joint Application for Environmental Resource ~~Stormwater~~ Permit / Authorization to Use State-Owned Submerged Lands / Federal Dredge and Fill Permit in Northwest Florida,” Form 62-346.900(1), which has been incorporated by reference in subsection 62-346.070(2), F.A.C. This form includes the required site and system design information to evaluate an individual permit under Chapter 62-346, F.A.C.

#### **4.2.2 Noticed General Permit**

The form for submitting a notice of intent to use a noticed general permit under Chapter 62-341, F.A.C., is the “Notice of Intent to Use an Environmental Resource Noticed General Permit in Northwest Florida,” Form 62-346.900(2), which has been incorporated by reference in subsection 62-346.070(2), F.A.C.

#### **4.2.3 Verification of an Exemption**

With some exceptions, notice is **not required** to conduct an activity that qualifies for an exemption from permitting under Sections 373.406, 373.4145, or 403.813, F.S., or Rule 62-346.051, F.A.C. However, many local governments request verification of compliance with the rules and statutes of the state prior to issuing a building permit. Further, other entities, such as the USACE, other state agencies, regional authorities, and local agencies may require a separate

permit or other authorization even if the activity does not require an ERP permit. Exceptions where prior notice to the Department is required prior to conducting an exempt activity are:

- Activities having minimal impact, under Section 373.406(6), F.S., often called the *de minimis*” exemption.
- Section 403.813(1)(f), F.S., when maintenance dredging within previously dredged portions of natural water bodies within drainage rights-of-way or drainage easements which have been recorded in the public records of the county.
- Section 403.813(1)(t), F.S., for the repair, stabilization, or paving of existing county maintained roads and the repair or replacement of bridges that are part of the roadway.
- Section 403.813(1)(u), F.S., for an individual, residential property owner to remove organic detrital material from freshwater rivers or lakes that have a natural sand or rocky substrate and that are not located in an Aquatic Preserve.

Whether exempt from permitting or not, in accordance with Chapter 253, F.S., and Chapter 18-21, F.A.C. (April 14, 2008), activities conducted on state-owned submerged lands must be separately authorized by the Board of Trustees of the Internal Improvement Trust Fund (BOT). The Department of Environmental Protection acts as staff to the BOT, and, in accordance with the Operating Agreement between the Department and the NFWFMD, will process all applications involving work on state-owned submerged lands (see Appendix A of this Handbook). Upon receipt of an application or notice to perform work on state-owned submerged lands, the Department will determine if a separate written authorization to perform works on these lands is required, or if the activity requested is automatically authorized (as a Consent by Rule). Rule 18-21.005, F.A.C., (March 8, 2004) may be accessed at <http://www.dep.state.fl.us/legal/Rules/shared/18-21.pdf> for additional information. Activities located in one of the state’s Aquatic Preserves *must* receive a separate written authorization in accordance with Chapter 258, F.S., and Rule 18-18 (June 5, 1996, within the Biscayne Bay Aquatic Preserve) or 18-20, F.A.C., (May 27, 1999, in all other Aquatic Preserves) prior to initiating any work, and other activities on any state-owned submerged lands are subject to the requirements for obtaining an easement or lease, in accordance with Rule 18-21.005, F.A.C., (March 8, 2004) and Chapter 253, F.S.

#### **4.2.3.1 Submittal**

A request for a written verification an exemption must be submitted using Form 62-346.900(11), “Request for Verification of an Exemption,” or by submitting an alternative written request such as by letter or e-mail. The form or other written request shall be submitted to the office that has the responsibility for the activity under the Operating Agreement between the Department and the NFWFMD (see **section 1.2 and Appendix A of this Volume**). Requests sent to the Department must contain the processing fee listed in Rule 62-346.071, F.A.C.

The NFWFMD prefers exemption notifications be submitted through their Internet site at <http://www.nwfwmd.state.fl.us/permits/permits-ERP.html>. The NFWFMD considers such submittals to be a form of self-certification, which do not require a processing fee. However, written submittals to the NFWFMD must contain the processing fee listed in Rule 62-346.071, F.A.C.

The form or other written request must also contain location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; the fee required by Rule 62-346.071, F.A.C., two sets of plans and drawings, calculations, environmental information, and other supporting documents that clearly and legibly depict and describe the proposed activities in detail sufficient to demonstrate compliance with the terms, conditions, and limitations of the exemption; and identification (by number or description) to the rule or statutory exemption sought. In the case of electronic submissions to the NFWFMD, an electronic signature file must be submitted that will serve the same purpose as individual signing or sealing of paper applications, plans, and supporting documents.

For e-mail requests, the fee required above must be received within 10 days of submittal of the request. If the request is by letter or e-mail, it must also include or be followed up within 10 days of submittal of the request with an original authorization signed by the property owner that authorizes Department staff to inspect the property for qualification for the exemption.

Applicants are advised that documents and drawings submitted by persons other than the owner for purposes other than the private use of the owner are subject to the signing and sealing requirements of registered professionals.

Requests to “self-certify” a private, single-family dock that qualifies for the exemption is Section 403.813(1)(b), F.S., must be submitted to the Department’s Internet site at: <http://appprod.dep.state.fl.us/erppa/> and CANNOT be made using the above form or by letter. The self-certification process does NOT require payment of a processing fee.

**4.2.3.2 Review:** The Department will take reasonable efforts to determine, within 30 days of receipt of Form 62-346.900(11) or a letter requesting verification of an exemption, whether the activity qualifies for the exemption. Failure of the Department to provide a verification within 30 days does not constitute a default approval that the activity qualifies for the requested exemption.

**4.2.3.3 Other Authorizations:** Applicants are advised that an exemption from state rules and statutes does not constitute authorization to conduct work that requires authorization from other local, state, regional, or federal agencies.

**4.2.4 4.2.3** Copies of the above application and notice forms are available from the Internet at: <http://www.dep.state.fl.us/water/wetlands/erp/forms.htm> or <http://www.nfwfmd.state.fl.us/permit/permit-ERP.html>, or from any local district or branch office of the Department or from any office of the NFWFMD (see **Section 1.2 of this Volume**).

#### **4.3 Permit Processing Fee**

A non-refundable permit processing fee as specified by Rule 62-346.071, F.A.C., is required for the processing of each permit application or for a permit modification, and must be submitted concurrently with the filing of an application or the notice of intent. An application or notice submitted without the fee will not be considered complete (see **sections 5.2.2 through 5.2.2.4, and 5.3.1 through 5.3.2.3 of this Volume**).

#### **4.4 Preparation and Submittal of an Application or Notice for a Permit**

**4.4.1** All applications and notices for permits must be submitted to the Department or NFWFMD in accordance with the Operating Agreement between the Department and the NFWFMD as described in **section 1.2 and Appendix A of this Volume**, and as described below, except that:

- (a) Applications for activities requiring a permit that extend into the area of the Suwannee River Water Management shall be submitted to and processed by the district office of the Department or water management district covering the geographic limits where the majority of the project activities are proposed, and in accordance with the Operating Agreement between the Department and the applicable water management district as described above or in Chapter 62-113, F.A.C. In the case of activities that are the responsibility of the Department, the Director of District Management of the district office processing the application shall have the authority to take the final agency action on the entire application. However, if the applicant prefers, a separate application may be submitted to each district or branch office of the Department that has responsibility for activities within the geographical limits in which the activity is located. In such case, the applications shall be individually reviewed and processed separately by the applicable Department district or branch office.
- (b) Applications, notices, and requests for activities that are within the geographical limits of a local government delegated responsibility for the ERP program of the Department or NFWFMD under Chapter 62-344, F.A.C., shall be submitted to that local government or the Department in accordance with the terms of the Delegation Agreement with that local government as incorporated by reference in Chapter 62-113, F.A.C.

#### **~~4.4.2 Verification of an Exemption~~**

~~Applicants are not required to submit an application to the Department or the NFWFMD if the proposed activity meets all the terms and conditions of an exemption under Chapters 373 and 403, F.S. However, they are advised that an exemption from state rules and statutes does not constitute authorization to conduct work that requires authorization from other local, state, regional, or federal agencies. For example, exempt activities that occur on state owned submerged land may require a separate letter of consent, easement, or lease under Chapters 253 and 258, F.S., and Chapters 18-20 and 18-21, F.A.C. If an applicant desires verification that an activity qualifies for an exemption, and notification of potential requirements to obtain required state owned submerged lands authorizations such request should be prepared in accordance with this section and submitted to the Department or NFWFMD depending on which agency has responsibility for the activity subject to the exemption following the procedures in **sections 4.4.3.3 or 4.4.4.3, below.**~~

~~Any request for verification of an exemption must contain location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; two sets of construction plans, drawings, and other supporting documents that depict and describe the proposed activities in enough detail to demonstrate qualification for the exemption. Applicants are advised that documents and drawings submitted by persons other than the owner for purposes other than the private use of the owner are subject to the signing and sealing requirements of registered professionals. In the case of electronic submissions to the NFWFMD, an electronic signature file must be submitted that will serve the same purpose as individual~~

~~signing or sealing of paper applications, plans, and supporting documents. A fee is not required to receive verification of an exemption from either the Department or NFWFMD.~~

#### **4.4.2 4.4.3 Submittals to the Department**

At this time, with the exception of certain applications to the Office of Beaches and Coastal Resources (see <http://www.dep.state.fl.us/beaches/programs/envpermt.htm>) and self-certification of exempt single-family residential docks (see <http://appprod.dep.state.fl.us/erppa/>), the Department cannot accept submittal of electronic applications and notices in place of paper copy applications and notices as described below, but electronic copies of the application or notice, plans, drawings, and other supporting documents on a CD, DVD, or other electronic media may be submitted with the paper copies, and may facilitate distribution of such materials to interested parties. All applications, notices, and verifications of exemption should be submitted to the District office of the Department as depicted in **Figure 1A in this Volume**.

#### **4.4.2.1 4.4.3.1 Applications for Individual Permits**

Applications for individual permits must be made on Form 62-346.900(1), "Joint Application for Environmental Resource Stormwater Permit / Authorization to Use State-Owned Submerged Lands / Federal Dredge and Fill Permit in Northwest Florida," and must contain one original of the completed application with original signatures on Section A; location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; construction plans, drawings, and other supporting documents requested in Section B that depict and describe the proposed activities; ~~two~~ one paper copies ~~copy~~ of all the above; and the fee as required by Rule 62-346.071, F.A.C.

#### **4.4.2.2 4.4.3.2 Notices of Intent to Use a Noticed General Permit**

The notice must be made on Form 62-346.900(2), "Notice of Intent to Use an Environmental Resource Noticed General Permit in Northwest Florida," and must contain one original of the completed notice with original signatures; one copy of the completed notice; location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; two sets of construction plans, drawings, other supporting documents that depict and describe the proposed activities; and the notice fee required by Rule 62-346.071, F.A.C.

#### **~~4.4.3.3 Verification of Exemptions~~**

(a) ~~— If the activity DOES NOT INVOLVE ANY WORK IN WATERS OF THE STATE, and you desire verification whether the work qualifies for an exemption, you are encouraged to use Form 62-346.900(1), "Application for Stormwater Permit in Northwest Florida." Alternatively, you may send a letter containing the information described in section 4.4.2, above.~~

(b) ~~— If the activity INVOLVES ANY WORK IN WATERS OF THE STATE, and you desire verification whether the work qualifies for an exemption, do NOT use the "Application for Stormwater Permit in Northwest Florida." Instead, complete Form 62-312.900(1), "Joint Application for Works in the Waters of Florida," adopted by reference in Rule 62-312.900, F.A.C. A copy of that form is available from the local office of the Department and on the Department's Internet site at~~

~~<http://www.dep.state.fl.us/water/wetlands/erp/forms.htm>. Alternatively, the request may be submitted by letter containing the information described in **section 4.4.2, above**.~~

- ~~(c) All requests for verification of an exemption, except as specified in **section 4.4.3.3(a) or (b), above**, shall be submitted to the district or branch office of the Department that has geographical jurisdiction over the location where the activity is to occur, as described in **section 1.2 of this Volume**.~~

#### **4.4.3 4.4.4 Submittals to the NFWWMD**

Applications, notices, and requests to verify exemptions can be submitted electronically to the NFWWMD, as described below. If the applicant does not utilize the electronic application, paper copies shall be submitted by mail or other delivery service to the appropriate office of the NFWWMD, with the materials included as described below.

##### **4.4.3.1 4.4.4.1 Electronic Applications for Individual Permits**

Applications can be submitted through the NFWWMD Internet site at <http://www.nfwcmd.state.fl.us/permits/permits-ERP.html>. The application must include as attachments: location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; construction plans, drawings, and other supporting documents requested in Section B that depict and describe the proposed activities; and the fee as required by Rule 62-346.071, F.A.C. If the applicant does not utilize the electronic application, paper copies shall be submitted by mail or other delivery service to the appropriate office of the NFWWMD. If a paper application is submitted, it must include all requirements of **section 4.4.2.1 4.4.3.1, above**, as for the Department.

##### **4.4.3.2 4.4.4.2 Electronic Notices of Intent to Use a Noticed General Permit**

The notice can be submitted through the NFWWMD Internet site at <http://www.nfwcmd.state.fl.us/permits/permits-ERP.html>. The notice must include as attachments: location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; construction plans, drawings, and other supporting documents that depict and describe the proposed activities; and the fee as required by Rule 62-346.071, F.A.C. If the applicant does not utilize an electronic permit application, paper copies shall be submitted by mail or other delivery service to the appropriate office of the NFWWMD. If a paper application is submitted, it must include all requirements of **section 4.4.2.2 4.4.3.2, above**, as for the Department.

##### **4.4.4.3 Verification of Exemptions**

~~Applications to the NFWWMD for verification of exemption under Chapter 62-346, F.A.C., can be submitted through the NFWWMD Internet site at <http://www.nfwcmd.state.fl.us/permits/permits-ERP.html>. If the applicant does not utilize the electronic self-certification on the NFWWMD Internet site, then a verification of exemption may be obtained from the NFWWMD by providing the following for review: location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; and construction plans, drawings, and other supporting documents sufficient to depict and describe the proposed activities. The NFWWMD will advise in writing whether the activity is exempt.~~



## 4.5 Filing

- (a) Paper and electronic copies of applications and notices must be filed during normal business hours with the Department or NFWFMD as specified in subsection 62-346.070(8)(6), F.A.C.
- (b) Paper and electronic copies of applications or notices received after 5:00 PM local time shall be deemed as filed as of 8:00 AM on the next regular business day. Electronic applications or notices to the NFWFMD are received at the District headquarters, which is in the Eastern time zone. If received after 5:00 PM Eastern Standard Time or Eastern Daylight Savings Time, electronic applications or notices shall be deemed as filed as of 8:00 AM on the next regular business day.

## 4.6 Distribution

4.6.1 The joint application Form 62-346.900(1), serves to initiate the application process for three separate authorizations:

- (a) Application for an environmental resource permit. This will include distribution of all or parts of the application to certain potentially affected state agencies and private individuals;
- (b) Application for a federal dredge and fill permit (most typically the U.S. Army Corps of Engineers (USACE)); and
- (c) Application to use state-owned submerged lands.

4.6.2 A copy of the joint application will be sent by the Department to the USACE when proposed activities involve wetlands or other surface waters. A SEPARATE APPLICATION TO THE USACE IS NOT REQUIRED AND SHOULD NOT BE SENT BY THE APPLICANT UNLESS SPECIFICALLY INSTRUCTED TO DO SO BY THE USACE. A separate USACE permit may be required in addition to the environmental resource permit, so applicants are advised not to begin any construction until receiving confirmation from the Department and the USACE that permits are not required from both agencies, or until after permits have been obtained from both agencies, as applicable.

4.6.3 A copy of the Notice of Receipt of an Environmental Resource Permit (Section C of the joint application) also is distributed to certain state agencies with jurisdiction under Florida's approved Coastal Zone Management Program, including the Florida Fish and Wildlife Conservation Commission and the Department of State, Division of Historical Resources. Those agencies may comment on the application as it is being processed, and may request additional information be provided to them so that they may fully evaluate the application. These agencies also may object to issuance of the project under the Coastal Zone Management Act under Section 373.428, F.S. As with distribution to the USACE, the applicant is not responsible for distributing the application to the above commenting agencies.

4.6.4 In addition to the above, persons who are on the Department's mailing list to be notified of pending environmental resource permits also are sent a copy of the Notice of Receipt of an Environmental Resource Permit (Section C of the joint application) upon receipt of the application. Such persons may have certain rights to comment on or object to applications as they are being processed. Again, applicants are not responsible for performing this distribution.

Persons who wish to have their names placed on that mailing list may do so by contacting the local office of the Department. A list of pending applications and their current status also may be viewed at [http://tlhora6.dep.state.fl.us/www\\_pa/pa\\_statewide\\_count.asp](http://tlhora6.dep.state.fl.us/www_pa/pa_statewide_count.asp).

**4.6.5** Applications for environmental resource permits that have the potential to be on state-owned, submerged lands will be forwarded to the Department's Division of State Lands for a title determination. AGAIN, APPLICANTS ARE NOT RESPONSIBLE FOR PERFORMING THIS DISTRIBUTION. If a determination is made that the activity is located on state-owned submerged lands, a separate submerged lands authorization will be required *in addition to* any required environmental resource permit.

If the application is on state-owned submerged lands, the applicant may be requested to submit additional information that is not covered in the joint application. In accordance with Section 373.427, F.S., processing of an environmental resource permit application for an activity located on state-owned submerged lands is linked to processing of the state-owned submerged lands authorization, as described in **section 1.5 of Applicant's Handbook Volume I**.

**4.7 4.6 Submittal of Petitions for Formal Determinations of the Landward Extent of Wetlands and Other Surface Waters**

**4.7.1** Determinations of the landward extent of wetlands and other surface waters shall be performed using Chapter 62-340, F.A.C. All determinations require payment of the fee specified in paragraph 62-4.050(4)(i), F.A.C.

**4.7.2** Petitions for formal determinations of the landward extent of wetlands and other surface waters shall be submitted to the Department following the requirements in Rule 62-343.040, F.A.C.

**4.7.3** The Department **may** issue informal, non-binding pre application determinations of the landward extent of wetlands or other surface waters, or otherwise perform non-binding determinations on its own initiative, as Department staff time and resources allow. Informal determinations of the landward extent of wetlands and other surface waters are provided as a public service to applicants or potential applicants for permits under Part IV, Chapter 373, F.S., and are available only to the property owner, an entity that has the power of eminent domain, or any other person who has a legal or equitable interest in the parcel of property. An informal determination is limited to a parcel of property that is less than or equal to one acre in size. A request for an informal determination requires payment of the fee established in Rule 62-346.071, F.A.C., but is not an application for a permit, is not subject to the permit review timeframes established in Chapter 120 or 373, F.S. An informal determination, if issued, does not constitute final agency action, and an inability of the Department to perform an informal determination also does not constitute final agency action. Applicants are strongly advised to contact Department staff prior to requesting an informal determination, as staff resources to perform these determinations are very limited.

An informal pre-application determination is subject to change, and does not in any way bind the Department or its employees, nor does it convey any legal rights, expressed or implied. Persons obtaining an informal pre-application determination are not entitled to rely upon it for purposes of compliance with provisions of law or Department rules.

## **5.0 Procedures for Processing Environmental Resource Permits**

### **5.1 General Procedures**

The Department is required to follow certain procedural guidelines set forth in Chapter 120, F.S. (Florida Administrative Procedures Act), Chapters 28-101 through 28-110, F.A.C. (Uniform Rules of Procedure), and Chapter 62-110, F.A.C. (Exceptions to the Uniform Rules of Procedure). These guidelines provide rules of procedure and public visibility for all Department activities that affect the public, including scheduling of meetings, establishment of rules and criteria, and the procedures to be followed in reviewing and acting on permit applications. The Department has also adopted Chapter 62-346, F.A.C., setting forth procedures for the processing of all ERP applications.

This chapter provides an overview of the procedures that the Department will follow in receiving, processing, and acting on a permit application for an ERP permit. More specific detail is contained in Chapter 120, F.S., and Chapters 28-106 (December 24, 2007), 28-107 (January 15, 2007), 62-110, and 62-346, F.A.C.

### **5.2 Individual Permits**

Applications that are not exempt and do not qualify for a noticed general permit will be processed as an individual permit. Conceptual approval permits are a type of individual permit and are processed as such.

#### **5.2.1 Initial Receipt**

Processing of an individual permit commences upon receipt of Form 62-346.900(1), "Joint Application for Environmental Resource Stormwater Permit / Authorization to Use State-Owned Submerged Lands / Federal Dredge and Fill Permit in Northwest Florida," submitted as described in subsection paragraph 62-346.070(2), F.A.C., and **sections 4.2 through 4.4 4.4.1 of this Volume**, together with the fee required in Rule 62-346.071, F.A.C. Failure of the applicant to submit all information and materials required in the application, including the processing fee, will result in the application being held incomplete.

#### **5.2.2 Request for Additional Information**

**5.2.2.1** Upon receipt, an application will be reviewed to determine if it contains the fee required in Rule 62-346.071, F.A.C., a completed application form, including the applicable information requested in Sections A through F, in accordance with paragraph 62-346.070(2)(a), F.A.C., and any additional information or exhibits needed to clearly and legibly depict and describe the proposed activity ~~and the information necessary to provide reasonable assurance that the activity will meet the terms and conditions for issuance in Rule 62-346.301, F.A.C., for the type of permit requested.~~ Any additional information and fee as applicable will be requested from the applicant within 30 days of receipt of the application. Such requests for additional information will be accompanied by citation to a specific rule pursuant to Section 373.417, F.S., and the application will be considered incomplete.

If during the review the application is determined to be exempt from permitting, the Department will inform the applicant that the application qualifies for an exemption within 30 days of receipt of the application, or within 30 days of receipt of additional information that demonstrates that

the proposed activity is exempt. Upon determination that the activity is exempt from permitting, the Department will refund any tendered application fees.

- 5.2.2.2** The applicant will have 90 days from the date of the request for additional information to supply the information to the Department. If an applicant requires more than 90 days in which to complete an application, the applicant may notify the Department in writing of the circumstances requiring additional time, at which time the application will remain in an incomplete status for one additional period of up to 90 days. Additional extensions shall be granted for good cause. A showing that the applicant is making a diligent effort to obtain the requested additional information shall constitute good cause. The applicant may request that the application be deemed complete at any time, and the Department will determine whether the application qualifies for issuance of an individual permit within 90 days of the date of such a request by the applicant.
- 5.2.2.3** Within 30 days after receipt of each submittal of timely requested additional information, the Department shall review that information and may request only that information needed to clarify such additional information or to answer new questions raised by or directly related to such additional information.
- 5.2.2.4** If the applicant does not submit information requested within the time frames in **section 5.2.2.2, above**, the applicant will be mailed or delivered a Notice of Denial. The applicant may request a Section 120.569, F.S., hearing pursuant to Chapter 28-106 (December 24, 2007), and Rule 62-110.106, F.A.C., to dispute the necessity of the information required. Denial pursuant to this procedure is not a determination of the merit of an application and does not preclude the applicant from reapplying at a later time.

### **5.2.3 Notification to the Public**

- 5.2.3.1** The Department will provide a notice of receipt of an application by regular mail, or by e-mail if requested by the person requesting the notice, to any person who has filed a written request for notification of any pending applications affecting a designated area. Where a person has requested notice of the intended agency action for a specific application, the Department shall provide such person with notice of such intended agency action on that specific application.
- 5.2.3.2** In accordance with paragraph Rule 62-346.090(2)(j), F.A.C., the Department shall require an applicant to publish at the applicant's expense, in a newspaper of general circulation within the affected area, a notice of receipt of the application for those activities which, because of their size, potential effect on the environment or the public, controversial nature, or location, are reasonably expected by the Department to result in a heightened public concern or likelihood of request for administrative proceedings. The Department will furnish the applicant with the notice that is to be published. An application shall be denied if the applicant fails to publish the notice, or to provide proof of publication of the notice.
- 5.2.3.3** Interested persons, whether notified in accordance with sections **5.2.3.1 or 5.2.3.2 above** or are aware of the proposed activity by other means, may submit information for Department review. For Department staff to properly evaluate any information which interested persons may submit, those persons are advised to contact the Department within 14 days of notification if they have questions, objections, comments or information regarding the proposed activity. Persons who file a written request for further information regarding the permit application will be furnished the information.

5.2.3.4 Persons who become aware of a permit and who have not been provided with prior notice of the permit application may still have certain rights to petition for an administrative hearing on the activity under Chapter 120, F.S. For this reason, it may be in the applicant's best interest to publish, at their expense, a one-time notice of the Department's intended agency action in a newspaper of general circulation in the county in which the activity is located. Department staff will provide applicants with the information for such a notice upon request.

#### **5.2.4 Staff Evaluation and Agency Action**

**5.2.4.1** When the application for an individual permit is complete, or complete enough to evaluate, staff will commence the technical review of the application. Criteria used in the evaluation are contained in Rule 62-346.301, F.A.C., as well as in Rule 62-346.302, F.A.C., and Part II of this Volume and Applicant's Handbook Volume II, as applicable. Staff will also consider comments received from the public, including commenting agencies. If the Department determines that the applicant has not provided reasonable assurance that the proposed activity is consistent with those criteria, Department staff will assist the applicant in submission of changes in design that will correct the deficiencies in the application where possible. However, the responsibility for changing the permit application and designing corrections remains that of the applicant.

5.2.4.2 ~~5.2.4.3~~ All reviews will be completed and agency action will be taken within 90 days after receipt of a complete application, unless the time frame is waived by the applicant. The applicant will either be issued a permit (where Department staff are not aware of any outstanding written objections to the project within the Department's statutory and rule criteria) or a Notice of Intent to Issue a permit (where Department staff are aware of written objections to the activity within the Department's statutory and rule criteria) if the system meets the criteria identified in **section 5.2.4.1, above.** The applicant will be mailed a Notice of Denial if the system does not meet those criteria.

5.2.4.3 ~~5.2.4.4~~ Applicants who propose activities that, because of their size, potential effect on the environment or the public, controversial nature, or location, are reasonably expected by the Department to result in a heightened public concern or likelihood of request for administrative proceedings, will be required to publish, at their expense, a one-time notice of the agency decision in a newspaper of general circulation in the county where the activity is located. The Department will furnish the applicant with the notice that is to be published. In addition, even if not required to publish notice of agency action by the Department, it may be in the applicant's best interest to publish, at their expense, a one-time notice of the Department's intended agency action in a newspaper of general circulation in the county in which the activity is located. Such publication will reduce or eliminate the potential for third parties to challenge the Department's agency action at a later time. Department staff will provide applicants with the information for such a notice upon request. See paragraph 62-346.090(2)(j), F.A.C., and section 5.2.3.2, above, for additional notification and publication requirements.

5.2.4.4 ~~5.2.4.5~~ Upon issuance of an Intent to Issue (if required before issuance of a permit), a permit, (if there is no prior Intent to Issue), or a Notice of Denial, the applicant will have 21 days to either petition for a formal administrative hearing under Chapter 120, F.S., or to request additional time to petition for such a hearing. Such petition must be prepared and filed in accordance with Chapter 120, F.S., Chapter 28-106, F.A.C., and Chapter 62-110, F.A.C.

### **5.3 Noticed General Permits**

**5.3.1** Noticed general permits authorize the construction, operation, maintenance, alteration, abandonment, or removal of certain minor surface water management systems after notice. Noticed general permits differ from individual permits in that they are granted by rule for those systems that meet the requirements in Chapter 62-341, F.A.C.

Those requirements include the following:

- (a) The activity must be designed and implemented to meet the specific limits and conditions described in the applicable noticed general permit. A listing of the available noticed general permits with their accompanying rule references is found in **section 3.2.1 of this Volume**.
- (b) The activity must be implemented in accordance with all the general conditions of noticed general permits in Rule 62-341.215, F.A.C.
- (c) Any person wishing to use a noticed general permit must provide notice of such intent by submitting a complete “Notice of Intent to Use an Environmental Resource Noticed General Permit in Northwest Florida,” Form 62-346.900(2), including a the ~~\$100~~ notice fee, as required in Rule 62-346.071, F.A.C., and paragraph 62-346.070(2)(b), F.A.C., and discussed in **sections 4.4 through 4.4.3.2 ~~4.4.4.2~~ of this Volume**.

#### **5.3.2 Staff Evaluation of a Notice of Intent to Use a Noticed General Permit**

**5.3.2.1** Upon receipt of a notice of intent, Department staff will review it to determine if all necessary information is included to qualify for the requested noticed general permit. If the notice does not contain all of the required information or fee, the applicant will be notified that the activity does not qualify for a noticed general permit due to the errors or omissions, and the applicant will have 60 days from the date of the notification to amend the notice and submit additional information to correct such errors or omissions. No additional notice fee will be required if the applicant amends the notice and submits additional information correcting the errors or omissions within the 60-day time limit.

**5.3.2.2** Upon receipt of a complete notice, Department staff will review it to determine if the proposed system qualifies for a noticed general permit. If the Department determines that the activity does not qualify, the Department will mail a notification to the applicant within 30 days of receiving the notice. If the Department does not mail such notice within 30 days of receipt of the original or amended notice to use the general permit, the applicant is authorized to conduct the activity authorized by the noticed general permit, except where the applicable noticed general permit specifically requires Department acknowledgement of qualification prior to proceeding with construction, such as is required for the noticed general permit in Rule 62-341.475, F.A.C. (see **section 5.3.3, below**).

**5.3.2.3** If the Department notifies an applicant that the activity does not qualify for a noticed general permit, the application fee for the noticed general permit shall be applied to the application fee for an individual permit, as applicable, if the applicant applies for such a permit within 60 days of the Department’s notification.

**5.3.2.4** For systems that qualify for a noticed general permit, the Department will not publish, or require the applicant to publish, newspaper notice of the notice submitted to qualify for the permit. Persons who have requested to receive individual notice of receipt of pending permit applications also will not be provided with such notice. However, persons qualifying for a noticed general permit are advised that interested parties who become aware of and may be affected by such permit may still have certain rights to petition for an administrative hearing on the activity under Chapter 120, F.S. For this reason, it may be in the permittee's best interests to publish, at their expense, a one-time Notice of Intent to Use a Noticed General Permit in a newspaper of general circulation in the county in which the activity is located. Department staff can provide permittees with the information for such a notice upon request. Persons who are substantially affected by the proposed action may petition for an administrative hearing within the time frames specified in the notice or in Chapter 120, F.S.

### **5.3.3 Special Procedures for Certain Noticed General Permits**

Some general permits, such as the noticed general permits for minor activities in Rule 62-341.475, F.A.C., have procedures specified within the noticed general permit that are different from the generally applicable procedures for noticed general permits. Whenever a noticed general permit specifies procedures different from the procedures in subsection 62-346.090(1), F.A.C., or this Handbook, the procedures specified in the noticed general permit will govern.

### **5.4 Mailing**

Mailings by the Department shall be deemed to occur when the notice is properly addressed, stamped, and deposited in the United States mail or other common carriers, and the postmark or receipt date shall be the date of mailing.

Whenever the Department is required to give notice, such notice may be provided to the applicant electronically with a delivery receipt, or, if the applicant concurs, the notice may be provided by electronic notification.

### **5.5 Request for Hearing Objections**

**5.5.1** An applicant or a person whose substantial environmental interests may be affected may request an administrative hearing in accordance with Chapter 120, F.S., and Chapters 28-106 and 62-110, F.A.C.

~~**5.5.2** Persons who become aware of a permit and who have not been provided with prior notice of the permit application may still have certain rights to petition for an administrative hearing on the activity under Chapter 120, F.S. For this reason, it may be in the applicant's best interest to publish, at their expense, a one-time notice of the Department's intended agency action in a newspaper of general circulation in the county in which the activity is located. Department staff will provide applicants with the information for such a notice upon request.~~

## **6.0 Duration, Operation, Modification, and Transfer of Permit**

### **6.1 Duration of Permits**

#### **6.1.1 General**

An ERP will include a specified period for which the permit will be valid. Permits are issued in phases. Upon completion of the construction phase, an ERP must be converted ~~transferred~~ to the operation phase, following the procedures described in **section 6.2, below**.

#### **6.1.2 Construction Phase Duration**

**6.1.2.1 Noticed General Permits —** The construction phase of a noticed general permit is five years and cannot be extended. If construction activities have not been completed within that five year period, a new notice of intent to use the applicable noticed general permit must be submitted to comply with all applicable time frames for review and confirmation of qualification (as applicable), as provided in subsection 62-346.090(1), F.A.C.

**6.1.2.2 Individual Permits —** The construction phase of an individual permit is five years, except that such duration may be authorized for more than five years if an applicant has provided reasonable assurance that:

- (a) The activity for which the permit is to be granted cannot reasonably be expected to be completed within five years after commencement of construction; and
- (b) The impacts of the activity, considering its nature, the size of the system, and any required mitigation, can be accurately assessed and offset where appropriate, and the terms of the permit can be met for the duration of the permit requested.

An example where a longer construction phase is appropriate would be a mine where resources will be extracted over a period that may exceed 50 years.

**6.1.2.3** During the above-designated construction duration, activities associated with constructing, altering, modifying, removing, or abandoning a system are authorized. Some operation may occur during this phase prior to conversion ~~transfer~~ to an operation phase. For example, during construction of a surface water ~~stormwater~~ management system, rainfall events may occur that will discharge stormwater runoff into the system under construction. At such times, the system must be temporarily operated without conversion to the operation phase, provided such temporary operation does not violate the conditions for issuance of a permit in Rule 62-346.301, F.A.C.

#### **6.1.3 Construction Phase Expiration and Extension**

The construction phase of a permit expires at 11:59 p.m. on the date indicated in the permit conditions unless an application is received pursuant to Rule 62-346.120, F.A.C., for an extension of the construction phase prior to expiration of the existing permit.

**6.1.3.1** An application to extend the construction phase of a still valid individual permit may be applied for by writing to the Department or the NFWMD office that issued the permit at the address listed in **section 1.2 of this Volume**. The request will be evaluated in accordance with the permit extension procedures in Rule 62-346.120, F.A.C., and **sections 6.1.3.2 through 6.1.3.3, below**.



Such requests are processed as a modification to the permit, and will be categorized as a major or minor modification in accordance with Rule 62-346.100, F.A.C., and **sections 6.3 through 6.3.2, below.**

**6.1.3.2** A modification to extend a valid permit will be granted if the request for extension:

- (a) Continues to be consistent with plans, terms, and conditions of the valid permit;
- (b) Is consistent with the Department's rules in effect at the time the Department takes final agency action on the request for extension; and
- (c) Will not be harmful to the water resources ~~of the District~~ and will not be inconsistent with the objectives of the Department District.

**6.1.3.3** If a timely and complete request is received to extend the construction phase of an individual permit, the existing permit shall remain in full force and effect until the Department takes action on the application for extension. If the request for permit extension is denied, the permit shall not expire until the last day for requesting review of the Department order, or a later date fixed by order of the reviewing court.

#### **6.1.4 Operation Phase Duration**

The operation phase of all ERP permits lasts for the life of the system.

The operation phase of a noticed general permit automatically commences upon completion of construction that was performed in compliance with all the terms and conditions of the applicable general permit.

An individual permit authorizing construction, alteration, or maintenance must be converted to the operation and maintenance phase once construction of the system has been completed, the Department determines the system or independent portion of a system has been constructed in compliance with the permit, and an approved entity (see **section 12.3 of this Volume**) has accepted responsibility for operation and maintenance of the system or independent portion of a system.

The request for conversion to the operating phase for any phase or independent portion of the permitted system shall occur after construction of the roads, stormwater conveyance systems, treatment and attenuation ponds and utilities for that particular phase or independent portion have been completed.

#### **6.1.5 Conceptual Approval Permits**

Except as otherwise provided in paragraph 62-346.060(1)(b), F.A.C., and **section 3.3.2 of this Volume**, the duration of a conceptual approval permit is five years, provided that a permit for the initial phase of construction or alteration of the system is obtained and construction has begun within two years of the granting of the conceptual approval permit. However, the time periods for duration or commencement of construction will be tolled if:

- (a) The project approved by the conceptual approval permit is undergoing Development-of-Regional-Impact review pursuant to Section 380.06, F.S., and an administrative appeal of that review has been filed; or

- (b) The issuance of the construction permit for the first phase is under administrative review pursuant to Sections 120.569 and 120.57, F.S.; and
- (c) The Department is notified, in writing, within two years of issuance of the conceptual approval permit, that administrative review under either (a) or (b) is pending.

If notice is given as provided above, the duration period and the two-year time period for obtaining a permit and commencing construction ~~or construction~~ shall be tolled until the date of final action resolving such administrative appeal or review, including any judicial review.

## 6.2 Operation Phase

An application to construct, alter and maintain a surface water management system also constitutes an application to operate the system. Except as described in **section 12.1.1 of this Volume**, an applicant must submit the information described in this section to specify the entity that will operate and maintain the system with the construction, alteration or maintenance permit application. The permit to operate a system is granted concurrently with the permit to construct, maintain or alter the system. However, the operation phase of an individual permit does not become effective until the permittee receives written notification by Department staff that the construction, alteration, or maintenance or repair has been completed in accordance with the permit. Procedures for converting from the construction to the operation phase of an individual permit are provided in Rule 62-346.095, F.A.C., and **section 12.2 of this Volume**. Acceptable operational entities are described in **section 12.3 of this Volume**.

## 6.3 Modification of Permits

Modifications to an existing, currently valid individual permit may be requested by the permittee in accordance with the provisions in Rule 62-346.100, F.A.C., and as summarized below. Changes to activities authorized by a noticed general permit require submittal of a new notice of intent (if the changes result in the project still qualifying for a noticed general permit), or submittal of a new application for an individual permit if the changes cause the activity to exceed the limitations and conditions of the noticed general permit.

### 6.3.1 Applications for modifications are processed as either minor or major as follows:

- (a) Major modifications must be requested and are processed in accordance with the procedures for applying for a new permit applicable to the type of permit originally obtained.
- (b) Applications for minor modifications may be requested in the same manner as a major modification, or they may be requested by letter. Letter requests must describe the proposed modification, along with attached drawings needed to reflect a change in the design of the system. Activities qualify for minor modifications if they consist of requests for a time extension pursuant to Rule 62-346.120, F.A.C., to correct errors or typographical mistakes, to incorporate changes requested by the Department or required through permits issued by other regulatory agencies, to change due dates for reporting or performance deadlines, to transfer a permit, or to make minor technical changes. Other modifications shall be considered minor when they do not:
  1. Require a new site inspection or detailed technical analysis by the Department to evaluate the request; or

2. Lead to substantially different environmental impacts or will lessen the impacts of the original permit; or

~~3.2.~~ Substantially:

- a. Alter the system design or permit conditions;
- b. Increase the authorized discharge;
- c. Decrease the stormwater treatment or flood attenuation capability of the existing system as specified by the original permit;
- d. Decrease any flood control elevations for roads or buildings specified by the original permit;
- e. Increase the project area;
- f. Result in additional loss of floodplain storage within the 10-year floodplain at a location where the upstream drainage area is greater than 5 square miles;
- g. Increase the proposed impervious surface unless accounted for in the previously permitted design of the system;
- h. Reduce the frequency or parameters of monitoring requirements, except in accordance with a permit condition that specifically provides for future adjustments in such monitoring requirements; or
- i. Reduce the financial responsibility mechanisms provided to ensure the continued construction and operation of the system in compliance with permit requirements, except in accordance with specific permit conditions that provide for a reduction in such financial responsibility mechanisms.

Requests that do not qualify as a minor modification are processed as a major modification.

- (c) All modification requests must include payment of the fee required by Rule 62-346.071, F.A.C., except that minor modifications to noticed general permits shall not require an additional fee.
- (d) All modification requests must be sent to the agency that issued the permit that is subject to modification.
- (e) A request for a modification shall be reviewed, and will be issued or denied in accordance with the procedures in Rule 62-346.090, F.A.C., applicable to the type of permit subject to the request for modification.

**6.3.2** Modifications to individual permits also may be required by the Department as follows:

- (a) To conform to new or additional permit conditions for good cause. Such requirements will be imposed only after notice and an administrative hearing, if requested. Upon a showing by the permittee that a specific period of time is required to comply with the new or additional conditions, the permittee will be provided such time. Any of the following shall constitute good cause:
1. A showing of any change in the environment or surrounding conditions that requires a modification to conform to applicable water quality standards;
  2. For discharges into wetlands or other surface waters, a showing that new or changed classification of the water requires a modification of the discharge;
  3. Adoption or revision of Florida Statutes, rules, or standards that require the modification of a permit condition for compliance;
  4. To correct errors or omissions in the permit with the consent of the permittee; or
  5. To correct a permit as a result of the submittal of incorrect or inaccurate information in the application.
- (b) Where appropriate to revoke or modify a permit in accordance with Section 373.429, F.S.
- (c) A person or entity other than a permittee or the Department may request a modification of a currently valid individual permit only when the person or entity has purchased, or is authorized to and intends to take ownership through condemnation or a contract to purchase, the part of a permitted system subject to the requested modification. In such case, the entity requesting the modification must submit either a formal application or letter modification in accordance with **section 6.3.1, above**, and must demonstrate that both the modified portions of the system and the unmodified portions of the system, including portions of the system remaining in the ownership of the existing permittee, will continue to comply with the conditions for issuance in Rule 62-346.301, F.A.C., the additional conditions for issuance in Rule 62-346.302, F.A.C., as applicable, the Applicant's Handbook Volumes I and II, and all permit conditions.

#### 6.4 Transfers

All transfers of ownership and transfers of a permit are governed by the requirements of Rule 62-346.130, F.A.C.

The Department must be notified, in writing, within 30 days of any sale, conveyance, or other transfer of a permitted system or facility or within 30 days of any transfer of ownership or control of the real property at which the permitted system or facility is located. The permittee must also provide a written statement from the proposed transferee that it has reviewed the permit and project design, and will be bound by all terms and conditions of the permit for the duration of the permit or until the permit is modified.

The Department will approve the transfer of the permit if the proposed new permittee provides reasonable assurances that the conditions of the permit will be met. The determination shall be limited to the ability of the proposed new permittee to comply with the conditions of the existing permit, and it shall not concern the adequacy of these permit conditions. If the Department proposes

to deny the transfer, it shall provide both the permittee and the proposed new permittee a notice of denial with a written explanation of the reasons for denial of the transfer.

Until a transfer is approved by the Department, the permittee is liable for compliance with the terms and conditions of the permit, and may be liable for any corrective actions required as a result of any violations of the permit prior to the approval of the transfer by the Department.

## **7.0 Enforcement and Inspection**

### **7.1 Authority**

Parts I and IV of Chapter 373, F.S., provide for the enforcement of Department rules by administrative and civil complaint. The Department also has the authority to obtain the assistance of county and city officials in the enforcement of the rules (see Sections 373.603 and 373.609, F.S.). Any person who violates any provisions of Chapter 373 or 403, F.S., the rules adopted thereunder, or orders of the Department, is subject to civil fines or criminal penalties as provided in Section 373.430, F.S.

### **7.2 Permission to Inspect**

Each application must include permission signed by the landowner, easement or lessee holder, or their legal designee that Department staff may access the property where the proposed system is located for purposes of inspecting the land to determine whether the activity can meet permitting criteria under Part IV of Chapter 373, F.S. In addition, each permit is subject to the condition that Department authorized staff, upon proper identification, will have permission to enter, inspect and observe the system to ensure compliance with the approved plans and specifications included in the permit. See subsection 62-346.070(2), F.A.C., paragraph 62-346.381(1)(o), F.A.C., and Part 7 of Form 62-346.900(1) for additional information.

## PART II -- CRITERIA FOR EVALUATION

### 8.0 Criteria for Evaluation

#### 8.1 Purpose

The criteria explained in this part are those that have been adopted by the Department in evaluating applications for *individual* permits for surface water ~~stormwater~~ management systems. The staff recommendation on approval for any permit will be based upon a determination of whether reasonable assurance has been provided that the system meets the criteria for evaluation, and whether the applicable permit fee has been submitted.

Noticed general permits are pre-issued, and already contain the limitations and criteria that must be met to qualify to use the specific noticed general permit. Upon receipt of a notice to use a noticed general permit, the Department's review is limited to determining whether the notice complies with the terms and conditions of the pre-issued permit, in accordance with Chapter 62-341, F.A.C., and whether the applicable permit fee has been submitted.

#### 8.2 Source of Criteria

The criteria for evaluation have been developed from the authorities in Chapters 373 and 403, F.S.; the rules adopted thereunder, and through case law and the permitting decisions of the Department.

#### 8.3 Statutory Criteria

In order to obtain a permit, an applicant must give reasonable assurance that construction, alteration, operation, maintenance, abandonment, or removal of any surface water ~~stormwater~~ management system, dam, impoundment, reservoir, appurtenant work or works will not be harmful to the water resources of the District and not inconsistent with the overall objectives of the District.

All conditions for permit issuance set forth in **sections 8.4, ~~and 8.5~~ and 8.6, below**, are based upon these criteria.

#### 8.4 Conditions for Issuance of Individual Permits, Rule 62-346.301, F.A.C.

**8.4.1** ~~In order~~ To obtain an individual ERP, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of a surface water ~~stormwater~~ management system:

- (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)(d)~~ Will not cause a violation of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-522 and 62-550, F.A.C., including the provisions of Rules 62-4.243, 62-4.244, and 62-4.246, F.A.C., the antidegradation provisions of paragraphs 62-4.242 (1)(a) and (b), subsections 62-4.242(2) and (3), 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.;
- ~~(f)(e)~~ Will not cause adverse secondary impacts to the water resources. ~~Until the effective date of the Phase II rules, this shall be limited to not causing a violation of water quality standards and not lowering or raising seasonal water levels in adjacent surface waters of the state to an extent that prevents the stormwater management system from functioning as designed, not adversely altering normal water level fluctuations in adjacent surface waters of the state, and not otherwise adversely impacting the maintenance of surface or ground water levels or surface water flows established pursuant to Section 373.042, F.S.;~~
- ~~(g)(f)~~ Will be capable, based on generally accepted engineering and scientific principles, of being performed and of functioning as proposed;
- ~~(h)(g)~~ Will be conducted by an entity 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; and
- ~~(i)(h)~~ Will comply with any applicable special basin or geographic area criteria established in **sections 9 through 9.1 of this Volume and sections 17.0 through 17.4 17.3 of Applicant's Handbook Volume II**. When karst features exist on the site of a proposed stormwater management system, in addition to paragraphs (a) through ~~(h)(g)~~ above, the applicant must provide reasonable assurance that untreated stormwater from the proposed system will not reach the Floridan Aquifer through sinkholes, solution pipes, or other karst features.

~~8.4.1.1~~ A showing by the applicant that a stormwater management system complies with the applicable criteria in Part III of Applicant's Handbook Volume II shall create a presumption that the applicant provided reasonable assurance that the proposed activity meets the requirements in **paragraphs 8.4.1(a), (b), (c), and (e), above.**

~~8.4.1.2~~ A showing by the applicant that a stormwater management system complies with the applicable criteria in Part IV of Applicant's Handbook Volume II shall create a presumption that the applicant provided reasonable assurance that the proposed activity meets the requirements in **paragraph 8.4.1(d), above.**

~~8.4.1.3~~ A showing by the applicant that a stormwater management system complies with the applicable criteria in Part III of Applicant's Handbook Volume II and Part IV of Applicant's Handbook Volume II shall create a presumption that the applicant provided reasonable assurance that the proposed activity meets the requirements in **paragraphs 8.4.1(d) and (e), above.**

~~8.4.1.4~~ A showing by the applicant that a stormwater management system complies with the applicable criteria in **Part V of this Volume and Part V of Applicant's Handbook Volume II** shall create a presumption that the applicant provided reasonable assurance that the proposed activity meets the requirements in **paragraph 8.4.1(f), above.**



~~8.4.1.5 A showing by the applicant that a stormwater management system complies with the applicable criteria in **Part V of this Volume** shall create a presumption that the applicant provided reasonable assurance that the proposed activity meets the requirements in **paragraph 8.4.1(g), above.**~~

#### 8.4.2 Systems Discharging into Waters That Do Not Meet Standards

In instances where an applicant is unable to meet water quality standards because existing ambient water quality does not meet standards and the system will contribute to this existing condition, mitigation for water quality impacts can consist of water quality enhancement. In these cases, 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 contributed parameters that do not meet standards.

#### 8.4.3 Alternative Designs

An applicant may provide alternative designs to those provided in this Volume and **Applicant's Handbook Volume II**, such as when filter systems are proposed. These alternative designs will be considered by the Department in determining whether, based on plans, test results, or other information that the alternative design is appropriate for the specific site conditions to provide for a design that can provide equivalent treatment, attenuation, and protection to water resources as the best management practices adopted in **Applicant's Handbook Volume II** ~~create a presumption in favor of satisfying the applicable conditions for issuance in Rule 62-346.301, F.A.C. The use of such alternative designs shall require the application to be reviewed and acted on as an individual permit. In otherwise determining whether reasonable assurance has been provided for compliance with this paragraph, the Department shall, where appropriate, consider:~~

- (a) The public interest served by the system;
- (b) Whether the proposed system will be as effective as the comparable system design in **Applicant's Handbook Volume II**;
- (c) The costs of the alternative controls; and
- (d) Whether reasonable provisions have been made for the operation and maintenance of the proposed system.

Guidance for the use of filters is contained in **Appendix B of Applicant's Handbook Volume II**.

#### 8.4.4 Flood Damage

In evaluating the potential for flood damages to residences, public buildings, the following criteria will be utilized:

- (a) Residential buildings shall have the lowest floor elevated above the post-development 100-year flood elevation for that site. For the purposes of this section, the design storm for determining the 100-year flood elevations shall be the 100-year, 24-hour event.
- (b) Industrial, commercial, and other non-residential buildings susceptible to flood damage must have the lowest floor elevated above the 100-year flood elevation, or be designed and constructed so that below the 100-year flood elevation, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The design should take into account flood velocities, duration, rate of rise, hydrostatic and

hydrodynamic forces, the effect of buoyancy and impacts from debris. Flood proofing measures must be operable without human intervention and without an outside source of electricity.

- (c) Accessory buildings may be constructed below the 100-year flood elevation provided there is minimal potential for significant damage by flooding. An accessory building is a structure on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure and not for human habitation. For example a residential structure may have a detached garage, a carport, or storage shed for garden tools as accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses, pole barns, storage sheds, and similar buildings.

#### **8.4.5 Storage and Conveyance**

As part of meeting the requirements of section 8.4.1(c), above, floodways and floodplains, and levels of flood flows or velocities of adjacent streams, impoundments or other water courses must not be altered so as to adversely impact the off-site storage and conveyance capabilities of the water resource. Projects that alter existing conveyance systems (such as by rerouting an existing ditch) must not adversely affect existing conveyance capabilities. Also, the applicant shall provide reasonable assurance that proposed velocities are non-erosive or that erosion control measures (such as riprap and concrete lined channels) are sufficient to safely convey the flow.

- (a) A system shall not cause a net reduction in flood storage within a 10-year floodplain except for structures elevated on pilings or traversing works.
- (b) A system shall not cause a reduction in the flood conveyance capabilities provided by a floodway except for structures elevated on pilings or traversing works. Such works or other structures shall cause no more than a one foot increase in the 100-year flood elevation immediately upstream and no more than one tenth of a foot increase in the 100-year flood elevation 500 feet upstream.
- (c) An applicant will not have to meet the requirements of (a) or (b) above if reasonable assurance is provided that the singular and cumulative impacts of not meeting those criteria will not contravene subsections 62-346.301(1) and (2), F.A.C., considering all other persons who could impact the surface water of any impoundment, stream, or other watercourse by floodplain encroachment to the same degree as proposed by the applicant.
- (d) As an alternative, the applicant may propose to utilize applicable criteria established by a local government, another state agency, or a stormwater utility with jurisdiction over the project. The Department will approve the use of such alternative criteria if the alternative criteria provide reasonable assurance that the proposed project will not adversely affect existing conveyance capabilities.

#### **8.4.6 Low Flow and Base Flow Maintenance**

As part of meeting the requirements of sections 8.4.1(a), (d), and (e), above, flows of adjacent streams, impoundments or other watercourses must not be decreased so as to cause adverse impacts.

##### **8.4.6.1 Low Flow:**

- (a) Systems with both of the following conditions must meet the low flow performance criteria in sections 8.4.6.1(b) and (c), below.
  - 1. Systems that impound water for purposes in addition to temporary detention storage. Water impounded longer than a 14-day bleed down period is considered conservation storage for benefits other than detention storage (for example, recreation and irrigation).
  - 2. Systems that impound a stream or other watercourse which, under pre-development conditions, discharged surface water off-site to receiving water during 5-year, 30-day drought frequency conditions.
- (b) Any system meeting the conditions of section 8.4.6.1(a), above, shall be designed with an outlet structure to maintain a low flow discharge of available conservation storage. When the conservation storage is at the average dry season design stage, the low flow discharge shall equal the average pre-development surface water discharge which occurred from the project site to receiving waters during the 5-year, 30-day drought.
- (c) The system shall be operated to provide a low flow discharge whenever water is impounded. The actual discharge will vary according to the water stage in the impoundment. When conservation storage is at the average dry season design stage, the discharge will be the 5-year, 30-day average low flow. When storage is below the average dry season design stage, the discharge may be less than the 5-year, 30-day average low flow.

##### **8.4.6.2 Base Flow**

Design and performance criteria for maintaining acceptable base flow conditions include:

- (a) Storage volumes in detention or retention systems shall be calculated so as not to include volumes below the seasonal high-water table for the project area;
- (b) Underdrain systems shall be allowed provided that lowering of the groundwater table is restricted to the immediate vicinity of the treatment system; and
- (c) Water tables shall not be lowered to a level that would decrease the flows or levels of surface water bodies below any minimum level or flow established by a water management district Governing Board pursuant to Section 373.042, F.S.

#### **8.4.7 Dam Safety**

As part of the determination as to whether a dam meets the criteria in Rule 62-346.301, F.A.C., and section 8.4.1, above, a dam over five feet in height (as measured from the crest of the dam to the lowest elevation on the downstream toe) with the potential to store 50 acre feet or more of water, and any dam that is 10 feet or more in height must be designed, constructed, operated, and maintained consistent with generally accepted engineering practices as applied to local conditions, considering such factors as: the type of materials used to construct the dam, the type of soils and degree of compaction, hydrologic capacity, construction techniques, and hazard rating. A document that provides useful information for this purpose is *Design of Small Dams*, U.S. Department of Interior, Bureau of Reclamation, Third Edition, 2006.

#### **8.4.5 Dry Storage Facilities**

~~In addition to the above, activities consisting of 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 also must also be evaluated to determine whether reasonable assurance has been provided that the facility, taking into consideration any secondary impacts, will meet the public interest test of Section 373.414(1)(a), F.S., including the potential adverse impacts to manatees.~~

#### **8.5 Additional Conditions for Issuance of Individual Permits, Rule 62-346.302, F.A.C.**

**8.5.1** In addition to the conditions set forth in sections 8.4 through 8.4.4, above, in order to obtain an individual permit an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, and abandonment of a system:

(a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such an activity significantly degrades or is within an Outstanding Florida Water, that the activity will be 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, below:

1. Whether the activity will adversely affect the public health, safety, or welfare or the property of others;
2. Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;
3. Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;
4. Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;
5. Whether the activity will be of a temporary or permanent nature;
6. Whether the activity will adversely affect or will enhance significant historical and archaeological resources under the provisions of Section 267.061, F.S.; and
7. The current condition and relative value of functions being performed by areas affected by the proposed activity.

- (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, below.
- (c) Will comply with the additional criteria in section 10.2.5 of this Volume if the activity is 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 or conditionally restricted for shellfish harvesting pursuant to Chapter 5L-1, F.A.C. (July 29, 2008).
- (d) That constitute vertical seawalls in estuaries or lagoons, will comply with the additional criteria provided in section 10.2.6 of this Volume.

**8.5.2** When determining whether a permit applicant has provided reasonable assurances that permitting standards of Chapter 62-346, F.A.C., will be met, the Department shall take into consideration the applicant's violation of any Department rules adopted pursuant to Sections 403.91 through 403.929, F.S., (1984 Supp.), as amended, or any Department rules adopted or authorized pursuant to Part IV, Chapter 373, F.S., relating to any other project or activity and efforts taken by the applicant to resolve those violations.

## **8.6 8.5 State Water Quality Standards**

### **8.6.1 8.5.1 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.

### **8.6.2 8.5.2 Ground Water Quality Standards**

State water quality standards for ground water are set forth in Chapter 62-520, F.A.C. In addition to the minimum criteria, Class G-I and G-II ground water must meet primary and secondary drinking water quality standards for public water systems established pursuant to the Florida Safe Drinking Water Act, which are listed in Rules 62-550.310 and .320, F.A.C.

Only the minimum criteria apply within a zone of discharge, as determined in Rule 62-520.400, F.A.C. A zone of discharge is defined as a volume underlying or surrounding the site and extending to the base of a specifically designated aquifer or aquifers, within which an opportunity for the treatment, mixture or dispersion of wastes into receiving ground water is afforded. Generally, stormwater systems have a zone of discharge 100 feet from the system boundary or to the project's property boundary, whichever is less.

### **8.6.3 8.5.3 How Standards are Applied**

The quality of waters discharged to receiving waters is presumed to meet the surface water quality standards in Chapters 62-4 and 62-302, F.A.C., and the ground water standards in Chapter 62-550, F.A.C., if the system is permitted, constructed, operated and maintained in accordance with Chapter 62-346, F.A.C., and this Volume.

## **9.0 Additional Area/Basin Criteria**

### **9.1 Sensitive Karst Areas**

In addition to the requirements for issuance and design and performance criteria described in **Applicant's Handbook Volume II**, proposed systems that are located in the Sensitive Karst Areas (see **Figure 17.0-1 in Applicant's Handbook Volume II**) must meet the criteria in **sections 17.0 through 17.4 of Applicant's Handbook Volume II**. This includes situations where the Department determines, based on the best available data and information, that a substantial likelihood exists that a proposed surface water ~~stormwater~~ management system, although not located in a designated Sensitive Karst Area, has the potential to be located within the influence of a karst feature based on methodologies generally accepted by registered professionals, and has the potential to adversely affect the Floridan Aquifer System. In such cases, the Department will require compliance with ~~the criteria in~~ **section 17.3.4 of Applicant's Handbook Volume II**.

## **PART III – ENVIRONMENTAL WETLAND CRITERIA**

### **10.0 Environmental Considerations ~~RESERVED, pending adoption of the rules authorized under Section 373.4145(1)(b), F.S.~~**

#### **10.1 Wetlands and other surface waters**

Wetlands are important components of the water resource because they often serve as spawning, nursery and feeding habitats for many species of fish and wildlife, and because they often provide important flood storage, nutrient cycling, detrital production, recreational and water quality functions. Other surface waters such as lakes, ponds, reservoirs, other impoundments, streams, rivers and estuaries also often provide such functions, and in addition may provide flood conveyance, navigation and water supply functions to the public. Not all wetlands or other surface waters provide all of these functions, nor do they provide them to the same extent. A wide array of biological, physical and chemical factors affect the functioning of any wetland or other surface water community. Maintenance of water quality standards in applicable wetlands and other surface waters is critical to their ability to provide many of these functions. It is the intent of the Department that the criteria in sections 10.2 through 10.3.8, below, be implemented in a manner which achieves a programmatic goal, and a project permitting goal, of no net loss in wetland or other surface water functions. This goal shall not include projects that are exempt by statute or rule, or which are authorized by a noticed general permit. Unless exempted by statute or rule, permits are required for the construction, alteration, operation, maintenance, abandonment and removal of systems so that the Department can conserve the beneficial functions of these communities. The term “systems” includes areas of dredging or filling, as those terms are defined in Sections 373.403(13) and 373.403(14), F.S.

##### **10.1.1 Environmental Conditions for Issuance**

The Department addresses the conservation of these beneficial functions in the permitting process by requiring applicants to provide reasonable assurances that the following conditions for issuance of permits, set forth in Rules 62-346.301 (Conditions for Issuance) and 62-346.302 (Additional Conditions for Issuance), F.A.C., are met. Applicants must provide reasonable assurance that:

- (a) A regulated activity will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters [paragraph 62-346.301(1)(d), F.A.C.];
- (b) A regulated activity located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such an activity significantly degrades or is located within an Outstanding Florida Water, that the regulated activity will be clearly in the public interest [subsection 62-346.302(1), F.A.C.];
- (c) A regulated activity will not adversely affect the quality of receiving waters such that the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-522 and 62-550, F.A.C., including any antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), subsections 62-4.242(2) and (3), 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 [paragraph 62-346.301(1)(e), F.A.C.];

- (d) A regulated activity located in, adjacent to or in close proximity to Class II waters or located in waters classified by the Department of Agriculture and Consumer Services as approved, restricted, or conditionally restricted for shellfish harvesting pursuant to Chapter 5L-1, F.A.C., (July 29, 2008) will comply with the additional criteria in **section 10.2.5, of this Volume** [paragraph 62-346.302(1)(c), F.A.C.];
- (e) The construction of vertical seawalls in estuaries and lagoons will comply with the additional criteria in **section 10.2.6, of this Volume** [paragraph 62-346.302(1)(d), F.A.C.];
- (f) A regulated activity will not cause adverse secondary impacts to the water resources [paragraph 62-346.301(1)(f), F.A.C.];
- (g) A regulated activity will not cause unacceptable cumulative impacts upon wetlands and other surface waters [paragraph 62-346.302(1)(b), F.A.C.].

## **10.2 Environmental Criteria**

Compliance with the conditions for issuance in **section 10.1.1, above**, will be determined through compliance with the criteria explained in **sections 10.2 through 10.3.8 of this Volume**.

### **10.2.1 Elimination or Reduction of Impacts**

The following factors are considered in determining whether an application will be approved by the Department: the degree of impact to wetland and other surface water functions caused by a proposed system; whether the impact to these functions can be mitigated; and the practicability of design modifications for the site which 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 Department 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 Department approval, a system cannot cause a net adverse impact on wetland functions and other surface water functions which is not offset by mitigation.

**10.2.1.1** Except as provided in **section 10.2.1.2, below**, if the proposed system 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 Department 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 system 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 which 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.



10.2.1.2 The Department 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 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.

10.2.1.3 Should such mutual consideration of modification and mitigation not result in a permissible system, the Department must deny the application. Nothing herein shall imply that the Department 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 Department.

#### **10.2.2 Fish, Wildlife, Listed Species and their Habitats**

Pursuant to **section 10.1.1(a), above**, an applicant must provide reasonable assurances that a regulated activity will not impact the values of wetland and other surface water functions so as to cause adverse impacts to:

- (a) The abundance and diversity of fish, wildlife and listed species; and
- (b) The habitat of fish, wildlife and listed species.

In evaluating whether an applicant has provided reasonable assurances under these provisions, *de minimis* effects shall not be considered adverse for the purposes of this **section 10.2.2**.

As part of the assessment of the impacts of regulated activities upon fish and wildlife, the Department will provide a copy of all notices of applications for individual (including conceptual approval) permits that propose regulated activities in, on, or over wetlands or other surface waters to the Florida Fish and Wildlife Conservation Commission for review and comment. In addition, the Department staff may solicit comments from the Florida Fish and Wildlife Conservation Commission regarding other applications to assist in the assessment of potential impacts to wildlife and their habitats, particularly with regard to listed wildlife species. Where proposed activities have a potential to impact listed marine species, the Department will provide a copy of the above-referenced types of applications to the Florida Fish and Wildlife Conservation Commission.

The need for a wildlife survey will depend upon the likelihood that the site is used by listed species, considering site characteristics and the range and habitat needs of such species, and whether the proposed system will impact that use such that the criteria in **sections 10.2.2 through 10.2.2.3 and section 10.2.7, below**, will not be met. In assessing the likelihood of use of a site by listed species, the Department will consult scientific literature, such as “Cox, J.A., R.S. Kautz, Habitat Conservation Needs of Rare and Imperiled Wildlife in Florida (FFWCC, 2000).” Survey methodologies employed to inventory the site must provide reasonable assurances regarding the presence or absence of the subject listed species.

10.2.2.1 Compliance with sections 10.2.2 through 10.2.3.7 and 10.2.5 through 10.3.8, below, will not be required for regulated activities in isolated wetlands less than one half acre in size, unless:

- (a) The wetland is used by threatened or endangered species;
- (b) The wetland is located in an area of critical state concern designated pursuant to Chapter 380, F.S.;
- (c) The wetland is connected by standing or flowing surface water at seasonal high water level to one or more wetlands, and the combined wetland acreage so connected is greater than one half acre; or
- (d) The Department establishes that the wetland to be impacted is, or several such isolated wetlands to be impacted are cumulatively, of more than minimal value to fish and wildlife.

10.2.2.2 Alterations in wholly owned ponds that were entirely constructed in uplands and which are less than one acre in area and alterations in drainage ditches that were constructed in uplands will not be required to comply with the provisions of sections 10.2.2 through 10.2.2.3, 10.2.3 through 10.2.3.7, and 10.2.5 through 10.3.8 below, unless those ponds or ditches provide significant habitat for threatened or endangered species. This means that, except in cases where those ponds or ditches provide significant habitat for threatened or endangered species, the only environmental criteria that will apply to those ponds or ditches are those included in sections 10.2.2.4 and 10.2.4 through 10.2.4.5, below. This provision shall only apply to those ponds and ditches which were constructed before a permit was required under Part IV, Chapter 373, F.S. or were constructed pursuant to a permit under Part IV, Chapter 373, F.S. This provision does not apply to ditches constructed to divert natural stream flow.

10.2.2.3 The assessment of impacts expected as a result of proposed activities on the values of functions will be based on a review of pertinent scientific literature, ecologic and hydrologic information, and field inspection. When assessing the value of functions that any wetland or other surface water provides to fish, wildlife, and listed species, the factors that the Department will consider are:

- (a) Condition – this factor addresses whether the wetland or other surface water is in a high quality state or has been the subject of past alterations in hydrology, water quality, or vegetative composition. However, areas impacted by activities in violation of a District or Department rule, order, or permit adopted or issued pursuant to Chapter 373, F.S., or Part VIII of Chapter 403, F.S. (1984 Supp.) as amended, will be evaluated as if the activity had not occurred.
- (b) Hydrologic connection – this factor addresses the nature and degree of off-site connection which may provide benefits to off-site water resources through detrital export, base flow maintenance, water quality enhancement or the provision of nursery habitat.
- (c) Uniqueness – this factor addresses the relative rarity of the wetland or other surface water and its floral and faunal components in relation to the surrounding regional landscape.
- (d) Location – this factor addresses the location of the wetland or other surface water in relation to its surroundings. In making this assessment, the Department will consult reference materials such as the Florida Natural Areas Inventory, Comprehensive Plans, and maps created by governmental agencies identifying land with high ecological values.

- (e) Fish and wildlife utilization – this factor addresses use of the wetland or other surface water for resting, feeding, breeding, nesting or denning by fish and wildlife, particularly those which are listed species.

#### **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.
- (c) Whenever portions of a system 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 calibrate the system to prevent adverse impacts. Monitoring parameters, methods, schedules, and reporting requirements shall be specified in permit conditions.

#### **10.2.3 Public Interest Test**

In determining whether a regulated activity located in, on, or over surface waters or wetlands is not contrary to the public interest, or if such an activity significantly degrades or is within an Outstanding Florida Water, that the regulated activity is clearly in the public interest, the Department shall consider and balance, and an applicant must address, the following criteria:

- (a) Whether the regulated activity will adversely affect the public health, safety, or welfare or the property of others (subparagraph 62-346.302(1)(a)1, F.A.C.);
- (b) Whether the regulated activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats (subparagraph 62-346.302(1)(a)2, F.A.C.);
- (c) Whether the regulated activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling (subparagraph 62-346.302(1)(a)3, F.A.C.);

- (d) Whether the regulated activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity (subparagraph 62-346.302(1)(a)4, F.A.C.);
- (e) Whether the regulated activity will be of a temporary or permanent nature (subparagraph 62-346.302(1)(a)5, F.A.C.);
- (f) Whether the regulated activity will adversely affect or will enhance significant historical and archaeological resources under the provisions of section 267.061, F.S. (subparagraph 62-346.302(1)(a)6, F.A.C.); and
- (g) The current condition and relative value of functions being performed by areas affected by the proposed regulated activity (subparagraph 62-346.302(1)(a)7, F.A.C.).

### **10.2.3.1 Public Health, Safety, or Welfare or the Property of Others**

In reviewing and balancing the criterion regarding public health, safety, welfare and the property of others in **section 10.2.3(a), above**, the Department 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 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.
- (c) Flooding or alleviate existing flooding on the property of others. There is at least a neutral factor in the public interest balance with respect to the potential for causing or alleviating flooding problems if the applicant meets the water quantity criteria in **Part III of Applicant's Handbook Volume II**.
- (d) Environmental impacts to the property of others. For example, construction of a ditch that lowers the water table such that off-site wetlands or other surface waters would be drained would be an environmental impact to the property of others. The Department will not consider impacts to property values.

### **10.2.3.2 Fish and Wildlife and their Habitats**

The Department's public interest review of that portion of a proposed system 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 system under **section 10.2.2, above**. An applicant must always provide the reasonable assurances required under **section 10.2.2, above**.

### **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 Department 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 Department 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 (1993), 33 C.F.R. Section 62 (1993) for a regulated activity in, on or over wetlands or other 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 renourishment 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.

#### **10.2.3.4 Fisheries, Recreation, Marine Productivity**

In reviewing and balancing the criterion regarding fishing or recreational values and marine productivity in **section 10.2.3(d), above**, the Department 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 which 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 affects 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 waterskiing and boating.

#### **10.2.3.5 Temporary or Permanent Nature**

When evaluating the other criteria in **section 10.2.3, above**, the Department will consider the frequency and duration of the impacts caused by the proposed activity. Temporary impacts will be considered less harmful than permanent impacts of the same nature and extent.

#### **10.2.3.6 Historical and Archaeological Resources**

In reviewing and balancing the criterion regarding historical and archaeological resources in **section 10.2.3(f), above**, the Department will evaluate whether the regulated activity located in, on, or over wetlands or other surface waters will impact significant historical or archaeological resources. The applicant must map the location of and characterize the significance of any known historical or archaeological resources that may be affected by the regulated activity located in, on or over wetlands or other surface waters. The Department will provide copies of all individual (including conceptual approval) permit applications to the Division of Historical Resources of the Department of State and solicit their comments regarding whether the regulated activity may adversely affect significant historical and archaeological resources. The applicant will be required to perform an archaeological survey and to develop and implement a plan, as necessary to demarcate and protect the significant historical or archaeological resources, if such resources are reasonably expected to be impacted by the regulated activity.

#### **10.2.3.7 Current Condition and Relative Value of Functions**

When evaluating other criteria in **section 10.2.3, above**, the Department will consider the current condition and relative value of the functions performed by wetlands and other surface waters affected by the proposed regulated activity. Wetlands and other surface waters which have had their hydrology, water quality or vegetative composition permanently impacted due to past legal alterations or occurrences such as infestation with exotic species, usually provide lower habitat value to fish and wildlife. However, if the wetland or other surface water is currently degraded, but is still providing some beneficial functions, consideration will be given to whether the regulated activity will further reduce or eliminate those functions. The Department will also evaluate the predicted ability of the wetlands or other surface waters to maintain their current functions as part of the proposed system once it is developed. Where previous impacts to a wetland or other surface water are temporary in nature, consideration will be given to the inherent functions of these areas relative to seasonal hydrologic changes, and expected vegetative regeneration and projected habitat functions if the use of the subject property were to remain unchanged. When evaluating impacts to mitigation sites that have not reached success pursuant to **section 10.3.6, below**, the Department shall consider the functions that the mitigation site was intended to offset, and any additional delay or reduction in offsetting those functions that may be caused by impacting the mitigation site. Previous construction or alteration undertaken in violation of Chapter 373, F.S., or Department rule, order or permit will not be considered as having diminished the condition and relative value of a wetland or other surface water.

#### **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 violate 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 system. The following requirements are in addition to the water quality requirements found in sections 8.4.1 and 8.4.2, above.

#### **10.2.4.1 Short Term Water Quality Considerations**

The applicant must address the short term water quality impacts of a proposed system, 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.
- (f) Preventing any other discharge or release of pollutants during construction or alteration that will cause water quality standards to be violated.

#### **10.2.4.2 Long Term Water Quality Considerations**

The applicant must address the long term water quality impacts of a proposed system, including:

- (a) The potential of a constructed or altered water body to violate water quality standards due to its depth or configuration. For example, the depth of water bodies must be designed to insure 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 system that will cause water quality standards to be violated.

#### **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. To provide the required reasonable assurance that water quality standards will not be violated, the following factors must be addressed by an applicant proposing the construction of a new docking facility, or the expansion of or other alteration of an existing docking facility that has the potential to adversely affect water quality:

- (a) Hydrographic information or studies shall be required for docking facilities of greater than ten boat slips, although the Department can waive this requirement if hydrographic studies previously conducted in the vicinity of the facility provide reasonable assurance that the conditions of the waterbody 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 less 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 waterbody; the circulation and flushing of the waterbody; 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 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 Department prior to conducting such a study.
- (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 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.

#### **10.2.4.4 Mixing Zones**

A temporary mixing zone for water quality during construction or alteration may be requested by the applicant. The Department shall review such requests pursuant to Rule 62-4.242 and subsection 62-4.244(5), F.A.C., in accordance with the “Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., Between Northwest Florida Water Management District and Department of Environmental Protection,” adopted by reference in paragraph 62-346.091(1)(c), F.A.C.

#### **10.2.4.5 Where Ambient Water Quality Does Not Meet Standards**

In instances where an applicant is unable to meet water quality standards because existing ambient water quality does not meet standards and the system will contribute to this existing condition, mitigation for water quality impacts can consist of water quality enhancement. In these cases, 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, as described in **section 10.3, below.**

### **10.2.5 Class II Waters; Waters Approved for Shellfish Harvesting**

The special value and importance of shellfish harvesting waters to Florida's economy as existing or potential sites of commercial and recreational shellfish harvesting and as a nursery area for fish and shell fish is recognized by the Department. In accordance with **section 10.1.1(d), above,** the Department shall:

- (a) Deny a permit for a regulated activity in Class II waters that are not "approved" for shellfish harvesting, unless the applicant submits a plan or proposes a procedure to protect those waters and waters in the vicinity. The plan or procedure shall detail the measures to be taken to prevent significant damage to the immediate project area and the adjacent area, and shall provide reasonable assurance that the standards for Class II waters will not be violated;
- (b) Deny a permit for a regulated activity in any class of waters where the location of the system is adjacent or in close proximity to Class II waters, unless the applicant submits a plan or proposes a procedure which demonstrates that the regulated activity will not have a negative effect on the Class II waters and will not result in violations of water quality standards in the Class II waters; and
- (c) Deny a permit for a regulated activity that is located directly in Class II or Class III waters which are classified by the Department of Agriculture and Consumer Services as "approved," "restricted," "conditionally approved," or "conditionally restricted" for shellfish harvesting. However, the Department may issue permits or certifications in such waters for: maintenance dredging of navigational channels; the construction of shoreline protection structures; the installation of transmission and distribution lines for carrying potable water, electricity or communication cables in rights-of-way previously used for such lines; clam and oyster culture; and private residential single-family docks with one or two slips, or private residential multi-family docks with three to ten slips that meet the following criteria:
  1. There shall be no more than two vessels moored at the private residential single-family dock, or no more than ten vessels moored at the private residential multi-family dock at any time;
  2. No overboard discharges of trash, human or animal waste, or fuel shall occur at the dock. All private residential multi-family docks shall include direct pumpout to an upland central sewage treatment disposal system for all vessels moored at the dock that contain, or have the capability of containing a permanent marine sanitation device, a legally existing on-site sewage treatment disposal system with adequate capacity to accept discharges from such vessels, or alternative legally-binding provisions that allow such vessels to be served by pumpout vessels or mobile pumpout equipment that discharge into legally authorized upland facilities with adequate capacity to accept such discharges;
  3. Any non-water dependent structures, such as gazebos or fish cleaning stations, shall be located on the uplands;
  4. Prior to the mooring of any vessel at the dock, there shall be existing structures with toilet facilities located on the uplands;

5. Any proposed boat shelter shall not be enclosed with screens, walls, doors, or windows;
6. The mooring area shall be located in waters sufficiently deep to prevent bottom scour by boat propellers;
7. Any structures located over grassbeds shall be designed so as to allow for the maximum practicable amount of light penetration; and
8. There shall be no overnight occupancy at any time on the dock or on any vessels moored to the dock.

### **10.2.6 Vertical Seawalls**

- (a) The construction of vertical seawalls in estuaries or lagoons is prohibited unless one of the following conditions exists:
  1. The proposed construction is located within a port, as defined in Section 315.02 or 403.021, F.S.;
  2. The proposed construction is necessary for the creation of a marina, the vertical seawalls are necessary to provide access to watercraft, or the proposed construction is necessary for public facilities;
  3. The proposed construction is to be located within an existing manmade canal and the shoreline of such canal is currently occupied in whole or in part by vertical seawalls; or
  4. The proposed construction is to be conducted by a public utility when such utility is acting in the performance of its obligation to provide service to the public.
- (b) When considering an application for a permit to repair or replace an existing vertical seawall, the Department shall generally require such seawall to be faced with riprap material, or to be replaced entirely with riprap material unless a condition specified in **paragraphs 1 through 4, above**, exists. Nothing in this subsection shall be construed to hinder any activity previously exempt or permitted, or those activities permitted pursuant to Chapter 161, F.S.

### 10.2.7 Secondary Impacts

Pursuant to section 10.1.1(f), above, an applicant must provide reasonable assurances that a regulated activity will not cause adverse secondary impacts to the water resource, as described in sections (a) through (d), below. Aquatic or wetland dependent fish and wildlife are an integral part of the water resources which the Department is authorized to protect under Part IV, Chapter 373, F.S. Those aquatic or wetland dependent species that are listed as threatened, endangered or of special concern, and the bald eagle (*Haliaeetus leucocephalus*) which is protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d) are particularly in need of protection.

A proposed system shall be reviewed under this criterion by evaluating the impacts to: wetland and surface water functions identified in section 10.2.2, above, water quality, upland habitat for bald eagles and aquatic or wetland dependent listed species, and historical and archaeological resources. *De minimis* or remotely related secondary impacts will not be considered. Applicants may propose measures such as preservation to prevent secondary impacts. Such preservation shall comply with the land preservation provisions of section 10.3.8, below. If such secondary impacts can not be prevented, the applicant may propose mitigation measures as provided for in sections 10.3 through 10.3.8, below.

This secondary impact criterion consists of the following four parts:

- (a) An applicant shall provide reasonable assurance that the secondary impacts from construction, alteration, and intended or reasonably expected uses of a proposed system will not cause violations of water quality standards or adverse impacts to the functions of wetlands or other surface waters as described in section 10.2.2, above.

Impacts such as boat traffic generated by a proposed dock, boat ramp or dry dock facility, which causes an increased threat of collision with manatees; impacts to wildlife from vehicles using proposed roads in wetlands or surface waters; impacts to water quality associated with the use of septic tanks or propeller dredging by boats and wakes from boats; and impacts associated with docking facilities as described in sections 10.2.4.3(f) and (h), above, will be considered relative to the specific activities proposed and the potential for such impacts. Impacts of groundwater withdrawals upon wetlands and other surface waters that result from the use of wells permitted pursuant to Chapter 40A-3, F.A.C. (March 2, 2000), shall not be considered under rules adopted pursuant to Part IV of Chapter 373, F.S., since these impacts are considered in the consumptive use permit application process under Chapter 40A-2, F.A.C. (February 27, 2006).

Secondary impacts to the habitat functions of wetlands associated with adjacent upland activities will not be considered adverse if buffers, with a minimum width of 15 ft. and an average width of 25 ft., are provided abutting those wetlands that will remain under the permitted design, unless additional measures are needed for protection of wetlands used by bald eagles for nesting or listed species for nesting, denning, or critically important feeding habitat. The mere fact that a species is listed does not imply that all of its feeding habitat is critically important. Buffers shall remain in an undisturbed condition, except for drainage features such as spreader swales and discharge structures, provided the construction or use of these features does not adversely impact wetlands. Where an applicant elects not to utilize buffers of the above-described dimensions, buffers of different dimensions, measures other than buffers, or information may be proposed to provide the required reasonable assurance. Wetlands or other surface waters shall not be filled to achieve this buffer requirement. For example, an undisturbed upland buffer would not be required to be established waterward of

areas of wetlands or other surface waters that are authorized to be filled for other purposes, such as to construct a bulkhead, although this does not relieve the applicant from providing other reasonable assurance demonstrating that the construction, alteration, and intended or reasonably expected uses of a proposed system will not result in adverse secondary impacts to wetlands and other surface waters. Buffers proposed to protect against secondary impacts shall be allowed to overlap with Vegetated Natural Buffers, as provided in **sections 11 through 11.9 in Applicant's Handbook Volume II**, except where the Department determines that such overlap would adversely affect the purposes for which each buffer is designed to address.

- (b) An applicant shall provide reasonable assurance that the construction, alteration, and intended or reasonably expected uses of a proposed system will not adversely impact the ecological value of uplands to bald eagles and aquatic or wetland dependent listed animal species for enabling existing nesting or denning by these species, but not including:
1. Areas needed for foraging; or
  2. Wildlife corridors, except for those limited areas of uplands necessary for ingress and egress to the nest or den site from the wetland or other surface water.

**Table 10.2.7-1** identifies those aquatic or wetland dependent listed species that use upland habitats for nesting and denning.

For those aquatic or wetland dependent listed animal species for which habitat management guidelines have been developed by the U.S. Fish and Wildlife Service (USFWS) or the Florida Fish and Wildlife Conservation Commission (FFWCC), compliance with these guidelines will provide reasonable assurance that the proposed system will not adversely impact upland habitat functions described in **paragraph (b)**. For those aquatic or wetland dependent listed animal species for which habitat management guidelines have not been developed or in cases where an applicant does not propose to use USFWS or FFWCC habitat management guidelines, the applicant may propose measures to mitigate adverse impacts to upland habitat functions described in **paragraph (b)** provided to aquatic or wetland dependent listed animal species.

Secondary impacts to the functions of wetlands or uplands for nesting of bald eagles (*Haliaeetus leucocephalus*) will not be considered adverse if the applicant holds a valid permit pursuant to Rule 68A-16.002(1)(a), F.A.C. (May 15, 2008), or a valid authorization as described in Rule 68A-16.002(1)(c), F.A.C. (May 15, 2008), for the same activities proposed by the applicant under Part IV of Chapter 373, F.S., or if the applicant demonstrates compliance with the FWC Eagle Management Guidelines incorporated by reference in Rule 68A-16.002, F.A.C. (May 15, 2008).

- (c) In addition to evaluating the impacts in the area of any dredging and filling in, on, or over wetlands or other surface waters, and as part of the balancing review under **section 10.2.3, above**, the Department will consider any other relevant activities that are very closely linked and causally related to any proposed dredging or filling which will cause impacts to significant historical and archaeological resources.

**TABLE 10.2.7-1**  
**LISTED WILDLIFE SPECIES THAT ARE AQUATIC OR WETLAND DEPENDENT**  
**AND THAT USE UPLAND HABITATS FOR NESTING OR DENNING**

**INVERTEBRATES**

Species of Special Concern

Procambarus econfinae (Panama City crayfish)

**FISHES**

None

**AMPHIBIANS**

Species of Special Concern

Rana capito aesopus (Florida gopher frog)

Ambystoma cingulatum (flatwoods salamander)

Hyla andersonii (Pine Barrens treefrog)

**REPTILES**

Endangered

Chelonia mydas mydas (Atlantic green turtle)

Dermochelys coriacea (leatherback turtle; leathery turtle)

Lepidochelys kempii (Atlantic Ridley turtle)

Threatened

Caretta caretta caretta (Atlantic loggerhead turtle)

Species of Special Concern

Alligator mississippiensis (American alligator)

Drymarchon corais couperi (eastern indigo snake)

Graptemys barbouri (Barbour's map turtle; Barbour's sawback turtle)

Macrochelys temminckii (alligator snapping turtle)

Pseudemys concinna suwanniensis (Suwannee cooter)

**BIRDS**

Endangered

Mycteria americana (wood stork)

Threatened

Charadrius alexandrinus tenuirostris (southeastern snowy plover)

Charadrius melodus (piping plover)

~~Haliaeetus leucocephala (bald eagle)~~

Sterna antillarum (least tern)

Species of Special Concern

Ammodramus maritimus juncicolus (Wakulla seaside sparrow)

Aramus guarauna (limpkin)

Cistothorus palustris marianae (Marian's marsh wren)

Egretta caerulea (little blue heron)

Egretta rufescens (reddish egret)

Egretta thula (snowy egret)

Egretta tricolor (tricolored heron; Louisiana heron)

Eudocimus albus (white ibis)

Haematopus palliatus (American oystercatcher)

Pelecanus occidentalis (brown pelican)

Rhynchops niger (black skimmer)

**MAMMALS**

Endangered

Myotis grisescens (gray bat)

Myotis sodalis (Indiana bat)

Threatened

Ursus americanus floridanus (Florida black bear)

(d) An applicant shall provide reasonable assurance that the following future activities will not result in water quality violations or adverse impacts to the functions of wetlands and other surface waters as described in **section 10.2.2, above**:

1. Additional phases or expansion of the proposed system for which plans have been submitted to the Department or other governmental agencies; and
2. On-site and off-site activities regulated under Part IV, Chapter 373, F.S., or activities described in Section 403.813(1), F.S., that are very closely linked and causally related to the proposed system.

As part of this review, the Department will also consider the impacts of the intended or reasonably expected uses of the future activities on water quality and wetland and other surface water functions.

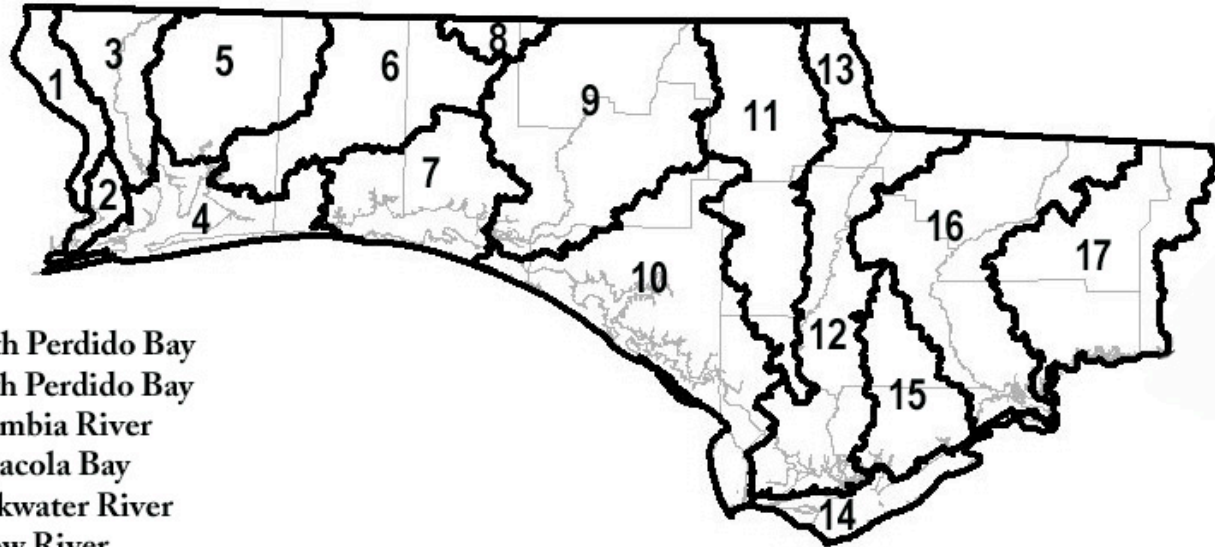
In conducting the analysis under **section (d)2, above**, the Department will consider those future projects or activities which would not occur but for the proposed system, including where the proposed system would be considered a waste of resources should the future project or activities not be permitted.

Where practicable, proposed systems shall be designed in a fashion that does not necessitate future impacts to wetland and other surface water functions. System expansions and future system phases will be considered in the secondary impact analysis. If the Department determines that future phases of a system involve impacts that appear not to meet permitting criteria, the current application shall be denied unless the applicant can provide reasonable assurance that those future phases can comply with permitting criteria.

### **10.2.8 Cumulative Impacts**

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**. 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 Department 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 the Department are identified on **Figure 10.2.8-1**.

When adverse impacts to water quality or adverse impacts to the functions of wetlands and other surface waters, as referenced in the paragraph above, are not fully offset within the same drainage basin as the impacts, then an applicant must provide reasonable assurance that the proposed system, 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 North Perdido Bay
- 2 South Perdido Bay
- 3 Escambia River
- 4 Pensacola Bay
- 5 Blackwater River
- 6 Yellow River
- 7 Choctawhatchee Bay
- 8 Pea River
- 9 Choctawhatchee River
- 10 St. Andrews Bay
- 11 Chipola River
- 12 Apalachicola River
- 13 Chattahoochee River
- 14 Apalachicola Bay
- 15 New River
- 16 Ochlockonee River
- 17 St Marks River

**Figure 10.2.8-1** Drainage Basins within the geographical territory of the Northwest Florida Water Management District (Source: USGS Hydrologic Unit Code (HUC) Basins, 1:24K, HPGN)



- (a) Projects which 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.
- (b) Activities which are under review, approved, or vested pursuant to Section 380.06, 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 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 (a) and (b), above, that have similar types of impacts (adverse effects) to those that will be caused by the proposed system will be considered.

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.

**10.2.8.1** Cumulative impacts are considered unacceptable when the proposed system, 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.

**10.2.8.2** Applicants may propose measures such as preservation to prevent cumulative impacts. Such preservation shall comply with the land preservation provisions in subsection 10.3.8, below. If unacceptable cumulative impacts are expected to occur, based on an evaluation conducted in accordance with subsection 10.2.8, above, the applicant may propose mitigation measures as provided for in sections 10.3 through 10.3.8, below.

### **10.3 Mitigation**

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. Mitigation will be approved only after the applicant has complied with the requirements of subsections 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.

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 permissible project. Such cases often include activities which significantly degrade Outstanding

Florida Waters, adversely impact habitat for listed species, or adversely impact those wetlands or other surface waters not likely to be successfully recreated.

Applicants are encouraged to consult with Department staff in pre-application conferences or during the application process to identify appropriate mitigation options.

### **10.3.1 Types of Mitigation**

Mitigation usually consists of restoration, enhancement, creation, or preservation of wetlands, other surface waters or uplands. In some cases, a combination of mitigation types is the best approach to offset adverse impacts resulting from the regulated activity.

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 condition, mitigation is best accomplished through creation, restoration, enhancement or preservation of the ecological community which was historically present. Mitigation involving other ecological communities is acceptable if impacts are offset and the applicant demonstrates that greater improvement in ecological value will result.

10.3.1.2 In general, mitigation is best accomplished when located on-site or in close proximity to the area being impacted. Off-site mitigation will only be accepted if adverse impacts are offset and the applicant demonstrates that:

- (a) On-site mitigation opportunities are not expected to have comparable long-term viability due to such factors as unsuitable hydrologic conditions or ecologically incompatible existing adjacent land uses or future land uses identified in a local comprehensive plan adopted according to Chapter 163, F.S.; or
- (b) Off-site mitigation would provide greater improvement in ecological value than on-site mitigation.

10.3.1.3 Mitigation through participation in a mitigation bank shall be in accordance with Chapter 62-342, F.A.C. (Mitigation Banks).

10.3.1.4 In instances where an applicant is unable to meet water quality standards because existing ambient water quality does not meet standards and the system will contribute to this existing condition, mitigation for water quality impacts can consist of water quality enhancement. In these cases, the applicant must implement mitigation measures that will cause net improvement of the water quality in the receiving waters for those parameters that do not meet standards. (See Section 373.414(1)(b), F.S.)

10.3.1.5 To offset adverse secondary impacts from regulated activities to habitat functions that uplands provide to bald eagles and listed species evaluated as provided in **section 10.2.7(b), above**, mitigation can include the implementation of management plans, participation in a wildlife mitigation park established by the FFWCC, or other measures. Measures to offset adverse secondary impacts on wetlands and other surface waters resulting from use of a system can include the incorporation of culverts or bridged crossings designed to facilitate wildlife movement, fencing to limit access, reduced speed zones, or other measures designed to offset the secondary impact.

10.3.1.6 Mitigation for certain mining activities shall be in accordance with Section 373.414(6), F.S.

10.3.1.7 Except as provided in Subsection 373.414(6), F.S., mitigation or reclamation required or approved by other agencies for a specific project will be acceptable to the Department 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.

10.3.1.8 Innovative mitigation proposals which deviate from the standard practices described in sections 10.3 through 10.3.6, shall be considered on a case-by-case basis. The donation of money is not considered to be an acceptable method of mitigation, unless cash payments are specified for use in a District or Department of Environmental Protection endorsed environmental preservation, enhancement or restoration project and the payments initiate a project or supplement an ongoing project. The project or portion of the project funded by the donation of money must offset the impacts of the proposed system. However, donations of money into a regional offsite mitigation area shall be in compliance with the provisions of Section 373.4135, F.S.

### **10.3.2 Guidelines for the Amount of Mitigation**

Chapter 62-345, F.A.C., Uniform Mitigation Assessment Method (UMAM) establishes the criteria for determining the amount of adverse impacts to wetlands and other surface waters from a proposed activity and the amount of mitigation needed to offset that impact. The Department will be responsible for verifying the information required to be provided and considered under Chapter 62-345, F.A.C.

Chapter 62-345, F.A.C., also establishes the criteria to award and deduct mitigation bank or regional offsite mitigation area credits. The Department 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.

### **10.3.3 Mitigation Proposals**

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.

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.
- (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 \$25,000.00, an itemized estimate of the cost of implementing mitigation as set forth in **section 10.3.7.7, below**.
- (q) Any additional necessary supporting information required by Chapter 62-345, F.A.C.

#### **10.3.4 Monitoring Requirements for Mitigation Areas**

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.

#### **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 which might compromise mitigation success.

#### **10.3.6 Mitigation Success**

Mitigation success will be measured in terms of whether the objectives of the mitigation can 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 Department 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 and maintenance requirements shall remain in effect until success is achieved.

#### **10.3.7 Financial Responsibility for Mitigation.**

As part of compliance with paragraph 62-346.301(1)(h), 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; and
- (d) Conduct any necessary corrective action indicated by the monitoring.

#### **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 **subsection 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 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.

**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**.

**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 Department the executed or finalized documentation within the time frames specified in the permit.

**10.3.7.4 General Terms for Financial Responsibility Mechanisms.**

In addition to the specific provisions regarding financial responsibility mechanisms set forth in **section 10.3.7.6**, below, the following, as they relate to the specific mechanism proposed, shall be complied with:

- (a) The form and content of all financial responsibility mechanisms shall be approved by the Department. Forms that have been developed for this purpose are attached in Appendix E of this Handbook.
- (b) The financial mechanisms shall name the Department as sole beneficiary or shall be payable solely to the Department. 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 Department.
- (c) The financial responsibility mechanisms shall be established with a state or national bank, savings and loan association, or other financial institution, licensed in this state. In the case of letters of credit, the letter of credit must be issued by an entity that has authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency. In the case of a surety bond, the surety bond must be issued by a surety company registered with the state of Florida.
- (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 Department in accordance with **section 10.3.7.7.2 below**.
- (e) The financial responsibility mechanisms shall provide that they cannot be revoked, terminated or cancelled without first providing an alternative financial responsibility mechanism which meets the requirements of **sections 10.3.7 through 10.3.7.9**. 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.

**10.3.7.5** If the permittee fails to comply with the terms and conditions of the permit, **section 10.3.7**, or fails to complete the mitigation and monitoring within the timeframes specified in the permit conditions or

any extension thereof, such failure shall be deemed a violation of Chapter 62-346, F.A.C., and the permit issued thereunder. In addition to any other remedies for such violation as the Department may have, the Department, upon notice as provided in the mechanism or if none, upon reasonable notice, may draw upon the financial mechanism.

#### **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;
- (b) Irrevocable letter of credit with a standby trust fund;
- (c) Trust fund agreement;
- (d) Deposit of cash or cash equivalent into an escrow account;
- (e) An audited annual financial statement submitted by a Certified Public Accountant representing that the applicant has a tangible net worth equal to or in excess of the cost of the mitigation plan. For purposes of this subparagraph, “tangible net worth” means total assets, not including intangibles such as goodwill and right to patents or royalties, minus total liabilities, computed in accordance with generally accepted accounting principles.
- (f) A demonstration that the applicant meets the financial test and corporate guarantee requirements set forth in 40 C.F.R. Section 264.143(f) incorporated herein by reference. Where the referenced test is used to provide evidence of financial resources necessary to conduct mitigation activities the term “closure and post-closure cost estimates” as set forth therein, shall be construed to mean “mitigation cost estimates.”
- (g) Guarantee bond;
- (h) Insurance certificate;
- (i) A demonstration that the applicant meets the self-bonding provisions set forth at 30 C.F.R. Section 800.23 incorporated herein by reference. Where the referenced provisions are used to provide evidence of financial responsibility to conduct mitigation activities, the term “surface coal mining and reclamation operations,” as set forth therein, shall be construed to mean “mitigation activities.”

#### **10.3.7.7 Cost estimates.**

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 Department 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.

#### **10.3.7.7.1 Partial Releases.**

The permittee may request the Department to release portions of the financial responsibility mechanism as phases of the mitigation plan, such as earth moving or other construction or 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 phase or phases have been completed and have been paid for or will be paid for upon release of the applicable portion of the financial responsibility mechanism. The Department shall authorize the release of the portion requested upon verification that the construction or activities have been completed in accordance with the mitigation plans.

#### **10.3.7.7.2 Final Release.**

Within thirty (30) days of the Department determining that the mitigation is successful in accordance with **section 10.3.6, above**, the Department 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.

#### **10.3.7.8 Financial Responsibility Conditions.**

For applicants subject to the financial responsibility of **sections 10.3.7 through 10.3.7.9**, the Department will include the following conditions on the permit:

- (a) A permittee must notify the Department by certified mail of the commencement of a voluntary or involuntary proceeding under Title XI (Bankruptcy), U.S. Code naming the permittee as debtor within 10 business days after the commencement of the proceeding.
- (b) A permittee who fulfills the requirements of **sections 10.3.7 through 10.3.7.9**, by obtaining a letter of credit or performance bond will be deemed to be without the required financial assurance in the event of bankruptcy, insolvency or suspension or revocation of the license or charter of the issuing institution. The permittee must reestablish in accordance with **sections 10.3.7 through 10.3.7.9**, a financial responsibility mechanism within 60 days after such event.
- (c) When transferring a permit in accordance with Rule 62-346.130, F.A.C., the new owner or person with legal control shall submit documentation to satisfy the financial responsibility requirements of **sections 10.3.7 through 10.3.7.9**. The prior owner or person with legal control of the project shall continue the financial responsibility mechanism until the Department has approved the permit transfer and substitute financial responsibility mechanism.

#### **10.3.7.9 Financial Responsibility Mechanisms for Multiple Projects.**



An applicant may use a mechanism specified in section 10.3.7.6, above to meet the financial responsibility requirement for multiple projects. The financial responsibility mechanism must include a list of projects and the amount of funds assured for each project. The mechanism must be no less than the sum of the funds that would be necessary in accordance with section 10.3.7.2, above, as if separate mechanisms had been established for each project. As additional permits are issued which require mitigation, the amount of the financial responsibility mechanism may be increased in accordance with section 10.3.7.2, above, and the project added to the list.

**10.3.8 Real property conveyances.**

- (a) All conservation easements shall be granted in perpetuity without encumbrances, unless such encumbrances do not adversely affect the ecological viability of the mitigation. All liens against the conservation easement site shall release, be subordinated to, or joined with 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 Department shall also accept a quit claim deed if necessary to aid in clearing minor title defects or otherwise resolving boundary questions.

## PART IV -- EROSION AND SEDIMENT CONTROL

### 11.0 Erosion and Sediment Control

#### 11.1 Overview

Uncontrolled erosion and sediment from land development activities can result in costly damage to aquatic areas and to both private and public lands. Excessive sediment blocks stormwater conveyance systems, plugs culverts, fills navigable channels, impairs fish spawning, clogs the gills of fish and invertebrates, and suppresses aquatic life.

A plan for controlling erosion and providing sediment controls must be included in an application for an individual permit. The plan may be in the form of an “erosion and sediment control plan,” as discussed in **section 11.2.1, below**, or a stormwater pollution prevention plan (SPPP), as discussed in **section 11.2.2, below**.

An effective erosion and sediment control plan is essential for controlling stormwater pollution during construction. An erosion and sediment control plan is a site-specific plan that specifies the location, installation, and maintenance of best management practices to prevent and control erosion and sediment loss at a construction site. The plan is submitted as part of the permit application and must be clearly shown on the construction plans for the development. Erosion and sediment control plans range from very simple for small, single-phase developments to complex for large, multiple phased projects. If, because of unforeseen circumstances such as extreme rainfall events or construction delays, the proposed erosion and sedimentation controls no longer provide reasonable assurance that water quality standards will not be violated, additional erosion and sediment control measures shall be required that must be designed and implemented to prevent violations of water quality standards.

The criteria for erosion and sediment controls are described below.

#### 11.1.1 Erosion and Sediment Control Requirements

Erosion and sediment control best management practices shall be used as necessary during construction to retain sediment on-site. These management practices must be designed according to specific site conditions and shall be shown or clearly referenced to published standards on the construction plans for the development. The contractor must be furnished with the information pertaining to the implementation, operation, and maintenance of the erosion and sediment control plan. In addition, sediment accumulation in the stormwater system from construction activities must be removed to prevent a loss of storage volume. See **Section 4.6 Applicant’s Handbook Volume II** for additional requirements.

#### 11.1.2 Erosion and Sediment Control Principles

Factors that influence erosion potential include soil characteristics, vegetative cover, topography, and climatic conditions. The following principles must be considered in planning and undertaking construction and alteration of surface water management systems:

- (a) Plan the development to fit topography, soils, drainage patterns, and vegetation;
- (b) Minimize both the extent of area exposed at one time and the duration of exposure;

- (c) Schedule activities during the dry season or during dry periods whenever possible to reduce the erosion potential;
- (d) Apply erosion control practices to minimize erosion from disturbed areas;
- (e) Apply perimeter controls to protect disturbed areas from off-site runoff and to trap eroded material on-site to prevent sedimentation in downstream areas;
- (f) Keep runoff velocities low and retain runoff on-site;
- (g) Stabilize disturbed areas immediately after final grade has been attained or during interim periods of inactivity resulting from construction delays; and
- (h) Implement a thorough maintenance and follow-up program.

These principles are usually integrated into a system of vegetative and structural measures along with other management techniques to develop a plan to prevent erosion and control movement of sediment. In most cases, a combination of limited grading, limited time of exposure, and a judicious selection of erosion control practices and sediment trapping systems will prove to be the most practical method of controlling erosion and the associated production and transport of sediment. Permit applicants, system designers, and contractors can refer to the (State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Prepared for Florida Department of Transportation & Florida Department of Environmental Protection by HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007), Florida Department of Transportation Drainage Manual (FDOT 1987), The Florida Development Manual (Livingston et al. 1988), and The Florida Stormwater, Erosion, and Sediment Control Inspector's Manual (FDEP 2005) for further information on erosion and sediment control. These manuals provide guidance for the planning, design, construction, and maintenance of erosion and sediment control practices. Copies of the State of Florida Erosion and Sediment Control Designer and Reviewer Manual are available from the University of Central Florida's Stormwater Management Academy's Internet site at:

[http://www.stormwater.ucf.edu/FLerosionSedimentManual\\_6\\_07.pdf](http://www.stormwater.ucf.edu/FLerosionSedimentManual_6_07.pdf). Copies of ~~The Florida Development Manual and The Florida Stormwater, Erosion, and Sediment Control Inspector's Manual~~ can be obtained upon request from the Florida Department of Environmental Protection, Bureau of Watershed Management, M.S. 3510, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 (phone 850-245-7508). Copies of the above documents are also available on the Department's Internet site at: <http://www.dep.state.fl.us/water/nonpoint/erosion.htm>  
<http://www.dep.state.fl.us/water/wetlands/crp/index.htm>.

## 11.2 Erosion Control and Stabilization Plan

11.2.1 An erosion control and stabilization plan must be submitted as part of the application for an individual permit as a way of providing reasonable assurance of compliance with the provisions of **Sections 8.4.1(c) and (d) of this Volume**. The plan must identify the location, relative timing, and specifications for all erosion control and stabilization measures that are required as part of the project construction. The plan must provide for compliance with the terms and schedule of implementing the proposed project, beginning with the initiation of construction activities. The plan may be submitted as a separate document, or may be contained as part of the plans and specifications of the construction documents.

### 11.2.2 Development of a Stormwater Pollution Prevention Plan (SPPP) for NPDES Requirements

Although the requirement to develop and submit an SPPP under an NPDES permit is not a requirement for a permit under Part IV of Chapter 373, F.S., applicants are advised that preparation and adherence to an SPPP is required where the permitted activity also requires a National Pollution Discharge Elimination System (NPDES) construction permit pursuant to subsection 62-621.300(4), F.A.C. (construction activities resulting in greater than 1 acre of land clearing, soil disturbance, excavation, or deposition of dredge materials). If the proposed activity requires an SPPP for compliance with the NPDES construction permit, such a plan will generally provide the level of reasonable assurance needed as part of the review of an individual, or noticed general permit, to demonstrate that erosion and sediments will be adequately controlled during construction. Such SPPPs must be prepared in accordance with generally accepted best management practices. An SPPP identifies potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharge associated with construction activity. In addition, an SPPP describes and ensures the implementation of best management practices that will be used to reduce the pollutants in stormwater discharge associated with construction activities.

As part of the NPDES requirements, an SPPP must be prepared prior to construction and alteration for systems described above in order to minimize erosion and retain sediment on-site. The details and scope of the plan will depend on the potential for erosion. Projects with larger exposed areas, long duration of construction, steep slopes, erosive soils, or close proximity to streams and other watercourses generally require more detailed and comprehensive plans. As part of the NPDES requirements, the SPPP must include consideration of the site-specific erosion potential, including slopes, soil erodability, vegetative cover, and runoff characteristics.

An SPPP can be submitted as part of the application in lieu of the requirement in **section 11.2.1**, above.

### **11.2.3 ~~11.2.4~~ Contents of SPPP for NPDES Requirements**

**Sections 11.2.3.1 ~~11.2.4.1~~ through 11.2.3.4 ~~11.2.4.4~~**, below are excerpted from the requirements for an NPDES permit, and are provided here for the convenience of the reader. Although the requirement to develop and submit an SPPP under an NPDES permit is not a requirement for a permit under Part IV of Chapter 373, F.S., an erosion control and sedimentation plan, as required in **section 11.2.1**, above, that contains the elements discussed in **sections 11.2.3.1 ~~11.2.4.1~~ through 11.2.3.4 ~~11.2.4~~**, below, will generally provide the reasonable assurance that turbidity, sedimentation, and erosion can be controlled during implementation of the project.

#### **11.2.3.1 ~~11.2.4.1~~ SPPP Site Description for NPDES Requirements**

Each plan shall provide a description of pollutant sources and other information as indicated:

- (a) A description of the nature of the construction activity;
- (b) A description of the intended sequence and schedule of major activities that disturb soils for major portions of the site. At a minimum, the following applicable phases must be addressed: clearing and grubbing, excavation, earthwork and site grading (including embankment earthwork), site utilities, roads, and stabilization. The schedule must include estimated starting dates and duration. The description must include the limits of areas impacted by each phase;

- (c) Estimates of the total area of the site and the total area of the site that is expected to be disturbed by excavation, grading, or other construction activities;
- (d) Existing data describing the predominant soil types, the corresponding erodability potential as described by the appropriate soil survey information or on-site investigations, the quality of any discharge from the site, and an estimate of the size of the drainage area for each discharge point;
- (e) A site map indicating existing and proposed topography, including drainage patterns and approximate slopes anticipated after major grading activities, areas of soil disturbance, an outline of areas that must not be disturbed, locations of surface waters of the state, and locations where stormwater is discharged to a surface water;
- (f) For each construction phase, a description of the individual structural, non-structural, and stabilization control measures are to be used (shown on construction plans or detail sheets), including:
  - 1. Estimated date of installation and removal;
  - 2. Location; and
  - 3. Purpose of measure and area served;
- (g) The latitude and longitude of each discharge point and the name of the receiving water(s) for each discharge point; and
- (h) All supporting calculations and documentation, including referenced design standards and specifications.

**11.2.3.2 ~~11.2.4.2~~ SPPP Controls for NPDES Requirements**

Each plan shall include a description of controls, Best Management Practices (BMPs), and measures that will be implemented at the construction site. The plan shall clearly describe for each major activity control measures and the timing during the construction process that the measures will be implemented. For example, perimeter controls for one portion of the site will be installed after the clearing and grubbing necessary for installation of the measure, but before the clearing and grubbing for the remaining portions of the site. Perimeter controls shall be actively maintained until final stabilization of those portions of the site upward of the perimeter control. Temporary perimeter controls shall be removed after final stabilization. All controls shall be consistent with the performance standards for erosion and sediment control and stormwater treatment as set forth in Rule 62-40.432, F.A.C., and the guidelines contained in the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual* (June 2007) ~~*Florida Development Manual: A Guide to Sound Land and Water Management* (DEP, 1988) and any subsequent amendments.~~

(a) Erosion and Sediment Controls

1. Stabilization Practices. Each plan shall provide a description of interim and permanent stabilization practices, including site-specific scheduling of the implementation of the practices. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized. Stabilization practices may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures. The plan shall include an estimate of the dates when major grading activities are expected to occur, when construction activities, temporarily or permanently, are expected to cease on a portion of the site, and when stabilization measures are planned to be initiated. Stabilization measures shall be initiated as soon as practicable, but in no case more than seven days, in portions of the site where construction activities have temporarily or permanently ceased.
2. Structural Practices. Each plan shall include a description of structural practices, to divert flows from exposed soils, store flows, retain sediment on-site, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site. Such practices may include silt fences, earth dikes, diversions, swales, sediment traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, coagulating agents and temporary or permanent sediment basins.
3. Sediment Basins
  - a. For drainage basins with 10 or more disturbed acres at one time, a temporary (or permanent) sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures, shall be provided where attainable until final stabilization of the site. The 3,600 cubic feet of storage area per acre drained does not apply to flows from offsite areas and flows from onsite areas that are either undisturbed or have undergone final stabilization where such flows are diverted around both the disturbed area and the sediment basin. For drainage basins with 10 or more disturbed acres at one time and where a temporary sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent controls is not attainable, a combination of smaller sediment basins and/or sediment traps and other BMPs shall be used. At a minimum, silt fences, or equivalent sediment controls are required for all sideslope and downslope boundaries of the construction area.
  - b. For drainage basins of less than 10 acres, sediment basins and/or sediment traps are recommended but not required. At a minimum, silt fences or equivalent sediment controls are required for all side slope and downslope boundaries of the construction area.
  - c. Areas that will be used for permanent stormwater infiltration treatment (e.g., stormwater retention ponds) shall not be used for temporary sediment basins unless effective measures are taken to assure timely removal of accumulated fine sediments, which may cause premature clogging and loss of infiltration capacity, and to avoid excessive compaction of soils by construction machinery or equipment.

(b) Controls for Other Potential Pollutants

1. Waste Disposal. The plan shall assure that waste, such as discarded building materials, chemicals, litter, and sanitary waste are properly controlled in accordance with all applicable state, local, and federal regulations. This permit does not authorize the discharge of solid materials, including building materials, to surface waters of the State or a Municipal Separate Storm Sewer System (MS4).
2. The plan shall assure that off-site vehicle tracking of sediments and the generation of dust is minimized.
3. The plan shall be consistent with applicable State and local waste disposal, sanitary sewer or septic system regulations.
4. The plan shall specify application rates and methods consistent with the manufacturer's federally-approved label for the use of fertilizers, herbicides and pesticides at the construction site and set forth how these procedures will be implemented and enforced. Nutrients shall be applied only at rates necessary to establish and maintain vegetation.
5. The plan shall ensure that the application, generation, and migration of toxic substances will not cause water quality violations and that toxic materials are properly stored and disposed.

**11.2.3.3 ~~11.2.4.3~~ Maintenance Requirements Associated with NPDES SPPP**

The plan shall include a description of procedures that will be followed to ensure the timely maintenance of vegetation, erosion and sediment controls, stormwater management practices, and other protective measures and BMPs so they will remain in good and effective operating condition.

**11.2.3.4 ~~11.2.4.4~~ Inspections for NPDES Requirements**

A qualified inspector (provided by the operator) shall perform all necessary site inspections. A qualified inspector is defined as someone who has successfully completed the Department's Stormwater, Erosion, and Sedimentation Control Inspector Training Program. Otherwise completion of an equivalent training program shall also serve to qualify an inspector if the program is substantially equivalent to the Department's program. Site inspections must include all points of discharge into surface waters of the State or an MS4; disturbed areas of the construction site that have not been finally stabilized; areas used for storage of materials that are exposed to precipitation; structural controls; and, locations where vehicles enter or exit the site, at least once every seven calendar days and within 24 hours of the end of a storm that is 0.50 inches or greater as follows:

- (a) Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the stormwater system. The stormwater management system and erosion and sediment control measures identified in the plan shall be observed to ensure that they are operating correctly. Discharge locations or points shall be inspected to ascertain whether erosion and sediment control and stormwater treatment measures are effective in preventing or

minimizing the discharge of pollutants, including retaining sediment onsite pursuant to Rule 62-40.432, F.A.C. Locations where vehicles enter or exit the site shall be inspected for evidence of offsite sediment tracking.

- (b) Based on the results of the inspection, all maintenance operations needed to assure proper operation of all controls, BMPs, practices, or measures identified in the stormwater pollution prevention plan shall be done in a timely manner, but in no case later than seven 7 calendar days following the inspection. If needed, pollution prevention controls, BMPs, and measures identified in the plan shall be revised as necessary to assure proper operation of all controls, BMPs, practices, or measures identified in the stormwater pollution prevention plan. Such revisions shall provide for timely implementation of any changes to the plan within seven 7 calendar days following the inspection.
- (c) A report summarizing the scope of the inspection; name(s) and qualifications of personnel making the inspection; the date(s) of the inspection; rainfall data; major observations relating to the implementation of the stormwater pollution prevention plan; and actions taken in accordance with the requirements of this permit, shall be made and retained as part of the stormwater pollution prevention plan. Such reports shall identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report shall contain a certification that the facility is in compliance with the stormwater pollution prevention plan and this permit.

### ~~11.3 — References for Erosion and Sediment Control~~

~~The following references provide detailed information on erosion and sediment control plans, including standards and specifications for specific best management practices and are listed here as guidance:~~

- ~~(a) — Florida Department of Environmental Regulation, *The Florida Development Manual: A Guide to Sound Land and Water Management*.~~
- ~~(b) — Goldman, Jackson and Bursztynsky, 1986. *Erosion and Sediment Control Handbook*. McGraw-Hill Book Company. New York.~~
- ~~(c) — Florida Department of Transportation (FDOT), *Florida Roadway and Traffic Design Standards*.~~
- ~~(d) — *The Florida Stormwater, Erosion, and Sediment Control Inspector's Manual*, Florida Department of Environmental Protection and Florida Department of Transportation, Fifth Impression, June 2005.~~



## PART V – OPERATION AND MAINTENANCE-SPECIFIC REQUIREMENTS

### 12.0 Operation and Maintenance Requirements for Surface Water Management Systems

#### 12.1 Responsibilities

- (a) In accordance with Rule 62-346.095, F.A.C., and except as provided in **section 12.1.1, below**, upon completion of a system constructed in conformance with an individual permit issued under Part IV of Chapter 373, F.S., the system must be converted from the construction phase to an operation and maintenance phase.
- (b) Responsibility for operation and maintenance of a system permitted under Chapters 62-341 and 62-346, F.A.C., shall be an obligation for the life of the system for a single entity that wholly owns or controls the lands on which any component of the permitted system is located, or in the case where a local government will operate a portion of a system, a maximum of two entities. Such entity or entities must have ~~and which has~~ the fiscal, legal, and logistical capability to perform operation and maintenance in accordance with Department rules and permit conditions.
- (c) Conversion of a permit from the construction to the operation and maintenance phase shall follow the procedures in subsections 62-346.095, F.A.C., and **section 12.2, below**.

#### 12.1.1 Exceptions

The operation phase of mining activities subject to the land reclamation requirements of Chapter 378, F.S., and that are used solely for and by the mine during its life shall be allowed to terminate, without the need to apply for abandonment of the permit, after the mine, or its subunits as applicable. ~~The following activities or systems are not required to convert an ERP permit from the construction to the operation phase:~~

- (a) ~~Mining activities, if they:~~
  - 1. Have been successfully reclaimed in accordance with Chapter 378, F.S., other than areas disturbed by mining operations that are not subject to the requirements of Chapter 378, F.S.;
  - (b) ~~2-~~ Have met all the success requirements of the individual permit issued under Part IV of Chapter 373, F.S., when the construction phase of the permit includes all phases of construction, abandonment, reclamation, and final success determination over reclaimed lands; and
  - (c) ~~3-~~ Do not contain components that require long-term operation or maintenance, such as stormwater management systems, conservation easements, state-owned sovereign submerged lands authorizations, dams, above-grade impoundments, works, water control structures, erosion and sedimentation controls, or dewatering pits.

In addition, if the mine is already operating under an operation and maintenance phase of an individual permit, such operation and maintenance phase shall be allowed to terminate upon successful completion of all phases of reclamation and receipt of final success determinations by the Department over lands reclaimed restored under the permit issued under Part IV of in accordance with the rules adopted pursuant to Chapter 378 373, F.S.

- ~~(b) Systems that serve an individual, private single family dwelling unit, duplex, triplex, or quadruplex.~~

## 12.2 Procedures for Requesting Conversion from the Construction Phase to the Operation and Maintenance Phase

- (a) Automatic Conversion — In accordance with paragraph 62-346.095(1)(a), F.A.C., activities authorized in a Noticed General Permit under Chapter 62-341, F.A.C., shall automatically convert to an operation and maintenance phase upon completion of construction, alteration, or removal that is conducted in conformance with all the terms and conditions of the permit.
- ~~(b) Systems that serve an individual, private single family dwelling unit, duplex, triplex, or quadruplex that is not part of a larger plan of common development proposed by an applicant — Within 30 days after completion of construction of the system, the permittee shall submit a fully executed Form 62-346.900(5), “Construction Completion and Inspection Certification for a System Serving an Individual, Private Single-Family Dwelling Unit,” certifying that the system was constructed in conformance with the all terms, specifications, and conditions of the permit. Upon receipt of this form, the construction phase of this permit shall automatically convert to an operation and maintenance phase. However, if at any time the Department determines that such a system was not built in conformance with the terms and conditions of the permit, the permittee shall be subject to enforcement by the Department and for all measures required to bring the system into compliance with the permit. The permittee shall remain liable for compliance with the terms of the permit for the life of the system, unless such permit is transferred in accordance with Rule 62-346.130, F.A.C.~~
- ~~(c)(b)~~ Permittees for all systems other than those specified in **sections 12.1.1, 12.2(a), and 12.2(b)**, above, must submit Form 62-346.900(4) “As-Built Certification by a Registered Professional,” in accordance with subsection 62-346.095(2), F.A.C. That notice shall serve to notify the Department that the system is ready for inspection. The permittee shall, at the same time, in accordance with subsection 62-346.095(2), F.A.C., also submit Form 62-346.900(6), “Request for Conversion of Environmental Resource Individual Stormwater Management Permit Construction Phase to Operation and Maintenance Phase,” requesting conversion of the permit from the construction phase to the operation phase.
- ~~(d) Each phase or independent portion of the permitted system must be approved by the Department for conversion to the operation phase prior to the initiation of the permitted use of: that phase or independent portion of the system or the site infrastructure located within the area served by that portion or phase of the system. The request for conversion to the operating phase or independent portion of the permitted system shall occur after construction of the roads, stormwater conveyance systems, treatment and attenuation systems, and utilities for that particular phase or independent portion of the system have been completed.~~
- (e) When a permit has been issued by the Department, the above forms shall be submitted to the Department office that issued the permit. When a permit has been issued by the NFWFMD, the above forms can be submitted electronically to the NFWFMD Internet site (<http://www.nfwfmd.state.fl.us/permits/permits-ERP.html>). If the permittee does

not utilize electronically submit these forms, paper copies of the forms shall be submitted by mail or other delivery service to the appropriate office of the NFWFMD.

The submittal of the above referenced forms does not require a processing fee, and their review shall not require processing as a permit modification under Rule 62-346.100, F.A.C. The forms, including information on how to obtain them electronically, are contained in Appendix C of this Volume.

The Department will review both forms, schedule an inspection as needed, determine compliance with the provisions in **sections 12.3 through 12.4, below**, and respond to the applicant as to acceptance or rejection of the request to convert the permit from the construction to the operation and maintenance phase.

- ~~(f)(e)~~ Unless otherwise specified in the permit, the operation and maintenance phase of an individual permit shall not become effective if the Department has determined that the permittee is not in substantial compliance with all the plans, terms, and conditions of the permit.
- ~~(g)(d)~~ The permittee will remain liable for compliance with the terms of the permit for the life of the system, unless such permit is transferred in accordance with Rule 62-346.130, F.A.C. Failure to follow these procedures may result in applicable enforcement action.

### 12.3 Operation and Maintenance Entities

12.3.1 ~~(a)~~ The following public entities are acceptable for ensuring that do not need to provide financial responsibility mechanisms to ensure that a surface water stormwater management system will be operated and routine custodial maintenance will be performed in compliance with the requirements of Chapter 62-346, F.A.C.; ~~However, a final letter of acceptance by the authorized entity representing the public entity is required before the operation phase can become effective. This documentation must clearly indicate what portions of the stormwater system will be maintained by the public entity.~~

- ~~(a)1-~~ Local governmental units including counties and municipalities, Municipal Service Taxing Units, or special service districts;
- ~~(b)2-~~ Active water control districts created pursuant to Chapter 298, F.S., drainage districts created by special act, special districts defined in Chapter 189, F.S., Community Development District created pursuant to Chapter 190, F.S., Special Assessment Districts created pursuant to Chapter 170, F.S., or water management districts created pursuant to Chapter 373, F.S.;
- ~~(c)3-~~ State or federal agencies;
- ~~(d)4-~~ Duly constituted communication, water, sewer, stormwater, electrical, or other public utilities;
- ~~(e)~~ Property owners or developers, subject to the restrictions below; or
- ~~(f)~~ Profit or non-profit corporations, including homeowners' associations, property owners' associations, condominium owners' or master associations, subject to the restrictions below.

- ~~(b) Non governmental entities, such as profit or non profit corporations, developers, property owner's and homeowner's associations, or master associations shall provide financial responsibility for operation and maintenance of the surface water management system in an amount sufficient to operate and maintain the system for a minimum period of 10 years, as follows:~~
- ~~1. The applicant shall provide draft documentation of the required financial responsibility mechanisms described below with the permit application and shall submit the executed or finalized documentation prior to the operation phase becoming effective. Acceptable financial responsibility mechanisms are limited to an irrevocable letter of credit and standby trust fund, or fully funded trust. The financial responsibility mechanism shall be perpetual in nature and shall be payable at the direction of the Department to its designee or to the standing trust fund.~~
  - ~~2. All financial mechanisms must guarantee that the permittee will perform all of its obligations under the permit, provide alternative financial assurance of a type allowed by this section, and obtain the Department's written approval of the alternative assurance provided within 90 days after receipt by both the permittee and the Department of a notice of cancellation of a letter of credit or intent not to extend the expiration date of a letter of credit.~~
  - ~~3. The amount of financial responsibility shall be sufficient to operate and maintain the system for a period of at least 10 years, and can be estimated in current dollars by the appropriate registered professional whose license authority in the State of Florida includes the ability to provide such certified written estimates.~~
  - ~~4. The provisions of **section 12.3.1(b)** shall apply to all modifications of permits, as applicable.~~
- ~~(c) Both governmental and non governmental entities shall provide proof to the Department that the entity has the legal authority to enter the property on which the system is located and to maintain the system.~~

**12.3.2** The property owner is acceptable as a responsible operation and maintenance entity provided that the property is not intended to be sold or subdivided. When the applicant intends to convey the property to third parties, the applicant will be an approved operation and maintenance entity from the time construction begins until the system is transferred to and accepted by an established legal entity. In the event the property is subsequently leased or rented to a third party, the property owner shall continue to be responsible for operation and routine custodial maintenance of the system.

**12.3.3** Homeowners' associations, property owners' associations, and condominium owners' or master associations are acceptable operation and maintenance entities only if they have the financial, legal, and administrative capability to provide for the long term operation and routine custodial maintenance of the surface water management system. Accordingly, such entities must:

- (a) Submit, as part of the permit application, draft Articles of Incorporation, Declaration, Restrictive Covenants, Deed Restrictions or other organizational and operation documents, or draft amendments thereto, that affirmatively assign responsibility to the Association for the operation or routine custodial maintenance of the surface water management system. Model language for Operation and Maintenance documents is included in **Appendix D of**

this Volume. The Association documents must comply with Chapters 617, 718, and 719, F.S., as applicable.

~~12.3.2 Non-governmental entities, such as profit or non-profit corporations, developers, property owners and homeowners associations, or master associations are acceptable operation and maintenance entities only if they have the financial, legal, and administrative capability to provide for the long term operation and routine custodial maintenance of the surface water management system. The operating and maintenance entity must comply with the following provisions:~~

~~(a) Corporate applicants must submit organizational or operation documents, or draft amendments thereto, that affirmatively assign responsibility for the operation or routine custodial maintenance of the surface water management system. These documents must be submitted to the Department as part of the permit application. Model language for Operation and Maintenance documents is included in **Appendix D of this Volume.**~~

~~(b) The operating and maintenance entity must Hhave sufficient powers (reflected in its organizational or operational documents where applicable), to:~~

- ~~1. Own and convey property;~~
- ~~2. Operate and perform routine custodial maintenance of the surface water management system as exempted or permitted by the Department;~~
- ~~3. Establish rules and regulations governing membership or take any other actions necessary for the purposes for which the corporation or association was organized;~~
- ~~4. Assess members for the cost of operating and maintaining the system, and enforce the collection of such assessments;~~
- ~~5. Demonstrate that it has the authority to Ssue and be sued;~~
- ~~6. Contract for services to provide for operation and routine custodial maintenance (if the association contemplates employing a maintenance company);~~
- ~~7. Require all owners of real property or units to be members of the corporation or association;~~
- ~~8. Demonstrate that the land on which the surface water management system is located is owned or otherwise controlled by the corporation or association to the extent necessary to operate and maintain the system or convey operation and maintenance to another entity; and~~
- ~~9. Provide that if the operating and maintenance entity dies, terminates, or is dissolved, the surface water management system shall be transferred to and maintained by an entity meeting the requirements in **paragraphs 12.3.1(a) or (b), and paragraphs 12.3.2(a) and (b)1. through 8., above,** prior to its dissolution.~~

~~(c) Have the following covenants and restriction, set forth in the Declaration of Protective Covenants, Deed Restrictions, Declaration of Condominium, or other recorded document setting forth the Association's rules and regulations:~~

1. That it is the responsibility of the Association to operate and maintain the surface water management system.
  2. The surface water management system is owned by the Association or described therein as common property.
  3. That there be a method of assessing and collecting the assessment for operation and maintenance of the surface water management system.
  4. That any proposed amendment to the Association's documents affecting the surface water management system (including environmental conservation areas and the water management portions of the common areas) must be submitted to the Department for a determination of whether the amendment necessitates a modification of the environmental resource permit. If a modification is necessary, the Department will so advise the permittee. The amendment affecting the surface water management system may not be finalized until any necessary permit modification is approved by the Department or the Association is advised that a modification is not necessary.
  5. That the governing provisions of the Association must be in effect for at least 25 years with automatic renewal periods thereafter.
  6. That the Association shall exist in perpetuity. However, should the Association dissolve, the operational documents shall provide that the surface water management system shall be transferred to and maintained by one of the entities identified in **sections 12.3.1(a) through (f)**, above, who has the powers listed in **section 12.3.3(b)1. through 8.**, above, the covenants and restrictions required in **section 12.3.3(c)1. through 9.**, herein, and the ability to accept responsibility for the operation and routine custodial maintenance of the surface water management system described in **section 12.3.3(d)1. or 2.**, below.
  7. If wetland mitigation monitoring is required by the environmental resource permit and the operational entity will be responsible to carry out this obligation, the rules and regulations shall state that it will be the Association's responsibility to complete the task successfully, including meeting all conditions associated with mitigation maintenance and monitoring.
  8. The Department has the right to take enforcement action, including a civil action for an injunction and penalties, against the Association to compel it to correct any outstanding problems with the surface water management system facilities or in mitigation or conservation areas under the responsibility or control of the Association.
  9. The environmental resource permit and its conditions shall be attached to the rules and regulations as an exhibit. The Registered Agent for the Association shall maintain copies of all further permitting actions for the benefit of the Association.
- (d) Have the ability to accept responsibility for the operation and routine custodial maintenance of the surface water management system:

~~12.3.3~~ 1. For future phases of the project, ~~if the an~~ operation and maintenance entity is proposed for a project ~~that which~~ will be constructed in phases, and subsequent phases will utilize the same surface water management system as the initial phase or phases, ~~the entity must have the ability to accept responsibility for the operation and routine custodial maintenance of the surface water management system for future phases of the project; or~~

2. ~~Have, either separately or collectively, the responsibility and authority to operate and perform routine custodial maintenance of the system for the entire project area, if the development scheme contemplates independent operation and maintenance entities for different phases, and the system is integrated throughout the project, the entities, either separately or collectively, must have the responsibility and authority to operate and perform routine custodial maintenance of the system for the entire project area. That authority must include cross easements for surface water management and the ability to enter and maintain the various systems and works, should any sub-entity fail to maintain a portion of the system within the project area.~~

~~12.3.4~~ ~~When the applicant intends to convey the property to multiple third parties, the applicant will be an approved operation and maintenance entity from the time construction begins until the system is dedicated to and accepted by an established legal entity as described in paragraphs 12.3.1(a) or (b), and paragraphs 12.3.2(a) and (b), above will exist when construction of the system is complete, and of the future acceptance of the system by such entity.~~

#### 12.4 Minimum Operation and Maintenance Standards

(a) All surface water management systems permitted by the Department shall be operated and maintained in accordance with the designs, plans, calculations, and other specifications that are submitted with an application, approved by the Department, and incorporated by reference or as a condition into any permit issued. This includes surface water management systems serving a regulated individual, private single family dwelling unit, duplex, triplex, or quadruplex that is not part of a larger plan of common development proposed by an applicant. Operation and maintenance associated with such systems is important for reasons such as: to ensure docking facilities meet terms and conditions after construction; lawn grading and sloping is maintained to prevent water quality degradation; exotic species removal is performed as required in the permit; mitigation areas are monitored and maintained at least until all the mitigation area(s) reach success criteria; and seawalls or rip rap is maintained after constructed as permitted.

(b) The operation and maintenance entity shall provide for the inspection of the ~~surface water stormwater~~ surface water management system in accordance with subsection 62-346.095(6), F.A.C. During the inspection, special attention ~~shall should~~ be made to ~~ensure~~ ensure that:

1. All erosion is controlled and soil is stabilized to prevent sediment discharge to waters in the state.
2. The surface water management system is kept free of debris, trash, garbage, oils and greases, and other refuse.

3. Engineered surface water stormwater management systems that include oil and grease separators, skimmers, or collection devices are working properly and do not allow the discharge of oils or greases. Oils and greases or other materials removed from such a device during routine maintenance shall be disposed of at a sanitary landfill or by other lawful means.
  4. All structures within engineered surface water ~~and stormwater~~ management systems have not become clogged or choked with vegetative or aquatic growth to such an extent as to render them inoperable.
- (c) Inspections of the permitted system should be conducted at least once every third year after conversion of a permit to the operation phase. However, systems that include vegetated natural buffers and systems in karst sensitive areas shall be inspected at least annually. More frequent inspections shall be required where necessary to ensure functionality of systems permitted under alternative criteria.
- (d) The permit shall be subject to additional reasonable conditions, such as performance bonds or other form of surety, that are necessary to ensure operation and maintenance of the surface water management system.

## 12.5 Reporting

With the exception of systems serving an individual, private single family dwelling unit, duplex, triplex, or quadruplex that is not part of a larger plan of common development proposed by an applicant, the results of all such inspections performed in accordance with section 12.4, above, must be filed with the Department using Form 62-346.900(8), "Operation and Maintenance Inspection Certification," in accordance with subsection 62-346.095(6), F.A.C. This report describes the results of the inspections and that certifies that the system is operating as designed and permitted. The report generally must be filed within 30 days after the third-year inspection; including those systems using a vegetated natural buffer or located in a karst sensitive area. However, a report also shall be submitted within 30 days of any system failure or deviation from the permit. More frequent inspections shall be required where necessary to ensure functionality of systems permitted under alternative criteria. The above forms are available and may be submitted electronically to the Department.

Systems serving an individual, private single family dwelling unit, duplex, triplex, or quadruplex that is not part of a larger plan of common development proposed by an applicant shall be subject to inspecting and reporting on the permitted system as specified in the permit. Such inspection and reporting requirements will be dependent upon and will reflect the nature of the system being permitted. For example, a fill pad that is not subject to specific requirements for slope drainage or runoff may not be subject to long-term inspection and reporting requirements, while a dock located in waters with sensitive resources and with conditions prohibiting mooring in certain locations may be subject to regular compliance documentation reports.

## 12.6 Recording of Easements, Deed Restrictions, and other Operation and Maintenance Documents

In accordance with subsection 62-346.095(5), F.A.C., for those systems that will be operated and maintained by an entity that requires an easement or deed restriction in order to operate and maintain the system, such easement or deed restriction, together with any other final operation and maintenance documents required by **section 12.3.3 ~~12.3.2~~, above**, must be submitted to the



Department for approval. Deed restrictions, easements, and other operation and maintenance documents that require recordation with the Clerk of the Circuit Court must be recorded in the county where the project is located prior to any lot or unit sales within the project served by the system, or upon completion of construction of the system, whichever occurs first. For those systems that are to be operated and maintained by county or municipal entities, final operation and maintenance documents must be received by the Department when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system.

The above requirements do not address the procedures for the recording of conservation easements to prevent secondary or cumulative impacts, or to protect and preserve a mitigation site.

## **12.7 Subsequent Transfers**

In accordance with subsection 62-346.130, F.A.C., subsequent to the initial transfer of the permit to the operation and maintenance entity approved when the permit was issued, if the permittee wishes to request transfer of the operation and maintenance phase of the permit to another entity, the permittee must submit Form 62-346.900(7), "Notification of Transfer of Permit" to the Department as a modification to the permit, using the procedures in Rules 62-346.100 and 62-346.130, F.A.C., and **section 6.4 of this Volume**. Until the permit is so transferred, the permittee shall be liable for compliance with all of the terms of the permit for the life of the system. Failure to follow these procedures may result in applicable enforcement action.

**APPENDIX A**

**OPERATING AGREEMENT BETWEEN THE DEPARTMENT AND THE NORTHWEST  
FLORIDA WATER MANAGEMENT DISTRICT**

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**OPERATING AGREEMENT CONCERNING  
REGULATION UNDER PART IV, CHAPTER 373, F.S.,  
BETWEEN  
NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
AND  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**I. INTENT**

The Northwest Florida Water Management District (DISTRICT) and the State of Florida Department of Environmental Protection (DEPARTMENT) enter into this operating Agreement to implement an environmental resource permit program within the geographical jurisdiction of the DISTRICT in accordance with Section 373.046, F.S., and Part IV of Chapter 373, F.S. This Agreement divides responsibility between the DISTRICT and the DEPARTMENT for the exercise of their authority regarding permits, compliance, and enforcement under Part IV, Chapter 373, F.S. This Agreement also divides responsibility between the DISTRICT and DEPARTMENT regarding formal wetland determinations under Subsections 373.421(2) through (5), F.S. It is a goal of this Operating Agreement that the division of responsibilities provides no reduction in levels of compliance monitoring and enforcement and, where possible, allows increased levels of compliance monitoring and enforcement.

As a future step to further increase the efficiency and effectiveness of environmental permitting, the DEPARTMENT and the DISTRICT shall jointly pursue further integration and streamlining of federal and state wetlands regulations. The DEPARTMENT and DISTRICT also encourage local governments to pursue delegation to implement the environmental resource permit program within their jurisdiction in accordance with Sections 373.4145(4) and 373.441, F.S. ~~It is further contemplated that this agreement will be amended in conjunction with the development of the rules authorized under Section 373.4145(1)(b), F.S., to, at a minimum, provide the DISTRICT with additional responsibilities for reviewing and final action on activities located in whole or in part within the landward extent of wetlands and other surface waters, excluding submerged lands owned by the state of Florida. The DEPARTMENT and DISTRICT also commit to review and amendment of this Agreement, if needed, within two years of adoption of the rules authorized under Section 373.4145(1)(b), F.S., to further refine, as appropriate, the division of responsibilities in consideration of experience gained and agency resources that exist at that time.~~

**II. RESPONSIBILITIES OF DISTRICT AND DEPARTMENT**

**A. DEPARTMENT Responsibilities**

**1. Permits, Variances, and Verification of Exemptions and Noticed General Permits**

The DEPARTMENT shall be responsible for the review and final action on all applications and notices for permits, petitions for variances, and verification of exemptions (including those under s. 403.813(1), F.S.), ~~and review of notices for noticed general permits under Part IV of Chapter 373, F.S., and variances or waivers under Section 120.542, F.S.,~~ for the project types listed in this section. In addition, the DEPARTMENT shall be responsible for review and final action on all other applications and notices for permits, verification of exemptions, and petitions for variances, under Section 373.4145, F.S., ~~and variances or waivers under Section 120.542, F.S.,~~ for

project types that are not specifically the responsibility of the DISTRICT as provided in Section II.B., below.

- a. All activities, in whole or in part, in, on, or over submerged lands owned by the State of Florida, including state-owned ~~sovereignty~~ submerged lands.
- b. All activities that involve dredging, filling, or construction in, on, or over 5 or more acres of wetlands or other surface waters of the state, as defined in Rule 62-312.030, F.A.C., including all associated development that requires a stormwater permit pursuant to Section 373.4145(1)(a), F.S. However, when the proposed dredge and fill activity is limited to transportation (ingress, egress, and interior roadways, bridges, and culvert crossings, but excluding individual residential driveways) impacts to no more than 0.5 acre of surface waters of the state, the DISTRICT shall be responsible for processing the application for the stormwater permit under Section 373.4145(1)(a), F.S., and the DEPARTMENT shall forward the stormwater application to the DISTRICT within five working days, while retaining responsibility for processing the dredge and fill application.
- c. All wet or dry docking facilities, piers, and shore protection structures, including all adjacent associated residential, commercial, and governmental development and any needed dredging and filling associated with such facilities, structures, and development, regardless of the acreage of any associated dredging or filling, except as provided in Section II.B. of this Agreement.
- d. All "in water" type activities which, for purposes of this Agreement, shall consist of works and activities that generally do not require an associated stormwater management system, such as:
  - (1) Navigational and other canal, channel, and ditch dredging, except dredging of ditches that are a component of an activity that is otherwise the responsibility of the DISTRICT under Section II.B. of this Agreement;
  - (2) Organic detrital material dredging, removal, and relocation, aquatic plant management activities regulated under Chapter 369, F.S., and lake, pond, and other waterbody restoration and enhancement that is not otherwise mitigation for an activity that is the responsibility of the DISTRICT under Section II.B. of this Agreement; and
  - (3) Boat ramps, ski jumps, ski slalom courses, aids to navigation, mooring buoys and fields, piling supported structures that are not physically connected to uplands, fish attractors, artificial reefs, treasure salvage, deadhead logging, and archaeological research or exploration.
- e. A system serving or consisting of up to three contiguous parcels of land under single ownership, where each parcel contains or is proposed to contain only one single family dwelling unit, duplex, triplex, or quadruplex (hereinafter referred to as a dwelling unit).
- f. e. Systems proposed in whole or in part seaward of the coastal construction control line. In areas where a CCCL has not been established, systems proposed in whole or in part seaward of a point 50 feet above the mean high water line at any

riparian coastal location fronting the Gulf of Mexico coast shoreline, exclusive of bays, inlets, rivers, bayous, creeks, passes, and the like.

- g. d. All mines, as defined in Chapter 378, F.S. However, the DISTRICT shall review and take final action on permit applications for sand, shell, and clay (other than fuller's earth) mines that do not involve processing other than the use of a scalping screen to remove large rocks, wood, and debris, and that do not involve any excavation, construction, or other dredging or filling in, on, or over five or more acres of wetlands or other surface waters of the state, including any development associated with the mine.
- h. e. Seaports and adjacent seaport related development where the applicant or property owner is a port authority as defined in Subsection 315.02(2), F.S.
- ~~f.~~ ~~Dry storage facilities for 10 or more vessels where the dry storage facility is functionally associated with a boat launching area, including when the dry storage facility does not involve any work in, on, or over waters of the state.~~
- i. g. Projects constructed, operated, or maintained, and other activities by the DISTRICT.
- j. h. All solid waste management facilities that require a permit under Chapter 403, F.S. However, the DISTRICT shall review and take final action on permit applications when the solid waste management facility qualifies for a solid waste general permit, is merely an incidental component of a project for which the DEPARTMENT does not review and take final action on permit applications under any other paragraph in Section II.A.1 of this Agreement, and is not located within wetlands or other surface waters of the state.
- k. i. Hazardous waste facilities that require a permit under Chapter 403, F.S. However, the DISTRICT shall review and take final action on permit applications when the storage of hazardous waste is merely an incidental component of a project for which the DEPARTMENT does not review and take final action on permit applications under any other paragraph in Section II.A.1. of this Agreement, and is not located within wetlands or other surface waters of the state.
- l. j. Domestic or industrial wastewater treatment, storage, transmission, effluent disposal, or water reuse facilities that require a permit under Chapter 403, F.S. This includes: all facilities and activities located at the domestic or industrial wastewater treatment facility; all reuse sites permitted under Parts II or IV of Chapter 62-610, F.A.C.; land application sites permitted under Part VI of Chapter 62-610, F.A.C.; and wetlands created using reclaimed water (from domestic wastewater or industrial wastewater sources). However, the DISTRICT shall review and take final action on permit applications for the following activities that are a part of a larger project for which the DISTRICT is otherwise responsible under the provisions of Section II.B ~~II.A.B~~ of this Agreement:

  - (1) Water reuse sites permitted under Part III of Chapter 62-610, F.A.C.;<sup>47</sup> such as facilities for the storage and application of reclaimed water to irrigate crops, golf courses, or other landscapes;

- (2) Activities involving the application of reclaimed water to rehydrate wetlands or to provide artificial recharge to reduce or mitigate drawdown impacts due to well withdrawals;
- (3) Those facilities that are subject to any of the requirements of Chapter 62-346, F.A.C., through a system or activity which is not fully contained on the domestic or industrial wastewater facility site, but which is part of a larger project for which the DISTRICT reviews and takes final action on permit applications under Section II.B. of this Agreement;
- (4) Those facilities that qualify for a general or generic permit pursuant to Rules 62-660.801, F.A.C. (General Permit for a Wastewater Disposal System for a Laundromat), 62-660.802, F.A.C. (General Permit for a Pesticide Waste Degradation System), 62-660.803, F.A.C. (General Permit for Car Wash Systems), 62-660.805, F.A.C. (General Permit for Disposal of Tomato Wash), or 62-621.300(2), F.A.C. (Generic Permit for Discharge of Produced Ground Water from any Non-Contaminated Site Activity); and
- (5) Those facilities in which the industrial wastewater component is merely an HVAC (heating, ventilation, and air conditioning) cooling tower discharge, or other industrial wastewater treatment facility which is merely an incidental component of a project for which the DISTRICT reviews and takes final action on permit applications under Section II.B. of this Agreement.

m. k. Potable water facilities that require a permit under Chapter 403, F.S. This includes drinking water treatment plants as well as distribution mains. However, the DISTRICT shall review and take final action on permit applications for distribution lines that are fully contained within systems for which the DISTRICT reviews and takes final action on permit applications under Section II.B. of this Agreement.

n. l. Power plants and electrical distribution and transmission lines and other facilities related to the production, transmission and distribution of electricity. However, the DISTRICT shall review and take final action on electrical distribution lines fully contained within any larger plan of development for which the DISTRICT reviews and takes final action on permit applications under Section II.B. of this Agreement.

o. m. Communication cables and lines. However, the DISTRICT shall review and take final action on communication cables and lines fully contained within any larger plan of development for which the DISTRICT reviews and takes final action on permit applications under Section II.B.A.2. of this Agreement.

p. n. Natural gas or petroleum exploration, production, and distribution activities and facilities, product pipelines, and other facilities related to the exploration, production, and distribution of natural gas and petroleum. However, the DISTRICT shall review and take final action on natural gas distribution lines fully contained within any larger plan of development for which the DISTRICT reviews

and takes final action on permit applications under Section II.B. of this Agreement.

- q. ~~o.~~ Temporary systems proposed for commercial film productions.
- r. ~~p.~~ Aquaculture activities not exempt pursuant to Subsection 373.406(8), F.S.
- s. ~~q.~~ Projects constructed, operated or maintained by the U.S. Army Corps of Engineers.
- t. ~~r.~~ Ecosystem Management Agreements and activities conducted in accordance with Ecosystem Management Agreements under Section 403.0752, F.S.

Pursuant to Section 373.4145(6), F.S., ~~t~~The permit applications encompassed within the DEPARTMENT's responsibilities hereunder include those submitted for Chapter 62-312, F.A.C., wetland resource (dredge and fill) permits and Chapter 62-25, F.A.C., stormwater permits ~~pursuant to Subsection 373.4145(6), F.S.~~

## 2. **Formal Determinations**

The DEPARTMENT shall review and take final action on all petitions for formal determinations of the extent of wetlands and other surface waters pursuant to Section 373.421, F.S.

The DEPARTMENT shall provide the DISTRICT with copies of formal determinations of the extent of wetlands or other surface waters issued by the DEPARTMENT.

## 3. **Mitigation Banks and Regional Offsite Mitigation Areas Agreements (ROMAs)**

~~\_\_\_\_\_~~ a. ~~\_\_\_\_\_~~ The DEPARTMENT shall review and take final action on all permit applications for mitigation banks and ROMA agreement proposals under Sections 373.4135 and 373.4136, F.S.

### **B. DISTRICT Responsibilities**

1. The DISTRICT shall be responsible for the review and final action on all applications and notices for permits under Section 373.4145(1)(a), F.S., petitions for variances or waivers, and verification of exemptions (including those under s. 403.813(1), F.S.), ~~and review of notices for noticed general permits under Part IV of Chapter 373, F.S., and variances or waivers under Section 120.542, F.S.,~~ for the project types listed in this section.

a. Residential, commercial, and governmental development, including roadways, and associated surface water management systems, and related construction that:

- (1) Is ~~Are~~ not located, in whole or in part, in, on or over submerged lands owned by the state of Florida;
- (2) Involves ~~Are not located in whole or in part in, on, or over a total of less than five acres of dredging or filling in, on, or over wetlands or other~~

~~surface waters of the state, as defined in Rule 62-312.030, F.A.C. However, when the proposed activity over such waters is limited to transportation (ingress, egress, and interior roadways, bridges, and culvert crossings, but excluding individual residential driveways) impacts to no more than 0.5 acre of surface waters of the state, the DISTRICT shall be responsible for processing the application for the stormwater permit under Section 373.4145(1)(a), F.S., and the DISTRICT shall forward the dredge and fill application to the DEPARTMENT within five working days, while retaining responsibility for processing the stormwater application, except when such development includes docks, piers, shore protection structures, or "in water" activities that are the responsibility of the DEPARTMENT under Section II.A. of this Agreement. However, this shall not divest the DISTRICT from having the responsibility to review and take agency action on activities that incorporate retaining walls or other bulkhead structures as an integral component of surface water management systems that are not located in, on, or over state-owned submerged lands;~~

- (3) ~~Do not consist~~ Consists of a system on four or more contiguous parcels of land intended to serve more than one dwelling unit, or of three or fewer contiguous parcels of land under single ownership that have or are proposed to have a system serving more than one of a single family dwelling unit, duplex, triplex, or quadruplex;
  - (4) ~~Is~~ Are not located seaward of the coastal construction control line or other areas as described in Section II.A.1.c of this Agreement;
  - (5) ~~Is~~ Are not associated with a seaport as described in Section II.A.1.e. of this Agreement, or with activities of the U.S. Army Corps of Engineers;
  - (6) ~~Is~~ Are not associated with temporary systems for commercial film production as described in Section II.A.1.o. of this Agreement; and
  - (7) Does not consist of or include an aquaculture activity.
- b. Mining activities that are not the responsibility of the DEPARTMENT under Section II.A.1.d. of this Agreement.
  - c. Solid waste management, hazardous waste, domestic or industrial waste, and potable water facilities, electrical distribution lines, communication cables and lines, and natural gas distribution lines that are not the responsibility of the DEPARTMENT under Sections II.A.1.g. through m. of this Agreement.
  - d. Projects constructed, operated or maintained, and other activities by the DEPARTMENT.
  - e. Agriculture and silviculture activities regulated under Chapter 40A-44, F.A.C. (July 1, 1998).
  - f. ~~Management and Storage of Surface Waters projects regulated under Chapter 40A-4, F.A.C.~~



2. The DISTRICT shall review and take final action on the following:
  - a. All Works of the DISTRICT permits under Chapter 40A-6, F.A.C. (March 2, 2000).
  - b. Management and Storage of Surface Waters projects regulated under Chapters 40A-4 (March 2, 2000), and 40A-44 (July 1, 1998), F.A.C. However, the DISTRICT shall provide technical assistance to the DEPARTMENT during the review of activities that are retained by the DEPARTMENT under Section II.A. of this Agreement that also require a separate permit under Chapter 40A-4, F.A.C. (March 2, 2000).

### **C. Incorrectly Submitted Applications and Petitions; Modifications**

1. Permit applications, petitions for variances or waivers, and petitions for formal determinations submitted to the incorrect agency pursuant to the terms of this Agreement shall be forwarded to the correct agency for further processing within five working days of receipt, except where the agencies mutually agree that the application may be retained by the incorrect agency, in which case a special case agreement shall be executed in accordance with Part IV of the Agreement. A refund of any fee submitted to the incorrect agency that does not retain processing of the application shall be made to the applicant. Prior to transferring the application, the incorrect receiving agency shall coordinate with the proper reviewing agency and the applicant in order to inform all parties that the application has been submitted incorrectly and is being forwarded.
2. Notwithstanding Sections II.A. and II.B. of this Agreement, permit modification requests shall be processed by the agency issuing the original permit. If the permit has been modified, the agency that issued the last modification to the permit shall process the modification.

### **III. DELEGATION OF AUTHORITY: MIXING ZONES, ZONES OF DISCHARGE, VARIANCES**

~~The DEPARTMENT delegates the authority to the DISTRICT to take action on petitions for variances or waivers from state water quality standards in accordance with Section 120.542, F.S., when the petition is associated with a permit application for which the DISTRICT is responsible under the terms of this operating agreement.~~

### **III. IV. COMPLIANCE MONITORING AND ENFORCEMENT**

Each agency shall perform compliance monitoring on all projects for which that agency has issued a permit, consent order, final order, or for which a consent final judgment or final judgment has been entered, ~~in order to determine compliance with the conditions thereof~~ and will enforce said conditions by taking appropriate enforcement action where necessary. However if the DEPARTMENT or the DISTRICT modifies a permit previously issued by the other agency, pursuant to this Operating Agreement, the agency modifying the permit shall thereafter determine compliance with the permit and enforce all provisions or conditions of that permit.

Each agency shall investigate activities regulated under Part IV of Chapter 373, F.S., ~~that which~~ are undertaken without the required permits, and take appropriate enforcement action, when it has permitting responsibilities for those activities under this Operating Agreement.

### **IV. V. SPECIAL CASES**

By written agreement between the DISTRICT and the DEPARTMENT, responsibilities may deviate from the responsibilities outlined in II.A., B., or C., or IV, above. Instances where this may occur include:

1. An extensive regulatory history or proprietary interest by either the DISTRICT or the DEPARTMENT with a particular project that would make a deviation result in more efficient and effective regulation. This may include activities on lands within a conservation easement held by the other agency;
2. Simplification of the regulation of a project that crosses water management district boundaries;
3. The incorrect agency has begun processing an application or petition and transfer of the application or petition would be inefficient;
4. Circumstances in which a deviation would result in the application or petition being more efficiently or effectively processed; or
5. Compliance and enforcement of activities in which there may be violations of rules of the DEPARTMENT or DISTRICT that are not the subject of this Agreement;

### **V. VI. EMERGENCIES**

In a declared emergency, pooling of staff resources and deviations from the terms of this Agreement may be in the best interest of public service and protecting or restoring property and environmental resources. Therefore, notwithstanding the divisions of responsibilities specified in this Agreement, where the Governor has issued an Executive Order which declares an emergency and the DEPARTMENT and the DISTRICT have issued emergency orders to implement the Executive Order, either party to this agreement can review and take agency action on any activities regulated under Part IV of Chapter 373, F.S., that are authorized by an emergency order during the duration of the emergency orders of the DEPARTMENT and the DISTRICT.

### **VI. VII. INTERAGENCY COMMITTEE**

~~In order~~ To seek consistency in the environmental resource permit (ERP) program and to facilitate the implementation of the DEPARTMENT's responsibilities under Subsection 373.026(7), F.S., and Section 62-340.100, F.A.C., the DEPARTMENT and DISTRICT agree to ~~form and~~ participate in an ERP Committee (Committee). The Committee shall meet at least twice a year, but may meet more frequently as issues arise that require interagency coordination. The Committee shall provide a forum for the DEPARTMENT and water management districts to coordinate and communicate regarding the following:

1. Joint training efforts to maximize the use of training resources and ensure that adequate training is provided.
2. Promotion of consistent interpretation and implementation of ERP rules.
3. Proposed amendments to ERP rules.
4. Development of consistent ERP compliance and enforcement.
5. Future revisions to the DEPARTMENT and DISTRICT operating agreements regarding the ERP program.
6. Development of a statewide ERP data set and a computer data exchange methodology.
7. Such other activities that the Committee deems necessary or desirable to achieve and maintain the goals of this operating agreement.

#### **VII. VIII. EFFECTIVE DATE**

1. This Operating Agreement shall take effect upon execution by both parties and adoption by rule of this Operating Agreement.
2. Applications, petitions, and enforcement cases, under Part IV of Chapter 373, F.S., which are pending on the effective date of this agreement shall continue to be processed by the agency to which application or petition was made or which initiated the enforcement case, except when the DISTRICT and the DEPARTMENT agree, that an application, petition or enforcement case should be transferred in order to provide for more efficient processing and enforcement. Applications and petitions received after the effective date of this Operating Agreement will be processed as described in Section II of this Operating Agreement.

NORTHWEST FLORIDA WATER  
MANAGEMENT DISTRICT  
BY ITS GOVERNING BOARD

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

\_\_\_\_\_  
Douglas E. Barr  
EXECUTIVE DIRECTOR  
75 Water Management Drive  
Havana, Florida 32333-4712

\_\_\_\_\_  
Michael W. Mike Sole  
SECRETARY  
3900 Commonwealth Blvd.  
Tallahassee, Florida 32399-3900

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## APPENDIX B

### OTHER RULE & STATUTORY REFERENCES RELATED TO THIS HANDBOOK

#### DEFINITIONS

From Chapters 373 and 403, Florida Statutes:

- “Alter” or “Alteration” means to extend a dam or works beyond maintenance in its original condition, including changes which may increase or diminish the flow or storage of surface water which may affect the safety of such dam or works [Section 373.403(7), F.S.]
- “Appurtenant Work” means any artificial improvements to a dam, which affect the safety of such dam or, when employed, affect the holding capacity of such dam or of the reservoir or impoundment created by such dam. [Section 373.403(2), F.S.]
- “Canal” means a trench, the bottom of which is normally covered by water, with the upper edges of its two sides normally above water. [Section 403.803(2), F.S., and subsection 62-341.021(2), F.A.C.]
- “Channel” means a trench, the bottom of which is normally covered entirely by water, with the upper edges of one or both of its sides normally below water. [Section 403.803(3), F.S., and subsection 62-341.021(4), F.A.C.]
- “Closed System” means any reservoir or works located entirely within agricultural lands owned or controlled by the user and which requires water only for the filling, replenishing, and maintaining the water level thereof [Section 373.403(6), F.S.]
- “Coral” means living stony coral and soft coral. [subsection 62-341.021(3), F.A.C.]
- “Dam” means any artificial or natural barrier, with appurtenant works, raised to obstruct or impound, or which does obstruct or impound, any of the surface waters of the state [Section 373.403(1), F.S.]
- “Drainage basin” means a subdivision of a watershed [Section 373.403(9), F.S.]
- “Drainage ditch” or “irrigation ditch” means a man-made trench that is dug for the purpose of draining water from the land or for transporting water for use on the land and that is not built for navigational purposes. [Section 403.803(7), F.S., and subsection 62-341.021(6), F.A.C.]
- “Dredging” means excavation, by any means, in surface waters or wetlands, as delineated in Section 373.421(1), F.S. Excavation also means the excavation, or creation, of a water body which is, or is to be, connected to surface waters or wetlands, as delineated in Section 373.421(1), F.S., directly or via an excavated water body or series of water bodies [Section 373.403(13), F.S., and subsection 62-341.021(7), F.A.C.]
- “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. These functions include, but are not limited to, providing cover and refuge; breeding, nesting, denning, and nursery areas; corridors for wildlife movement; food chain support; and natural water storage, natural flow attenuation, and water quality improvement, which enhances fish, wildlife and listed species utilization. [Section 373.403(18), F.S.]

- ~~“Endangered species” means those animal species that are listed in Rule 68A-27.003, F.A.C., and those plant species that are listed as endangered in 50 Code of Federal Regulations 17.12 (1994). [subsection 62-341.021(8), F.A.C.]~~
- “Estuary” means a semi-enclosed, naturally existing coastal body of water which has a free connection with the open sea and within which seawater is measurably diluted with fresh water derived from riverine systems. [Section 373.403(15), F.S., and subsection 62-341.021(9), F.A.C.]
- “Filling” means the deposition, by any means, of materials in wetlands or other surface waters, as delineated in Section 373.421(1), F.S. [Section 373.403(14), F.S., and subsection 62-341.021(10), F.A.C.]
- “Groundwater” means water beneath the surface of the ground, whether or not flowing through known and definite channels [Section 373.019(9), F.S.]
- “Impoundment” means any lake, reservoir, pond, or other containment of surface water occupying a bed or depression in the earth’s surface and having a discernible shoreline. [Sections 373.403(3) and 373.019(10), F.S.]
- “Insect control impoundment dikes” means artificial structures, including earthen berms, constructed and used to impound waters for the purpose of insect control. [Section 403.803(10), F.S.]
- “Lagoon” means a naturally existing coastal zone depression which is below mean high water and which has permanent or ephemeral communications with the sea, but which is protected from the sea by some type of naturally existing barrier. [Section 373.403(16), F.S., and subsection 62-341.021(13), F.A.C.]
- “Maintenance” or “Repairs” means remedial work of a nature as may affect the safety of any dam, impoundment, reservoir, or appurtenant work or works, but excludes routine custodial maintenance. [Section 373.403(8), F.S.]
- “Mitigation bank” means a project permitted under s. 373.4136 undertaken to provide for the withdrawal of mitigation credits to offset adverse impacts authorized by a permit under this part. [Section 373.403(19), F.S.]
- “Mitigation credit” means a standard unit of measure which represents the increase in ecological value resulting from restoration, enhancement, preservation, or creation activities. [Section 373.403(20), F.S.]
- “Mitigation service area” means the geographic area within which mitigation credits from a mitigation bank may be used to offset adverse impacts of activities regulated under this part. [Section 373.403(21), F.S.]

- “Offsite regional mitigation” means mitigation on an area of land off the site of an activity permitted under this part, where an applicant proposes to mitigate the adverse impacts of only the applicant's specific activity as a requirement of the permit, which provides regional ecological value, and which is not a mitigation bank permitted under s. 373.4136. [Section 373.403(22), F.S.]
- “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.]
- “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.]
- “Reservoir” means any artificial or natural holding area that contains or will contain the water impounded by a dam. [Section 373.403(4), F.S.]
- “Riprap” means a sloping retaining structure or stabilization made to reduce the force of waves and to protect the shore from erosion, and consists of unconsolidated boulders, rocks, or clean concrete rubble with no exposed reinforcing rods or similar protrusions. [subsection 62-341.021(15), F.A.C.]
- “Seawall” means a man-made wall or encroachment, except riprap, which is made to break the force of waves and to protect the shore from erosion. [Section 373.403(17), F.S., and subsection 62-341.021(16), F.A.C.]
- “Species of special concern” means those species listed in Rule 68A-27.005, F.A.C. [subsection 62-341.021(17), F.A.C.]
- "State water quality standards" means water quality standards adopted pursuant to chapter 403. [Section 373.403(11), F.S.]
- “Stormwater management system” means a system that is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system. [Sections 373.403(10) and 403.031(16), F.S.]
- “Stream” means any river, creek, slough, or natural watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted. The fact that some part of the bed or channel shall have been dredged or improved does not prevent the watercourse from being a stream. [Section 373.019(18), F.S.]
- “Submerged grassbeds” means any native, herbaceous, submerged vascular plant community that is growing on the bottoms of surface waters waterward of the mean high water line or ordinary high water line. [subsection 62-341.021(18), F.A.C.]

- “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(19), F.S.]
- “Swale means a manmade trench which:
  1. Has a top width to depth ratio of the cross-section equal to or greater than 6:1, or side slopes equal to or flatter than 3 feet horizontal to 1-foot vertical;
  2. Contains contiguous areas of standing or flowing water only following a rainfall event;
  3. Is planted with or has stabilized vegetation suitable for soil stabilization, stormwater treatment, and nutrient uptake; and
  4. Is designed to take into account the soil erodibility, soil percolation, slope, slope length, and drainage area so as to prevent erosion and reduce pollutant concentration of any discharge. [Section 403.803(14), F.S., and subsection 62-341.021(19), F.A.C.]
- “Vertical seawall” is a seawall the waterward face of which is at a slope steeper than 75 degrees to the horizontal. A seawall with sloping riprap covering the waterward face to the mean high water line shall not be considered a vertical seawall. [subsection 62-341.021(21), F.A.C.]
- “Water” or “waters in the state” means any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state. [Section 373.019(20), F.S.]
- “Waters” shall be as defined in Section 403.031(13), F.S.
- “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.]
- “Wetlands” shall be as defined in Section 373.019, F.S., the landward extent of which are delineated pursuant to Rules 62-340.100 through 62-340.550, F.A.C., as ratified by Section 373.4211, F.S.
- “Works” means all artificial structures such as canals, conduits, channels, culverts, pipes, and other construction that connects to, draws water from, drains water into, or is placed in or across the waters in the state. [Section 373.403(5), F.S.]
- “Works of the district” means those projects and works, including, but not limited to, structures, impoundments, wells, streams, and other watercourses, together with the appurtenant facilities and accompanying lands, which have been officially adopted by the governing board of the district as works of the district. [Section 373.019(26), F.S.]

From Rule 62-40.210, F.A.C. (Selected Definitions):

- (1) “Aquifer” shall mean a geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield useful quantities of ground water to wells, springs or surface water.
- (4) “Consumptive use means any use of water which reduces the supply from which it is withdrawn or diverted.
- (6) “Designated use” means the present and future most beneficial use of a body of water pursuant to the water quality classification system in Rule 62-302.400, F.A.C.
- (7) “Detention” means the delay of stormwater runoff prior to its discharge.
- (8) “District” means a water management district created pursuant to Section 373.069, F.S.
- (11) “Floodplain” means land area subject to inundation by flood waters from a river, watercourse, lake, or coastal waters. Floodplains are delineated according to their estimated frequency of flooding.
- (12) “Florida Water Plan” means the state-level water resource plan developed by the Department under Section 373.036, F.S.
- (13) “Governing Board” means the governing board of a water management district created under Section 373.069, F.S.
- (14) “Ground water” means water beneath the surface of the ground, whether or not flowing through known and definite channels.
- (15) “Ground water basin” means a ground water flow system that has defined boundaries and may include permeable materials that are capable of storing or furnishing a significant water supply. The basin includes both the surface area and the permeable materials beneath it.
- (16) “High recharge areas” means areas contributing significant volumes of water which add to the storage and flow of an aquifer through vertical movement from the land surface. The term significant will vary geographically depending on the hydrologic characteristics of that aquifer.
- (18) “Impaired water” means a water body or water body segment that does not meet one or more of its designated uses due in whole or in part to discharges of pollutants, and has been listed as impaired by order of the Secretary in accordance with the procedures set forth in Chapter 62-303, F.A.C.
- (19) “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.
- (20) “Pollutant load reduction goal,” or PLRG, means estimated numeric reductions in pollutant loadings, usually established in a Surface Water Improvement and Management or other watershed management plan, that are needed to preserve or restore designated uses of receiving bodies of water and maintain water quality consistent with applicable



state water quality standards. In some cases, PLRGs may provide the scientific basis for the development of a Total Maximum Daily Load.

- (22) “Prime recharge areas” means areas that are generally within high recharge areas and are significant to present and future ground water uses including protection and maintenance of natural systems and water supply.
- (25) “Reclaimed water,” except as specifically provided in Chapter 62-610, F.A.C., means water that has received at least secondary treatment and basic disinfection, and is reused after flowing out of a domestic wastewater treatment facility.
- (27) “Retention” means the prevention of stormwater runoff from direct discharge.
- (28) “Reuse” means the deliberate application of reclaimed water, in compliance with Department and District rules, for a beneficial purpose.
- (30) “Secretary” means the Secretary of the Department of Environmental Protection.
- (31) “State water quality standards” means water quality standards adopted by the Environmental Regulation Commission pursuant to Chapter 403, F.S., including standards composed of designated most beneficial uses (classification of waters), the numerical and narrative criteria applied to the specific water use or classification, the Florida anti-degradation policy (Rules 62-4.242 and 62-302.300, F.A.C.), and the moderating provisions contained in Chapters 62-4, 62-302, 62-520, and 62-550, F.A.C.
- (32) “Stormwater” means the water that results from a rainfall event.
- (33) “Stormwater management program” means the institutional strategy for stormwater management, including urban, agricultural, and other stormwater.
- (34) “Stormwater management system” means a system which is designed and constructed or implemented to control stormwater, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse stormwater to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges from the system.
- (35) “Stormwater recycling” means capturing stormwater for irrigation or other beneficial use.
- (36) “Stormwater utility” means the entity through which funding for a stormwater management program is obtained by assessing the cost of the program to the beneficiaries based on their relative contribution to its need. It is operated as a typical utility that bills services regularly, similar to water and wastewater services.
- (37) “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.
- (38) “Total maximum daily load,” or TMDL, means the sum of the individual wasteload allocations for point sources and the load allocations for nonpoint sources and natural background. Prior to determining individual wasteload allocations and load allocations, the maximum amount of a pollutant that a water body or water segment can assimilate from all sources without exceeding water quality standards must first be calculated.

- (39) “Water resource caution area” means a geographic area identified by a District as having existing water resource problems or an area in which water resource problems are projected to develop during the next twenty years.
- (40) “Water” or “waters in the state” means any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state.
- (41) “Watershed” means the land area that contributes to the flow of water into a receiving body of water.
- (42) “Watershed management goal” means an overall goal for the management of water resources within a watershed.

From Rule 62-340.200, F.A.C. (Selected Definitions):

- (1) “Aquatic plant” means a plant, including the roots, which typically floats on water or requires water for its entire structural support, or which will desiccate outside of water.
- (2) “Canopy” means the plant stratum composed of all woody plants and palms with a trunk four inches or greater in diameter at breast height, except vines.
- (3) “Diameter at Breast Height (DBH)” means the diameter of a plant’s trunk or main stem at a height of 4.5 feet above the ground.
- (4) “Facultative plants” means those plant species listed in subsection 62-340.450(3), F.A.C., of this chapter. For the purposes of this rule, facultative plants are not indicators of either wetland or upland conditions.
- (5) “Facultative Wet plants” means those plant species listed in subsection 62-340.450(2), F.A.C., of this chapter.
- (6) “Ground Cover” means the plant stratum composed of all plants not found in the canopy or subcanopy, except vines and aquatic plants.
- (7) “Ground truthing” means verification on the ground of conditions on a site.
- (8) “Hydric Soils” means soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.
- (9) “Hydric Soil Indicators” means those indicators of hydric soil conditions as identified in *Soil and Water Relationships of Florida's Ecological Communities* (Florida Soil Conservation ed. Staff 1992).
- (10) “Inundation” means a condition in which water from any source regularly and periodically covers a land surface.
- (11) “Obligate plants” means those plant species listed in subsection 62-340.450(1), F.A.C., of this chapter.

- (12) “Regulating agency” means the Department of Environmental Protection, the water management districts, state or regional agencies, local governments, and any other governmental entities.
- (13) “Riverwash” means areas of unstabilized sandy, silty, clayey, or gravelly sediments. These areas are flooded, washed, and reworked by rivers or streams so frequently that they may support little or no vegetation.
- (14) “Saturation” means a water table six inches or less from the soil surface for soils with a permeability equal to or greater than six inches per hour in all layers within the upper 12 inches, or a water table 12 inches or less from the soil surface for soils with a permeability less than six inches per hour in any layer within the upper 12 inches.
- (15) “Seasonal High Water” means the elevation to which the ground and surface water can be expected to rise due to a normal wet season.
- (16) “Subcanopy” means the plant stratum composed of all woody plants and palms, exclusive of the canopy, with a trunk or main stem with a DBH between one and four inches, except vines.
- (17) “Upland plants” means those plant species, not listed as Obligate, Facultative Wet, or Facultative by this rule, excluding vines, aquatic plants, and any plant species not introduced into the State of Florida as of the effective date of this rule.
- (19) “Wetlands,” as defined in subsection 373.019(25)(17), F.S., 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.

## EXEMPTIONS

### From Section 373.406, Florida Statutes

The following exemptions shall apply:

- (1) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any natural person to capture, discharge, and use water for purposes permitted by law.
- (2) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any person engaged in the occupation of agriculture, silviculture, floriculture, or horticulture to alter the topography of any tract of land for purposes consistent with the practice of such occupation. However, such alteration may not be for the sole or predominant purpose of impounding or obstructing surface waters.
- (3) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to be applicable to construction, operation, or maintenance of any agricultural closed system. However, part II of this chapter shall be applicable as to the taking and discharging of water for filling, replenishing, and maintaining the water level in any such agricultural closed system. This subsection shall not be construed to eliminate the necessity to meet generally accepted engineering practices for construction, operation, and maintenance of dams, dikes, or levees.
- (4) All rights and restrictions set forth in this section shall be enforced by the governing board or the Department of Environmental Protection or its successor agency, and nothing contained herein shall be construed to establish a basis for a cause of action for private litigants.
- (5) The department or the governing board may by rule establish general permits for stormwater management systems which have, either singularly or cumulatively, minimal environmental impact. The department or the governing board also may establish by rule exemptions or general permits that implement interagency agreements entered into pursuant to s. 373.046, s. 378.202, s. 378.205, or s. 378.402.
- (6) Any district or the department may exempt from regulation under this part those activities that the district or department determines will have only minimal or insignificant individual or cumulative adverse impacts on the water resources of the district. The district and the department are authorized to determine, on a case-by-case basis, whether a specific activity comes within this exemption. Requests to qualify for this exemption shall be submitted in writing to the district or department, and such activities shall not be commenced without a written determination from the district or department confirming that the activity qualifies for the exemption.
- (7) Nothing in this part, or in any rule or order adopted under this part, may be construed to require a permit for mining activities for which an operator receives a life-of-the-mine permit under s. 378.901.
- (8) Certified aquaculture activities which apply appropriate best management practices adopted pursuant to s. 597.004 are exempt from this part.
- (9) Implementation of measures having the primary purpose of environmental restoration or water quality improvement on agricultural lands are exempt from regulation under this part where these measures or practices are determined by the district or department, on a case-by-case basis, to have minimal or insignificant individual and cumulative adverse

impact on the water resources of the state. The district or department shall provide written notification as to whether the proposed activity qualifies for the exemption within 30 days after receipt of a written notice requesting the exemption. No activity under this exemption shall commence until the district or department has provided written notice that the activity qualifies for the exemption.

- (10) Implementation of interim measures or best management practices adopted pursuant to s. 403.067 that are by rule designated as having minimal individual or cumulative adverse impacts to the water resources of the state are exempt from regulation under this part.
- (11) Any district or the department may adopt rules to exempt from regulation under this part any system for a mining or mining-related activity that is described in or covered by an exemption confirmation letter issued by the district pursuant to applicable rules implementing this part that were in effect at the time the letter was issued, and that will not be harmful to the water resources. Such rules may include provisions for the duration of this exemption.

From Section 403.813(1), Florida Statutes:

A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, for activities associated with the following types of projects; however, except as otherwise provided in this subsection, nothing in this subsection relieves an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

- (a) The installation of overhead transmission lines, with support structures which are not constructed in waters of the state and which do not create a navigational hazard.
- (b) The installation and repair of mooring pilings and dolphins associated with private docking facilities or piers and the installation of private docks, piers and recreational docking facilities, or piers and recreational docking facilities of local governmental entities when the local governmental entity's activities will not take place in any manatee habitat, any of which docks:
  - 1. Has 500 square feet or less of over-water surface area for a dock which is located in an area designated as Outstanding Florida Waters or 1,000 square feet or less of over-water surface area for a dock which is located in an area which is not designated as Outstanding Florida Waters;
  - 2. Is constructed on or held in place by pilings or is a floating dock which is constructed so as not to involve filling or dredging other than that necessary to install the pilings;
  - 3. Shall not substantially impede the flow of water or create a navigational hazard;
  - 4. Is used for recreational, noncommercial activities associated with the mooring or storage of boats and boat paraphernalia; and
  - 5. Is the sole dock constructed pursuant to this exemption as measured along the shoreline for a distance of 65 feet, unless the parcel of land or individual lot as

platted is less than 65 feet in length along the shoreline, in which case there may be one exempt dock allowed per parcel or lot.

Nothing in this paragraph shall prohibit the department from taking appropriate enforcement action pursuant to this chapter to abate or prohibit any activity otherwise exempt from permitting pursuant to this paragraph if the department can demonstrate that the exempted activity has caused water pollution in violation of this chapter.

- (c) The installation and maintenance to design specifications of boat ramps on artificial bodies of water where navigational access to the proposed ramp exists or the installation of boat ramps open to the public in any waters of the state where navigational access to the proposed ramp exists and where the construction of the proposed ramp will be less than 30 feet wide and will involve the removal of less than 25 cubic yards of material from the waters of the state, and the maintenance to design specifications of such ramps; however, the material to be removed shall be placed upon a self-contained upland site so as to prevent the escape of the spoil material into the waters of the state.
- (d) The replacement or repair of existing docks and piers, except that no fill material is to be used and provided that the replacement or repaired dock or pier is in the same location and of the same configuration and dimensions as the dock or pier being replaced or repaired.
- (e) The restoration of seawalls at their previous locations or upland of, or within 1 foot waterward of, their previous locations. However, this shall not affect the permitting requirements of chapter 161, and department rules shall clearly indicate that this exception does not constitute an exception from the permitting requirements of chapter 161.
- (f) The performance of maintenance dredging of existing manmade canals, channels, intake and discharge structures, and previously dredged portions of natural water bodies within drainage rights-of-way or drainage easements which have been recorded in the public records of the county, where the spoil material is to be removed and deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material into the waters of the state, provided that no more dredging is to be performed than is necessary to restore the canals, channels, and intake and discharge structures, and previously dredged portions of natural water bodies, to original design specifications or configurations, provided that the work is conducted in compliance with s. ~~379.2431(2)(d)~~ ~~370.12(2)(d)~~, provided that no significant impacts occur to previously undisturbed natural areas, and provided that control devices for return flow and best management practices for erosion and sediment control are utilized to prevent bank erosion and scouring and to prevent turbidity, dredged material, and toxic or deleterious substances from discharging into adjacent waters during maintenance dredging. Further, for maintenance dredging of previously dredged portions of natural water bodies within recorded drainage rights-of-way or drainage easements, an entity that seeks an exemption must notify the department or water management district, as applicable, at least 30 days prior to dredging and provide documentation of original design specifications or configurations where such exist. This exemption applies to all canals and previously dredged portions of natural water bodies within recorded drainage rights-of-way or drainage easements constructed prior to April 3, 1970, and to those canals and previously dredged portions of natural water bodies constructed on or after April 3, 1970, pursuant to all necessary state permits. This exemption does not apply to the removal of a natural or manmade barrier separating a canal or canal system from adjacent waters. When no previous permit has been issued by the Board of Trustees of the Internal Improvement Trust Fund or the United States Army Corps of Engineers for construction or maintenance dredging of the existing manmade canal or intake or discharge structure, such maintenance dredging shall be limited to a

depth of no more than 5 feet below mean low water. The Board of Trustees of the Internal Improvement Trust Fund may fix and recover from the permittee an amount equal to the difference between the fair market value and the actual cost of the maintenance dredging for material removed during such maintenance dredging. However, no charge shall be exacted by the state for material removed during such maintenance dredging by a public port authority. The removing party may subsequently sell such material; however, proceeds from such sale that exceed the costs of maintenance dredging shall be remitted to the state and deposited in the Internal Improvement Trust Fund.

- (g) The maintenance of existing insect control structures, dikes, and irrigation and drainage ditches, provided that spoil material is deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material into waters of the state. In the case of insect control structures, if the cost of using a self-contained upland spoil site is so excessive, as determined by the Department of Health, pursuant to s. 403.088(1), that it will inhibit proposed insect control, then-existing spoil sites or dikes may be used, upon notification to the department. In the case of insect control where upland spoil sites are not used pursuant to this exemption, turbidity control devices shall be used to confine the spoil material discharge to that area previously disturbed when the receiving body of water is used as a potable water supply, is designated as shellfish harvesting waters, or functions as a habitat for commercially or recreationally important shellfish or finfish. In all cases, no more dredging is to be performed than is necessary to restore the dike or irrigation or drainage ditch to its original design specifications.
- (h) The repair or replacement of existing functional pipes or culverts the purpose of which is the discharge or conveyance of stormwater. In all cases, the invert elevation, the diameter, and the length of the culvert shall not be changed. However, the material used for the culvert may be different from the original.
- (i) The construction of private docks of 1,000 square feet or less of over-water surface area and seawalls in artificially created waterways where such construction will not violate existing water quality standards, impede navigation, or affect flood control. This exemption does not apply to the construction of vertical seawalls in estuaries or lagoons unless the proposed construction is within an existing manmade canal where the shoreline is currently occupied in whole or part by vertical seawalls.
- (j) The construction and maintenance of swales.
- (k) The installation of aids to navigation and buoys associated with such aids, provided the devices are marked pursuant to s. 327.40.
- (l) The replacement or repair of existing open-trestle foot bridges and vehicular bridges that are 100 feet or less in length and two lanes or less in width, provided that no more dredging or filling of submerged lands is performed other than that which is necessary to replace or repair pilings and that the structure to be replaced or repaired is the same length, the same configuration, and in the same location as the original bridge. No debris from the original bridge shall be allowed to remain in the waters of the state.
- (m) The installation of subaqueous transmission and distribution lines laid on, or embedded in, the bottoms of waters in the state, except in Class I and Class II waters and aquatic preserves, provided no dredging or filling is necessary.
- (n) The replacement or repair of subaqueous transmission and distribution lines laid on, or embedded in, the bottoms of waters of the state.

- (o) The construction of private seawalls in wetlands or other surface waters where such construction is between and adjoins at both ends existing seawalls; follows a continuous and uniform seawall construction line with the existing seawalls; is no more than 150 feet in length; and does not violate existing water quality standards, impede navigation, or affect flood control. However, in estuaries and lagoons the construction of vertical seawalls is limited to the circumstances and purposes stated in s. 373.414(5)(b)1.-4. This paragraph does not affect the permitting requirements of chapter 161, and department rules must clearly indicate that this exception does not constitute an exception from the permitting requirements of chapter 161.
- (p) The restoration of existing insect control impoundment dikes which are less than 100 feet in length. Such impoundments shall be connected to tidally influenced waters for 6 months each year beginning September 1 and ending February 28 if feasible or operated in accordance with an impoundment management plan approved by the department. A dike restoration may involve no more dredging than is necessary to restore the dike to its original design specifications. For the purposes of this paragraph, restoration does not include maintenance of impoundment dikes of operating insect control impoundments.
- (q) The construction, operation, or maintenance of stormwater management facilities which are designed to serve single-family residential projects, including duplexes, triplexes, and quadruplexes, if they are less than 10 acres total land and have less than 2 acres of impervious surface and if the facilities:
  - 1. Comply with all regulations or ordinances applicable to stormwater management and adopted by a city or county;
  - 2. Are not part of a larger common plan of development or sale; and
  - 3. Discharge into a stormwater discharge facility exempted or permitted by the department under this chapter which has sufficient capacity and treatment capability as specified in this chapter and is owned, maintained, or operated by a city, county, special district with drainage responsibility, or water management district; however, this exemption does not authorize discharge to a facility without the facility owner's prior written consent.
- (r) The removal of aquatic plants, the removal of tussocks, the associated replanting of indigenous aquatic plants, and the associated removal from lakes of organic detrital material when such planting or removal is performed and authorized by permit or exemption granted under s. 369.20 or s. 369.25, provided that:
  - 1. Organic detrital material that exists on the surface of natural mineral substrate shall be allowed to be removed to a depth of 3 feet or to the natural mineral substrate, whichever is less;
  - 2. All material removed pursuant to this paragraph shall be deposited in an upland site in a manner that will prevent the reintroduction of the material into waters in the state except when spoil material is permitted to be used to create wildlife islands in freshwater bodies of the state when a governmental entity is permitted pursuant to s. 369.20 to create such islands as a part of a restoration or enhancement project;
  - 3. All activities are performed in a manner consistent with state water quality standards; and



4. No activities under this exemption are conducted in wetland areas, as defined by s. 373.019(25), which are supported by a natural soil as shown in applicable United States Department of Agriculture county soil surveys, except when a governmental entity is permitted pursuant to s. 369.20 to conduct such activities as a part of a restoration or enhancement project.

The department may not adopt implementing rules for this paragraph, notwithstanding any other provision of law.

- (s) The construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, provided that such structures:
  1. Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use;
  2. Are wholly contained within a boat slip previously permitted under ~~+~~ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt under this subsection or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure;
  3. Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners, as defined in s. 253.141;
  4. Are constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where seagrasses are least dense adjacent to the dock or bulkhead; and
  5. Are not constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with ~~+~~ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or other form of authorization issued by a local government.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund and, with the exception of those structures attached to a bulkhead on a parcel of land where there is no docking structure, shall not be subject to any more stringent permitting requirements, registration requirements, or other regulation by any local government. Local governments may require either permitting or one-time registration of floating vessel platforms to be attached to a bulkhead on a parcel of land where there is no other docking structure as necessary to ensure compliance with local ordinances, codes, or regulations. Local governments may require either permitting or one-time registration of all other floating vessel platforms as necessary to ensure compliance with the exemption criteria in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria in this section or address subjects other than subjects addressed by the exemption criteria in this section; and to ensure proper installation, maintenance, and precautionary or evacuation action following a tropical storm or hurricane watch of a floating vessel platform or floating boat lift that is proposed to be

attached to a bulkhead or parcel of land where there is no other docking structure. The exemption provided in this paragraph shall be in addition to the exemption provided in paragraph (b). The department shall adopt a general permit by rule for the construction, installation, operation, or maintenance of those floating vessel platforms or floating boat lifts that do not qualify for the exemption provided in this paragraph but do not cause significant adverse impacts to occur individually or cumulatively. The issuance of such general permit shall also constitute permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund. No local government shall impose a more stringent regulation, permitting requirement, registration requirement, or other regulation covered by such general permit. Local governments may require either permitting or one-time registration of floating vessel platforms as necessary to ensure compliance with the general permit in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning that are no more stringent than the general permit in this section; and to ensure proper installation and maintenance of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.

- (t) The repair, stabilization, or paving of existing county maintained roads and the repair or replacement of bridges that are part of the roadway, within the Northwest Florida Water Management District and the Suwannee River Water Management District, provided:
1. The road and associated bridge were in existence and in use as a public road or bridge, and were maintained by the county as a public road or bridge on or before January 1, 2002;
  2. The construction activity does not realign the road or expand the number of existing traffic lanes of the existing road; however, the work may include the provision of safety shoulders, clearance of vegetation, and other work reasonably necessary to repair, stabilize, pave, or repave the road, provided that the work is constructed by generally accepted engineering standards;
  3. The construction activity does not expand the existing width of an existing vehicular bridge in excess of that reasonably necessary to properly connect the bridge with the road being repaired, stabilized, paved, or repaved to safely accommodate the traffic expected on the road, which may include expanding the width of the bridge to match the existing connected road. However, no debris from the original bridge shall be allowed to remain in waters of the state, including wetlands;
  4. Best management practices for erosion control shall be employed as necessary to prevent water quality violations;
  5. Roadside swales or other effective means of stormwater treatment must be incorporated as part of the project;
  6. No more dredging or filling of wetlands or water of the state is performed than that which is reasonably necessary to repair, stabilize, pave, or repave the road or to repair or replace the bridge, in accordance with generally accepted engineering standards; and
  7. Notice of intent to use the exemption is provided to the department, if the work is to be performed within the Northwest Florida Water Management District, or to the Suwannee River Water Management District, if the work is to be performed

within the Suwannee River Water Management District, 30 days prior to performing any work under the exemption.

Within 30 days after this act becomes a law, the department shall initiate rulemaking to adopt a no fee general permit for the repair, stabilization, or paving of existing roads that are maintained by the county and the repair or replacement of bridges that are part of the roadway where such activities do not cause significant adverse impacts to occur individually or cumulatively. The general permit shall apply statewide and, with no additional rulemaking required, apply to qualified projects reviewed by the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, and the South Florida Water Management District under the division of responsibilities contained in the operating agreements applicable to part IV of chapter 373. Upon adoption, this general permit shall, pursuant to the provisions of subsection (3), supersede and replace the exemption in this paragraph.

(u) Notwithstanding any provision to the contrary in this subsection, a permit or other authorization under chapter 253, chapter 369, chapter 373, or this chapter is not required for an individual residential property owner for the removal of organic detrital material from freshwater rivers or lakes that have a natural sand or rocky substrate and that are not Aquatic Preserves or for the associated removal and replanting of aquatic vegetation for the purpose of environmental enhancement, providing that:

1. No activities under this exemption are conducted in wetland areas, as defined by s. 373.019(25), which are supported by a natural soil as shown in applicable United States Department of Agriculture county soil surveys.
2. No filling or peat mining is allowed.
3. No removal of native wetland trees, including, but not limited to, ash, bay, cypress, gum, maple, or tupelo, occurs.
4. When removing organic detrital material, no portion of the underlying natural mineral substrate or rocky substrate is removed.
5. Organic detrital material and plant material removed is deposited in an upland site in a manner that will not cause water quality violations.
6. All activities are conducted in such a manner, and with appropriate turbidity controls, so as to prevent any water quality violations outside the immediate work area.
7. Replanting with a variety of aquatic plants native to the state shall occur in a minimum of 25 percent of the preexisting vegetated areas where organic detrital material is removed, except for areas where the material is removed to bare rocky substrate; however, an area may be maintained clear of vegetation as an access corridor. The access corridor width may not exceed 50 percent of the property owner's frontage or 50 feet, whichever is less, and may be a sufficient length waterward to create a corridor to allow access for a boat or swimmer to reach open water. Replanting must be at a minimum density of 2 feet on center and be completed within 90 days after removal of existing aquatic vegetation, except that under dewatered conditions replanting must be completed within 90 days after reflooding. The area to be replanted must extend waterward from the ordinary high water line to a point where normal water depth would be 3 feet or the preexisting vegetation line, whichever is less. Individuals are required to make a

reasonable effort to maintain planting density for a period of 6 months after replanting is complete, and the plants, including naturally recruited native aquatic plants, must be allowed to expand and fill in the revegetation area. Native aquatic plants to be used for revegetation must be salvaged from the enhancement project site or obtained from an aquatic plant nursery regulated by the Department of Agriculture and Consumer Services. Plants that are not native to the state may not be used for replanting.

8. No activity occurs any farther than 100 feet waterward of the ordinary high water line, and all activities must be designed and conducted in a manner that will not unreasonably restrict or infringe upon the riparian rights of adjacent upland riparian owners.
9. The person seeking this exemption notifies the applicable department district office in writing at least 30 days before commencing work and allows the department to conduct a preconstruction site inspection. Notice must include an organic-detrital-material removal and disposal plan and, if applicable, a vegetation-removal and revegetation plan.
10. The department is provided written certification of compliance with the terms and conditions of this paragraph within 30 days after completion of any activity occurring under this exemption.

## APPENDIX C

### FORMS (AS ADOPTED IN RULE 62-346.900 & ~~62-312.900~~, F.A.C.)

The following forms used by the Department and the NFWFMD in the Environmental Resource Permit program adopted under Section 373.4145, F.S., are provided herein:

Form No.	Title
(1)	<u>“Joint Application for Environmental Resource Stormwater Permit / Authorization to Use State-Owned Submerged Lands / Federal Dredge and Fill Permit in Northwest Florida,”</u> incorporated by reference in subsection 62-346.070(2), F.A.C., [Effective Date] <del>October 1, 2007</del> .
(2)	<u>“Notice of Intent to Use an Environmental Resource Noticed General Permit in Northwest Florida,”</u> incorporated by reference in subsection 62-346.070(2), F.A.C., [Effective Date] <del>October 1, 2007</del> .
(3)	<u>“Construction Commencement Notice,”</u> incorporated by reference in paragraph 62-346.381(1)(f), F.A.C., [Effective Date] <del>October 1, 2007</del> .
(4)	<u>“As-Built Certification by a Registered Professional,”</u> incorporated by reference in subsection 62-346.095(2), F.A.C., [Effective Date] <del>October 1, 2007</del> .
(5)	<u>“Construction Completion and Inspection Certification for a System Serving an Individual Private Single-Dwelling Unit,”</u> incorporated by reference in paragraph 62-346.095(2)(b), F.A.C., [Effective Date]. <del>Construction Completion and Inspection Certification for Systems not Requiring Certification by a Registered Professional—to be developed after adoption of the rules authorized under Section 373.4145(1)(a), F.S.</del>
(6)	<u>“Request for Conversion of Environmental Resource Individual Stormwater Management Permit Construction Phase to Operation and Maintenance Phase,”</u> incorporated by reference in subsection 62-346.095(2), F.A.C., [Effective Date] <del>October 1, 2007</del> .
(7)	<u>“Notification of Transfer of Permit,”</u> incorporated by reference in subsection 62-346.130(1), F.A.C., [Effective Date] <del>October 1, 2007</del> .
(8)	<u>“Operation and Maintenance Inspection Certification,”</u> incorporated by reference in subsection 62-346.095(6), F.A.C., [Effective Date] <del>October 1, 2007</del> .
(9)	<u>“Regional Stormwater Management System Annual Report,”</u> incorporated by reference in subsection 62-346.095(7), F.A.C., [Effective Date].
(10)	<u>“County or Municipality Request to Reduce Permit Application Fees Pursuant to Section 218.075, F.S.”</u> , incorporated by reference in subsection 62-346.071(5), F.A.C. [Effective Date].
(11)	<u>“Request for Verification of an Exemption,”</u> incorporated by reference in subsection 62-346.070(2)(c), F.A.C. [Effective Date]

Also included is Form ~~62-312.900(1)~~, the “Joint Application for Works in the Waters of Florida,” which is ~~only to be used for:~~

- ~~• Activities requiring a stormwater management permit that ALSO involve dredging and filling in waters of the state, or~~
- ~~• When requesting verification of an exemption for any proposed activity that involves work in waters of the state.~~

The forms are listed by rule number, which is also the form number, and with the subject title and effective date. Copies of forms may be obtained from the Internet at:

<http://www.dep.state.fl.us/water/wetlands/erp/forms.htm>, or at  
[http://www.nwfwmd.state.fl.us/permits/erp/erp\\_downloads.htm#erp\\_forms](http://www.nwfwmd.state.fl.us/permits/erp/erp_downloads.htm#erp_forms)

<http://www.nwfwmd.state.fl.us/permits/permits-ERP.html>, or from any local district or branch office of the Department (see <http://www.dep.state.fl.us/secretary/dist/>) or NFWFMD, or by writing to:

~~the Florida Department of Environmental Protection;~~  
Submerged Lands and Environmental Resources Office, M.S. 2500, ~~Department of Environmental Protection,~~  
2600 Blair Stone Road,  
Tallahassee, Florida 32399-2400,

or to:

Northwest Florida Water Management District;  
District Headquarters Office;  
75 Water Management Drive;  
Havana, Florida 32333-

Form #62-346.900(1), F.A.C.

Form Title: Joint Application for Environmental Resource Stormwater Permit / Authorization to Use State-Owned Submerged Lands / Federal Dredge & Fill Permit in Northwest Florida.

Effective Date: [Effective Date] ~~October 1, 2007~~

Incorporated by reference in 62-346.070(3)(a), F.A.C.

**JOINT APPLICATION FOR**  
**ENVIRONMENTAL RESOURCE**  
**STORMWATER PERMIT /**  
**AUTHORIZATION TO USE STATE-**  
**OWNED SUBMERGED LANDS /**  
**FEDERAL DREDGE AND FILL PERMIT**  
**IN NORTHWEST FLORIDA**

Note: Do NOT use this form to request verification of an exemption if any activities are located in waters of the state, or for Notice of Intent to Use a Noticed General Permit!

Applications to the Northwest Florida Water Management District may be completed online.

The Department only accepts paper applications at this time.

Effective [Effective Date] ~~October 1, 2007~~



**US Army Corps  
of Engineers®**





# INTRODUCTION

## FORMS AND ATTACHMENTS

This form must be used to apply for an individual permit to construct, ~~alter~~, operate, ~~alter~~, maintain or repair (excluding routine, custodial maintenance), abandon, or remove a ~~surface water~~ stormwater management system under Section 373.4145(1)(a), F.S., and Chapter 62-346, F.A.C., within the geographic limits of the Northwest Florida Water Management District (“NFWFMD”). Activities that require an individual permit are described in Rule 62-346.050, F.A.C., and Section 3 of Applicant’s Handbook Volume I. These activities also are summarized in Attachment 3 of this form.

## PROCESSING AGENCY

Responsibilities for reviewing and taking agency action on ~~surface water~~ stormwater management applications under Section 373.4145(1)(a), F.S., and Chapter 62-346, F.A.C., have been divided between the Department of Environmental Protection (“Department”) and the NFWFMD in accordance with the Operating Agreement adopted by reference in Rule 62-346.091, F.A.C. ~~The Agreement identifies the activities for which the Department and NFWFMD are responsible for reviewing and taking agency action.~~ A copy of the Operating Agreement is in Appendix 1 of Applicant’s Handbook I, and also is available at the offices of the Department’s Northwest District and the NFWFMD, and on the Internet sites of the Department and NFWFMD at: <http://www.dep.state.fl.us/water/wetlands/erp/rules/guide.htm>, and <http://www.nfwfmd.state.fl.us/permits/permit-ERP.html>. The division of responsibilities is summarized in Attachment 1.

## SUBMITTAL AND FEES

All information requested in Sections A ~~through F~~, as applicable, ~~and B~~ of this form should be completed together with location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; construction plans, drawings, and other supporting documents that depict and describe the proposed activities; and the fee required by Rule 62-346.071, F.A.C. (see Attachment 4 for a summary of the fee schedule). This information should be submitted as follows:

- Applications to the Department must contain one original of the application with original signatures on Section A, one paper copy of all the above; and one electronic copy of all the above. Submit the application to the Department office shown in Figure 1A.
- ALL applications to the NFWFMD can be submitted through the District’s web site at: <http://www.nfwfmd.state.fl.us/permits/permits-ERP.html>. If the applicant does not utilize the electronic application, paper copies shall be submitted by mail or other delivery service to the appropriate office of the NFWFMD shown in Figure 1B. If a paper application is submitted, it must include all requirements for submittal of a paper copy as are used by the Department.

### **\*\*BE ADVISED\*\***

- ~~If activities that require a stormwater management permit ALSO involve dredging and filling in wetlands or other surface waters of the state, one or all of the following may also be required in addition to any permit required under Section 373.4145(1)(a), F.S.: a dredge and fill permit under Chapter 62-312, F.A.C.; authorization to use state-owned submerged lands; and other applicable permits or authorization from the U.S. Army Corps of Engineers and local governments.~~ **In such case, DO NOT USE this application form. Instead, complete the Joint Application for Works in the Waters of Florida, Form 62-312.900(1), adopted by reference in Rule 62-312.900, F.A.C.**
- Authorization from the Department for the proposed project does not preclude the need to obtain all other required authorizations and permits required by other state, local, and federal agencies.
- Applicants are advised that documents and drawings submitted by persons other than the owner for purposes other than the private use of the owner are subject to the signing and sealing requirements of a registered professional.

## EXEMPTIONS AND NOTICED GENERAL PERMITS

- **Activities that qualify for an EXEMPTION** from permitting are listed in Rule 62-346.051, F.A.C., with additional information on exempt activities provided in section 3.4 of the Applicant’s Handbook Volume I, and Attachment 3 of this Form. **An application to the Department or the NFWFMD is NOT required to conduct an exempt activity.** However, if you desire **verification** whether the work qualifies for an exemption, send the request as follows:
  - If the proposed activity ~~DOES NOT INVOLVE ANY WORK IN WATERS OF THE STATE, AND:~~
    - **Is the responsibility of the Department, DO NOT USE THIS FORM.** Instead, send a completed Form 62-346.900(11) — “Exemption Verification Request,” copy of this application with its requested information to the applicable Department office shown in Figure 1A. Alternatively, you may send a letter with the information below to that office. Requests to “self certify” a private, single-family dock must be submitted to the Department’s Internet site at: <http://appprod.dep.state.fl.us/erppal/>; or
    - **Is the responsibility of the NFWFMD,** complete this application electronically ~~through~~ and send it to the District’s Internet web site at: <http://www.nfwfmd.state.fl.us/permits/permits-ERP.html>.
  - ~~If the proposed activity INVOLVES ANY WORK IN WATERS OF THE STATE, DO NOT USE THIS FORM. Instead, complete the Joint Application for Works in the Waters of Florida, Form 62-312.900(1), adopted by reference in Rule 62-312.900, F.A.C. A copy of that form is available from the applicable Department office shown in Figure 1A.~~
  - **All exemption verification requests** must contain a location map of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; two sets of construction plans, drawings, and other supporting documents that clearly and legibly depict and describe the proposed activities in a detail ~~to that~~ demonstrates compliance with the terms, conditions, and limitations of the exemption; the fee required by Rule 62-346.071, F.A.C. (see Attachment 4); permission from the landowner for staff to enter and inspect the property site subject to the exemption; and identification (by number and name, if known) to the rule or statutory exemption sought.
- **Activities that qualify for a NOTICED GENERAL PERMIT** under Chapter 62-341, F.A.C., must be noticed to the Department or





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NWFWMD before initiating work. **DO NOT USE this application form to submit the notice.** Instead, use the Notice of Intent to Use an Environmental Resource Noticed General Permit in Northwest Florida, Form 62-346.900(2), adopted by reference in Rule 62-346.070(2), F.A.C., and submit to the Department or NFWWMD per the “Processing Agency” and “Submittal and Fees “procedures above.



**TABLE OF CONTENTS**  
**APPLICATION FORM FOR**  
**ENVIRONMENTAL RESOURCE STORMWATER MANAGEMENT PERMIT/AUTHORIZATION TO USE**  
**STATE-OWNED SUBMERGED LANDS/FEDERAL DREDGE & FILL PERMIT IN NORTHWEST FLORIDA**

HEADING: \_\_\_\_\_ SUBJECT: \_\_\_\_\_

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<b>SECTION A</b>	General Information
<b>SECTION B</b>	<u>Notice of Receipt of Application</u>
<b><u>SECTION C</u></b>	<u>Project Specific Information for Individual Permit Applications Related to an Individual Single-family Dwelling Unit that is Not Part of a Plan of Common Development Proposed by the Applicant</u>
<b><u>SECTION D</u></b>	<u>Project Specific Information for Individual Permit Applications NOT Related to an Individual Single-family Dwelling Unit</u>
	Table 1 <u>Project impact summary</u>
	Table 2 <u>On-site mitigation summary</u>
	Table 3 <u>Off-site mitigation summary</u>
	Table 4 <u>Docking facility summary</u>
	Table 5 <u>Shoreline stabilization summary</u>
<b>SECTION E</b>	<u>Information to Establish a <del>for</del> Mitigation Banks</u>
<b>SECTION F</b>	<u>Application for Authorization to Use State-owned Submerged Lands</u>

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ATTACHMENTS		Effective Date
<b>1</b>	DEPARTMENT and NFWMD Permitting Responsibilities	<u>[Effective Date]</u> <del>October 1, 2007</del>
<b>Figure 1A</b>	Florida Department of Environmental Protection Northwest District Geographic Limits and Office Responsibilities	<u>[Effective Date]</u> <del>October 1, 2007</del>
<b>Figure 1B</b>	Northwest Florida Water Management District Geographic Limits and Office Responsibilities	<u>[Effective Date]</u> <del>October 1, 2007</del>
<b><u>2</u></b>	<u>Summary of Exemptions, Permit Types and Thresholds</u>	<u>[Effective Date]</u> <del>October 1, 2007</del>
<b><u>3</u></b>	<u>Summary of U.S. Army Corps of Engineers Permits</u>	<u>[Effective Date]</u>
<b>4</b>	Fees	<u>[Effective Date]</u> <del>October 1, 2007</del>



**“What Sections of the Application Must I Fill Out?”**

<u>Section:</u>	<u>Noticed General Permits (Use Form 62-346.900(2))</u>	<u>Individual Permits</u>		
		<u>Single- Family Residences</u>	<u>Others</u>	<u>Mitigation Banks</u>
<u>Section A</u>		<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
<u>Section B</u>		<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
<u>Section C</u>		<u>Yes</u>		
<u>Section D</u>			<u>Yes</u>	<u>Yes</u>
<u>Section E</u>				<u>Yes</u>
<u>Section F</u>	<u>As Needed</u>	<u>As Needed</u>	<u>As Needed</u>	<u>As Needed</u>

**If you are seeking verification that the proposed activity qualifies for an exemption, DO NOT use this application — please use Form 62-346.900(11), “Request for Verification of an Exemption from the Need for an Environmental Resource Permit under Part IV of Chapter 373, F.S., within the Northwest Florida Water Management District,” incorporated by reference in subsection 62-346.070(2)(c)1., F.A.C. [Effective Date].**



**NOTE: The information requested listed in Sections A through F and B of this application package is not intended to be all-inclusive. Additional information may be requested by the reviewing agency in order to complete your application.**

FOR AGENCY USE ONLY

DEP/WMD Application #	Fee Required
Date Application Received	Fee Received \$
Proposed Project Lat.	Fee Receipt #
Proposed Project Long.	

**SECTION A — GENERAL INFORMATION**

**PART 1: GENERAL INFORMATION**

- A. **Type of stormwater permit** (check one). See Attachment 3 for thresholds and descriptions.
- Individual — Construction and Operation (see Rule 62-346.050, F.A.C., and Section 3 of Applicant’s Handbook Volume I)
- Individual — Conceptual Approval (see Rule 62-346.050, F.A.C., and section 3 of Applicant’s Handbook Volume I)

**NOTE: Do not use this form if you are submitting a notice to use applying for a Notice General Permit under Chapter 62-341, F.A.C. Please Use Form 62-346.900(2) (see Rule 62-346.050, F.A.C., and section 3 of Applicant’s Handbook Volume I)**

- B. ~~Are you claiming to qualify for an exemption?  Yes  No **IF “YES,” USE THIS FORM ONLY IF THERE IS NO WORK IN SURFACE WATERS OF THE STATE. If there is work in waters of the state do NOT use this form use Form 62-312.900(1).**~~
- ~~If yes, provide rule number or statute, if known: 62-346.\_\_\_\_\_, F.A.C. or Section \_\_\_\_\_, F.S.~~

- BC. **Type of activity** for which you are applying (check at least one; if a prior permit #, please circle either “Department” or “NFWFMD” as the prior issuing entity for the appropriate activity type, below):
- Construction and operation of a new system
- Operation of an existing system. Please provide existing Department or NFWFMD permit #, if known:
- Alteration of an existing system. Please provide existing Department or NFWFMD permit #, if known:
- Maintenance or repair of a system previously permitted by Department or the NFWFMD. Please provide existing Department or NFWFMD permit #, if known:
- Extension of permit duration. Please provide existing Department or NFWFMD permit #: \_\_\_\_\_
- Abandonment of a system. Please provide existing Department or NFWFMD permit #, if known:
- Construction of additional phases of a system. Please provide the existing Department or NFWFMD permit #, if known:
- Removal of a system. Please provide existing Department or NFWFMD permit #, if known:
- Retrofit of a system. Please provide existing Department or NFWFMD permit #, if known:
- Modification of a permit. Please provide existing Department or NFWFMD permit #, if known:
- Major — see subsection 62-346.095(5) and paragraph 62-346.100(1)(a), F.A.C.
- Minor — see subsection 62-346.100(1)(d), F.A.C.
- Extension of permit duration — see subsection 62-346.100(1)(d) and Rule 62-346.110, F.A.C.
- Transfer — see subsection 62-346.100(1)(d) and Rule 62-346.130, F.A.C.
- Deadhead Logging.

- CD. **Does the activity involve any work in wetlands or other surface waters of the state?** (see Chapter 62-340 Rule 62-312.030, F.A.C.)
- Yes  No If “yes,” please provide, as applicable:
- Total area of dredging, filling, construction, alteration, or removal in, on, or over wetlands or other surface waters?  
 \_\_\_\_\_ sq. ft.; \_\_\_\_\_ ac.
- Total volume of material to be dredged: \_\_\_\_\_ cubic yards
- Number of new boat slips proposed: \_\_\_\_\_ wet slips; (also, if applicable: \_\_\_\_\_ new dry slips in uplands)
- Number of existing boat slips to be altered: \_\_\_\_\_ wet slips

**Note: If work is proposed in surface waters of the state, a separate Form 62-312.900(1) or Form 62-346.900(2) should be sent to the Department.**



**PART 2: APPLICANT AND ASSOCIATED PARTIES INFORMATION**

**A. APPLICANT (ENTITY TO RECEIVE PERMIT)**

Name: \_\_\_\_\_

Title and Company: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Home Telephone: _____	Work Telephone: _____
Cell Phone: _____	Fax: _____

E-mail Address (if applicable): \_\_\_\_\_

**B. CO-APPLICANT**

Name: \_\_\_\_\_

Title and Company: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Home Telephone: _____	Work Telephone: _____
Cell Phone: _____	Fax: _____

E-mail Address: \_\_\_\_\_

**C. B. OPERATION AND MAINTENANCE ENTITY TO RECEIVE PERMIT (IF OTHER THAN OWNER)**

Name: \_\_\_\_\_

Title and Company: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Home Telephone: _____	Work Telephone: _____
Cell Phone: _____	Fax: _____

E-mail Address (if applicable): \_\_\_\_\_

**D. C. LAND OWNER(S)  CHECK HERE IF LAND OWNER IS ALSO A CO-APPLICANT**

Name: \_\_\_\_\_

Title and Company: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Home Telephone: _____	Work Telephone: _____
Cell Phone: _____	Fax: _____

E-mail Address (if applicable): \_\_\_\_\_

**E. D. CONSULTANT (IF DIFFERENT FROM AGENT)**

Name: \_\_\_\_\_

Title and Company: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Home Telephone: _____	Work Telephone: _____
Cell Phone: _____	Fax: _____

E-mail Address (if applicable): \_\_\_\_\_

**F. E. AGENT AUTHORIZED TO SECURE PERMIT**



Name:	
Title and Company:	
Address:	
City, State, Zip:	
Home Telephone:	Work Telephone:
Cell Phone:	Fax:
E-mail Address (if applicable):	

**PART 3: PROJECT SPECIFIC INFORMATION**

A. Name of project, including phase if applicable: \_\_\_\_\_

B. Is this application for part of a multi-phase project?  Yes  No

*Note: If you answered "yes" to question B, please provide permit numbers for other authorized phases below:*

Agency	Date	No. \ Application Type

C. Total area owned or controlled by the applicant contiguous to the project: \_\_\_\_\_ ac.

D. Project area or phase: \_\_\_\_\_ ac.

E. Impervious area excluding wetlands and other surface waters: \_\_\_\_\_ ac.

F. Volume of water the system is capable of impounding: \_\_\_\_\_ ac. ft.

**PART 4: PROJECT LOCATION**

Street Address Road or other location: \_\_\_\_\_ [Note: If utilities or road or ditch maintenance projects, provide a starting and ending point using street names and nearest house numbers or provide length of project in miles along named streets or highways.]

City, Zip Code, if applicable: \_\_\_\_\_

Tax Parcel Identification Number: \_\_\_\_\_ [If project is on one parcel of land. Number may be obtained from property tax bill or from the county property appraiser's office; if on multiple parcels, provide multiple Tax Parcel Identification Numbers]

County(ies) \_\_\_\_\_ Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_

Latitude (DMS) \_\_\_\_\_° \_\_\_\_\_' \_\_\_\_\_" Longitude (DMS) \_\_\_\_\_° \_\_\_\_\_' \_\_\_\_\_" Datum \_\_\_\_\_ (Taken from Central Location)

Explain source for obtaining latitude and longitude: \_\_\_\_\_ (i.e. U.S.G.S. Quadrangle Map)

Horizontal Datum (NAD 1927 or 1983) \_\_\_\_\_ (Taken from Central Location)

**PART 5: PROJECT DESCRIPTION**

*Note: In this section, please describe in general terms the project and activity. Use additional pages if necessary.*

General explanation of work:

Treatment type proposed:



Current site conditions and land uses:

Proposed Land Use:

Description of sediment and erosion Best Management Practices (BMPs) to be used:

Names and classifications of all receiving waters (if available):

**PART 6: SITE PERMIT HISTORY**

A. If there have been any pre-application meetings, including on-site meetings, with regulatory staff, please list the date(s), location(s), and names of key staff and project representatives as well a brief summary of any meetings:

Name	Agency	Date	Location	Summary

B. Please identify by number any MSSW/Wetland Resource/62-25 F.A.C./ACOE permits pending, issued or denied for projects at the location, and any related enforcement actions:

Agency	Date	No.	Application Type	Action Taken

C. Please attach a copy of each permit issued for this project or explain why copies are not available.



**PART 7: APPLICANT AUTHORIZATIONS**

A. By signing this application form, I am applying, or I am applying on behalf of the applicant, for authorization to conduct the activity identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained in this application and represent that such information is true, complete and accurate. I understand this is an application and not a permit, and that work prior to approval is a violation. I understand that this application and any permit issued pursuant thereto, does not relieve me of any obligation for obtaining any other required federal, state, water management district or local permit prior to commencement of construction. I agree, or I agree on behalf of the applicant, to operate and maintain the permitted system unless the permitting agency authorizes transfer of the permit to a different responsible operation and maintenance entity. I understand that knowingly making any false statement or representation in this application is a violation of Section 373.430, F.S. and 18 U.S.C. Section 1001.

\_\_\_\_\_  
Typed/Printed Name of Applicant (If no Agent is used) or Agent (If one is so authorized below)

\_\_\_\_\_  
Signature of Applicant/Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Corporate Title if applicable)

**AN AGENT MAY SIGN ABOVE ONLY IF THE APPLICANT COMPLETES THE FOLLOWING:**

B. I hereby designate and authorize the agent listed above to act on my behalf, or on behalf of my corporation, as the agent in the processing of this application for the permit indicated above; and to furnish, on request, supplemental information in support of the application. In addition, I authorize the above-listed agent to bind me, or my corporation, to perform any requirements which may be necessary to procure the permit or authorization indicated above. I understand that knowingly making any false statement or representation in this application is a violation of Section 373.430, F.S. and 18 U.S.C. Section 1001.

\_\_\_\_\_  
Typed/Printed Name of Applicant

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Corporate Title if applicable)

**Please note: The applicant's original signature (not a copy) is required above.**

**PERSON WITH AUTHORITY TO AUTHORIZE AUTHORIZING ACCESS TO THE PROPERTY MUST ALSO COMPLETE THE FOLLOWING:**

C. I certify that I [check one of the following]: ~~either~~

Possess sufficient real property interest in or control over the land upon which the activities described in this application are proposed.

Note:

Interest in real property is typically evidenced by an instrument such as: a warranty deed; lease (subject to the limitations below); easement; judgment of the court; certificate of title issued by a clerk of the court; OR condominium, homeowners, or similar association documents, which demonstrate that the person or entity has sufficient interest in or control over the property to authorize the proposed activities to be permitted. An entity's contract for sale and purchase shall not be considered to have sufficient real property interest or control over the land that is subject to the application, but such entity shall be allowed to submit an application under this chapter (see next check box). Entities with the power of eminent domain and condemnation authority are considered capable of demonstrating that they will have sufficient real property interest or control prior to construction. **Note—the above documents do NOT have to be submitted at this time, but must be made available if requested by the Department. Persons requesting activities on state-owned submerged land must also submit satisfactory evidence of sufficient upland interest in accordance with paragraph 18-21.004(3)(b), F.A.C. (April 14, 2008).**

When the real property interest is a lease, the application must either:

a. Include the fee simple owner as a co-applicant;

b. Provide documentation that a governmental entity agrees to accept the transfer of the permit, including completing construction in accordance with the permit if needed, and to operate and maintain the system upon its completion;

c. Provide documentation that the lease over the land and system extends for the expected life of the system; or





- d. Provide documentation that the operation and maintenance of the system is will be turned over to a new lessee or the landowner upon revocation, termination, or expiration of the lease.
- e. If the lease does not specifically designate an entity to complete construction of the system in accordance with the permit in the event the construction is not so completed by the lessee, or does not specify operation and maintenance requirements for the system, including designation of a specific operation and maintenance entity, a separate binding document also will be required establishing that the landowner is liable for completing construction or alteration of the system and for operating and maintaining the system in accordance with the permit.

2. I hereby grant permission, below, for staff of the Department of Environmental Protection, the Northwest Florida Water Management District, and the U.S. Army Corps of Engineers to access and conduct necessary site visits for the review, inspection, and sampling of the lands and waters on the property that are the subject of the application and, as a condition of any permit issued, to provide entry to such lands for such staff to monitor and inspect permitted work, own the property described in this application or I will have legal authority and control of the property to allow the requested activities to occur prior to their undertaking. Further, I have the requisite legal authority to allow staff from the Department or NWFMD, after receiving prior notification, to conduct any site visit on the property necessary for the review and inspection of the proposed project specified in this application. I authorize these agents or personnel to enter the property as many times as may be necessary to make such review and inspection. Further, I agree to provide entry to the project site for such agents or personnel to monitor permitted work if a permit is granted.

Do NOT have sufficient real property interest, as described above (including such things as a contract for sale and purchase or an option agreement) in the land upon which the activities described in this application are proposed. Attached is:

- 1. A certification from the owner, lessee, or easement holder of such lands, acknowledging that they have knowledge of this application and voluntarily grant the permission, below, for staff of the Department of Environmental Protection, the Northwest Florida Water Management District, and the U.S. Army Corps of Engineers to access and conduct necessary site visits for the review, inspection, and sampling of the lands and waters on the property that are the subject of the application and, as a condition of any permit issued, that they agree to provide entry to such lands for staff to monitor and inspect permitted work; and
- 2. Documentation from the fee simple owner, easement holder, governmental entity, or other entity as provided for in section 12.3 of Applicant's Handbook Volume I, that they are liable for accepting responsibility for operation and maintenance of the system after completion of construction, and for and performing other terms and conditions as required by the permit.

**Note: Neither 1. nor 2., directly above, must be submitted when the applicant is an entity with the power of eminent domain and condemnation authority, but such entity shall make appropriate arrangements to enable the above staff to access and inspect the property as needed to access and conduct necessary site visits for the review, inspection, and sampling of the lands and waters on the property that are the subject of the application. Such entity also agrees, as a condition of any permit issued, to provide entry to these lands for the above staff to monitor and inspect permitted work.**

\_\_\_\_\_  
Typed/Printed Name of Applicant

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Corporate Title if applicable)



**AUTHORIZATION BY OWNER, LESSEE, OR EASEMENT TITLE HOLDER TO ENTER AND INSPECT PROPERTY**

I, as owner or easement holder of the land that is the subject of the application submitted by \_\_\_\_\_ **Name of Applicant**

hereby acknowledge that I am aware of the application for an environmental resource permit/federal dredge and fill permit being submitted by the above named applicant, and authorize staff from the Department, NFWFMD, and U.S. Army Corps of Engineers, to access and conduct any site visit on the property necessary for the review, inspection, and sampling of the lands and waters that are the subject of the this application. Further, I agree, as a condition of any permit issued, to provide entry to such lands for such staff to monitor and inspect permitted work.

\_\_\_\_\_  
Typed/Printed Name of Authorizing Entity

\_\_\_\_\_  
Signature of Authorizing Entity

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Corporate Title if applicable)

(I may be contacted at \_\_\_\_\_ to arrange access and inspection of the property)



**SECTION B**

**Environmental Resource Permit Notice of Receipt of Application**

**Note:** This form does not need to be submitted for noticed general permits.

This information is required in addition to that required in other sections of the application. Please submit five copies of this notice of receipt of application and all attachments with the other required information. Please submit all information on 8 1/2" x 11" paper.

Project Name \_\_\_\_\_  
County \_\_\_\_\_  
Owner \_\_\_\_\_  
Applicant: \_\_\_\_\_  
Applicant's Address: \_\_\_\_\_

1. Indicate the project boundaries on a USGS quadrangle map. Attach a location map showing the boundary of the proposed activity. The map should also contain a north arrow and a graphic scale; show Section(s), Township(s), and Range(s); and must be of sufficient detail to allow a person unfamiliar with the site to find it.
2. Provide the names of all wetlands, or other surface waters that would be dredged, filled, impounded, diverted, drained, or would receive discharge (either directly or indirectly), or would otherwise be impacted by the proposed activity, and specify if they are in an Outstanding Florida Water or Aquatic Preserve:  
\_\_\_\_\_
3. Attach a depiction (plan and section views), which clearly shows the works or other facilities proposed to be constructed. Use multiple sheets, if necessary. Use a scale sufficient to show the location and type of works.
4. Briefly describe the proposed project (such as "construct dock with boat shelter", "replace two existing culverts", "construct surface water management system to serve 150 acre residential development"):  
\_\_\_\_\_
5. Specify the acreage of wetlands or other surface waters, if any, that are proposed to be filled, excavated, or otherwise disturbed or impacted by the proposed activity:  
  
Filled \_\_\_\_\_ acres;      Excavated \_\_\_\_\_ acres;      Other impacts \_\_\_\_\_ acres
6. Provide a brief statement describing any proposed mitigation for impacts to wetlands and other surface waters (attach additional sheets if necessary):  
\_\_\_\_\_

**FOR AGENCY USE ONLY**

Application Name:  
Application Number:  
Office where the application can be inspected:

**Note to Notice recipient:** The information in this notice has been submitted by the applicant, and has not been verified by the agency. It may be incorrect, incomplete or may be subject to change.



## SECTION C

### PROJECT SPECIFIC INFORMATION FOR INDIVIDUAL PERMIT APPLICATIONS RELATED TO AN INDIVIDUAL SINGLE-FAMILY DWELLING UNIT THAT IS NOT PART OF A PLAN OF COMMON DEVELOPMENT PROPOSED BY THE APPLICANT

Complete this Section only if your project does not qualify for an exemption or noticed general permit. The information requested below is only for projects related to an individual, single family dwelling unit, duplex, triplex, or quadruplex which is not part of a larger common plan of development proposed by the applicant. Please contact the local office of the DEP or WMD if you are unsure whether your project would fit this description.

#### PLEASE SUBMIT ALL INFORMATION ON 8 1/2" by 11" PAPER

##### A. SITE INFORMATION

1. Directions: Provide written directions to the property.
2. Specify how the location of the proposed work is marked on site: for example, the center line of the road is flagged, string running between stakes identifies bulkhead location, etc.

##### B. DRAWINGS

Drawings should be of sufficient detail to clearly show the existing physical conditions of the site, and the extent, type, and location of the proposed activities. The drawings should clearly show waters/wetlands to be impacted, either temporarily or permanently. Any water/wetland areas proposed to be created, enhanced, restored, preserved, or which will remain undisturbed should be clearly identified and labeled. The following drawings are required:

##### 1. PLAN VIEW (TOP VIEW)

This shows the work as viewed from above. A survey of the project site is very useful as a starting point for preparing plan views of the project. Include the following:

- a. Applicant name, property line, north arrow and graphic scale or dimensions of proposed work on each drawing sheet.
- b. Representative land elevations (spot elevations or contour lines) referred to National Geodetic Vertical Datum (NGVD), as is used on the USGS contour maps or North American Vertical Datum (NAVD).
- c. The limits of wetlands and other surface waters and the limits of open water areas in the vicinity of the proposed work. Describe how the wetland limits were determined. If there has ever been a jurisdictional declaratory statement, a formal wetland determination, a formal determination, validated informal determination, or a revalidated jurisdictional determination, provide the identifying number.
- d. All proposed work, including dredging, filling or structures. Where possible, differentiate between work in open water, marshes, swamps, or tidal flats and uplands.
- e. Show selected water depths in and adjacent to the project site. For dock projects, show water depths at all mooring sites. These depths should be determined at approximate mean low water (MLW) or seasonal low water. Include the approximate tidal range (the difference between approximate mean high water (MHW) elevation and approximate MLW elevation) if the project is in a tidal waterbody.
- f. Label all existing structures in wetlands or other surface waters at or adjacent to the proposed activity, such as docks, bulkheads, riprap, or buildings.
- g. If dredging or dewatering is involved, show the location of proposed disposal or containment sites. Include any levees, control structures or other methods for retaining or detaining return water. Also include locations of discharge sites where appropriate. (Note that a consumptive or water use permit may be required for dewatering.)



- h. For piling supported structures over wetlands or other surface waters, show the entire structure. Indicate the location of any aquatic vegetation in the vicinity of the proposed structure.
- i. Show distance between the most waterward point of the proposed facility and the nearest edge of any navigation channel, where appropriate. If the project is on a waterway that has a federally maintained channel, a survey may be required to establish the distance from the waterward points of the structure to the near edge of the federal channel. Also indicate the width of the waterway.
- j. Clearly show the locations of all corresponding cross-sectional or profile views on the plan view drawings.

## 2. CROSS-SECTIONAL AND PROFILE VIEWS

The cross-sectional view should show a "cut-away" end or middle view of the project, while the profile view should show a side view as if cut length-wise. All drawings should include:

- a. Applicant name and graphic horizontal and vertical scales or dimensions of the proposed work on each drawing sheet.
- b. Show approximate mean or seasonal (high and low) water line elevations referenced to NGVD or NAVD.

## C. PROJECT DETAILS

Provide a detailed description of the proposed project, including the following:

- 1. The type of activity that is proposed, how the activity will be conducted, construction techniques and sequencing, including equipment to be used, and methods for moving the equipment to and from the site. For projects that involve any dredging or excavation, describe the method of excavation, the type of material to be excavated, and the disposal location for the excavated material. State whether dredged material is to be placed (either temporarily or permanently) in a wetland or other surface water. Indicate the time period any temporary structures will be in place.
- 2. The acreage (or square footage) of excavation and fill and differentiate between temporary and permanent work.
- 3. Methods for controlling turbidity (muddy water caused by erosion or work in the water).
- 4. Methods for stabilizing any slopes that will be created or disturbed during construction, including times expected to elapse before stabilization is performed. Describe both temporary and permanent stabilization methods, such as silt fences, erosion control blankets, mulch, sediment traps, polyacrylamide (PAM), temporary grass seed, permanent sod, and floating turbidity screens.
- 5. If pilings or a seawall are to be installed state whether pilings and seawall slabs are to be installed by jetting or driving.
- 6. For fill projects, describe the source and type of fill material to be used. For activities that involve the installation of riprap, describe the source, type and size of the rocks, concrete, or other material to be used for the riprap, and how these materials are to be placed. State whether the rocks will be underlain with filter cloth.



## SECTION DB

### **PROJECT SPECIFIC INFORMATION FOR INDIVIDUAL PERMIT APPLICATIONS NOT RELATED TO AN INDIVIDUAL SINGLE-FAMILY DWELLING UNIT**

Please provide the information requested below if the proposed project requires an individual permit under Section 373.4145(1)(a), F.S., and Chapter 62-346, F.A.C. The information requested in Sections I and II below represents the level of information that is usually required to evaluate an application. However, because the level of information required for a specific project will vary depending on the nature of the proposed work and the characteristics and location of the site, the information requested herein is not necessarily all-inclusive. Additional information may be requested by the reviewing agency in order to complete your application. The burden of demonstrating compliance with the criteria for issuance of permit rests with the applicant. Therefore, providing a greater level of detail than requested may reduce the need to submit additional information at a later date. If an item does not apply to your project, indicate "Not Applicable" or "N/A," and proceed to the next item.

Please provide, describe, or identify the following:

#### **I. Site Information:**

- A. A vicinity map including all relevant road names.
- B. Recent aerials, legible for photo interpretation with a scale of 1 inch = 400 feet, or more detailed, with project boundaries delineated on the aerial.
- C. A map or maps of the project area and vicinity delineating USDA/NRCS soil types.
- D. The seasonal high water or mean high tide elevation and normal pool or mean low tide elevation for each on site wetland or surface water, including receiving waters into which runoff will be discharged. Include dates, datum, and methods used to determine these elevations.
- E. The ~~wet~~ wet seasonal high ground water tables at the locations representative of the project area. Include dates, datum, and methods used to determine these elevations.
- F. A copy of the County plat map showing all land and acreage owned or controlled by the applicant contiguous to the project.

#### **II. Environmental Considerations**

- A. A description of all proposed Any dredge or fill activities involving dredging, filling, or construction in, on, or over wetlands or other surface waters of the state (see Chapter 62-340 Rule 62-312.030, F.A.C.) proposed within the project boundary. If any are proposed, a separate dredge and fill permit under Chapter 62-312, F.A.C., will be required. You should submit a separate dredge and fill application, Form 62-312.900(1), or Notice of Intent to Use and Environmental Resource General Permit in Northwest Florida, if applicable, Form 62-346.900(2) to the Department concurrently with submittal of the Application for Stormwater Permit.
- B. Impact Summary Tables:
  - 1. For all projects, complete Tables 1, 2, and 3, as applicable.
  - 2. For docking facilities or other structures constructed over wetlands or other surface waters, provide the information requested in Table 4.
  - 3. For shoreline stabilization projects, provide the information requested in Table 5.



- ~~C.B.~~ A description of how water quantity, quality, hydroperiod, and habitat will be maintained in any wetlands or other on-site surface waters of the state within and immediately adjacent to the project area.
- ~~D.C.~~ A discussion of how the boundaries of any surface waters of the state within the project area were determined, including; documentation of any jurisdictional declaratory statement, ~~a~~-formal wetland determination, ~~a~~-formal determination, ~~a~~ validated informal determination, or ~~a~~-revalidated jurisdictional determination that may have been performed. Please provide the identifying agency file numbers.
- ~~E.D.~~ A brief narrative identifying all receiving waters, and their classification (i.e. Class I, II, or III, if known), including Outstanding Florida Waters ~~{(OFW) —[see Chapter 62-302, F.A.C., for waterbody classifications and OFW designations]}~~ and Aquatic Preserve (see Chapter 18-20, F.A.C., May 27, 1999), and whether the waterbody is on the Department’s approved verified list under Section 403.067(4), F.S. (See: lists of verified impaired waters at: [http://www.dep.state.fl.us/water/tmdl/amended\\_gp1.htm](http://www.dep.state.fl.us/water/tmdl/amended_gp1.htm), [http://www.dep.state.fl.us/water/tmdl/adopted\\_gp2.htm](http://www.dep.state.fl.us/water/tmdl/adopted_gp2.htm), [http://www.dep.state.fl.us/water/tmdl/adopted\\_gp3.htm](http://www.dep.state.fl.us/water/tmdl/adopted_gp3.htm), [http://www.dep.state.fl.us/water/tmdl/adopted\\_gp4.htm](http://www.dep.state.fl.us/water/tmdl/adopted_gp4.htm), [http://www.dep.state.fl.us/water/tmdl/verified\\_gp5.htm](http://www.dep.state.fl.us/water/tmdl/verified_gp5.htm)).
- ~~F.~~ Results of any wildlife surveys that have been conducted on the site, and provide any comments pertaining to the project from the Florida Game and Fresh Water Fish Commission and the U.S. Fish and Wildlife Service.
- ~~G.~~ A narrative description of any proposed mitigation plans, including purpose, maintenance, monitoring, and construction sequence and techniques, and estimated costs.

**III. Plans**

Clear, detailed plans for the system including specifications, plan (overhead) views, cross sections (with the locations of the cross sections shown on the corresponding plan view), and profile (longitudinal) views of the proposed project. The plans must be signed and sealed by a registered professional, as defined in subsection 62-346.030, F.A.C. Plans must include a scale and a North arrow. These plans should show the following:

- A. Project area boundary and total land area, including distances and orientation from roads and other land marks.
- B. Existing land use and land cover (acreage and percentages), and on-site natural communities, including wetlands and other surface waters, aquatic communities, and uplands. Use the Florida Land Use Cover & Classification System (FLUCCS)(Level 3) ~~for projects proposed in the NWFWM D.~~ Identify each community with a unique identification number which must be consistent in all exhibits.
- C. The existing topography extending at least 100 feet off the project area, and including adjacent wetlands and other surface waters. All topography shall include the location and a description of known benchmarks, referenced to NGVD or NAVD.
- D. If the project is in the known flood plain of a stream or other water course, identify the 10-year flood and 100-year flood elevations and floodplain boundaries.
- E. The boundaries of wetlands and other surface waters within the project area. Distinguish those wetlands and other surface waters that have been delineated by any binding jurisdictional determination.
- F. Proposed land use, land cover and natural communities (acreage and percentages), including wetlands and other surface waters, undisturbed uplands, aquatic communities, impervious surfaces, and water management areas.
- G. Proposed impacts to wetlands and other surface waters of the state, and any proposed connections/outfalls to other wetlands and other surface waters of the state.
- H. Proposed buffer zones and their intended uses.
- I. Pre- and post-development drainage patterns and basin boundaries, including original and final contours, showing the direction of flows, including any off-site runoff being routed through or around the system; and connections between wetlands and other surface waters.



- J. Location of all water management areas with details of size, side slopes, and designed water depths.
- K. Location and details of all water control structures, control elevations, any seasonal water level regulation schedules; and the location and description of benchmarks (minimum of one benchmark per structure).
- L. Location, dimensions and elevations of all proposed and existing structures, including utility lines, roads, ~~and buildings;~~ (including as well as finished floor elevations), docks, seawalls, and roads.
- M. Location and size of the internal water management facilities including planting plan for littoral zones (if applicable).
- N. Rights-of-way and easements for the system, including all on-site and off-site areas to be reserved for water management purposes, and rights-of-way and easements for the existing drainage system, if any.
- O. Receiving waters or surface water management systems into which runoff from the developed site will be discharged.
- P. Location and details of the erosion, sediment and turbidity control measures to be implemented during each phase of construction and all permanent control measures to be implemented in post-development conditions. (Note: A copy of the Stormwater Pollution Prevention Plan (SWPPP) required under the National Pollutant Discharge Elimination System [NPDES] program is acceptable, but is not required for this item—see Chapter 11 of Applicant’s Handbook Volume I).
- Q. Location, grading, design water levels, and planting details of all mitigation areas;
- ~~R. Q.~~ Site grading details, including perimeter site grading.
- ~~S. R.~~ Disposal site for any excavated material, including temporary and permanent disposal sites.
- ~~T. S.~~ Dewatering plan details.
- ~~U. T.~~ Location and description of any nearby existing offsite features which might be affected by the proposed construction or development or may ~~affect~~ the proposed construction or development such as wells (including private, public, irrigation, and agricultural), stormwater management ponds, buildings or other structures, spray fields, land fills, and wetlands or other surface waters.
- ~~V. U.~~ For phased projects, provide a master development plan.
- W. For marina facilities, locations of any sewage pumpout facilities, fueling facilities, boat repair and maintenance facilities, and fish cleaning stations.

Be advised that an additional permit for the facility’s construction and operation may be required from the NFWFMD under Chapter 40A-4, F.A.C. (March 2, 2000), if the project utilizes a dam or barrier that is over 10 ft. tall or the facility is capable of impounding 50-ac. ft. or more.

**IV. Construction Schedule and Techniques**

Construction schedule and description of construction techniques, sequencing and equipment. This information should specifically include the following:

- A. Schedule of implementation of temporary and permanent erosion, sediment, and turbidity control measures.
- B. Construction sequencing, including the utilization of best management practices.
- C. Erosion Control and Stabilization Plan, or a Stormwater Pollution Prevention Plan (if applicable).
- D. For projects that involve dredging or excavation in wetlands or other surface waters, describe the method of excavation, and the type of material to be excavated.





- E. For projects that involve fill in wetlands or other surface waters, describe the source and type of fill material to be used. For shoreline stabilization projects that involve the installation of riprap, state how these materials are to be placed, (i.e., individually or with heavy equipment) and whether the rocks will be underlain with filter cloth.
- F. Method for installing any pilings or seawall slabs.
- G. Methods for transporting equipment and materials to and from the work site. If barges are required for access, provide the low water depths and draft of the fully loaded barge.
- H.F. If dewatering is required, detail the dewatering proposal including the methods that are proposed to contain the discharge, methods of isolating dewatering areas, and indicate the period dewatering structures will be in place (Note: a consumptive use or water use permit may ~~be~~ be required from the NFWWMD as well as an industrial waste permit from the Department).
- I.G. Plans for avoiding wetlands and other surface waters when transporting equipment and materials to and from the work site prior to, during, and after construction.
- J.H. A demolition plan for any existing structures to be removed (Note: an asbestos removal permit may be required by the Department).
- K.I. The schedule and party responsible for monitoring, submitting notice of construction commencement, and submitting as-built certifications for the project when completed.

**V. Drainage Information**

- A. Pre-development and post-development drainage calculations, signed and sealed by an registered professional, including the following:
  1. Runoff characteristics, including area, runoff curve number or runoff coefficient, NRCS hydrologic soils group, and time of concentration for each drainage basin.
  2. Water table elevations (normal and seasonal high) including aerial extent and magnitude of any proposed water table draw down.
  3. Receiving water elevations (normal, wet season, design storm including any backwater effects).
  4. Design storms used including rainfall depth, duration, frequency, and distribution.
  5. Runoff hydrograph(s) for each drainage basin, for all required design storm event(s).
  6. Stage-storage computations for any area such as a reservoir, closed basin, detention area, or channel, used in storage routing.
  7. Stage-discharge computations for any storage areas at a selected control point, such as control structure or natural restriction.
  8. Flood routings through on-site conveyance and storage areas.
  9. Water surface profiles in the primary drainage system for each required design storm event.
  10. Runoff peak rates and volumes discharged from the system for each required design storm event.
  11. Tail water history and justification (time and elevation).
  12. Pump specifications and operating curves for range of possible operating conditions (if used in system) as well as redundancy systems and emergency power loss contingency plans.



- B. The results of any percolation tests, where appropriate, and soil borings that are representative of the actual site conditions and the specific techniques used.
- C. The acreage and percentages of the total project area, of the following:
  - 1. Impervious surfaces, excluding wetlands and other surface water.
  - 2. Pervious surfaces (natural and vegetated areas, not including wetlands).
  - 3. Lakes, canals, retention areas, other open water areas — identify all of these, and also indicate those that are isolated (not connected to other wetlands or other surface waters) separate those waters that are surface waters of the state vs. those that are isolated (see Rule 62-312.030, F.A.C).
  - 4. Wetlands — identify all of these, and also indicate those that are isolated (not connected to other wetlands or other surface waters) separate those wetlands that are surface waters of the state vs. those that are isolated (see Rule 62-312.030, F.A.C).
- D. An engineering analysis of floodplain storage and conveyance (if applicable), including:
  - 1. Location and volume of encroachment within regulated floodplains.
  - 2. Plan for compensating floodplain storage, if necessary, and calculations required for determining minimum building and road flood elevations.
- E. An analysis of the water quality treatment system, including:
  - 1. A description of the proposed stormwater treatment methodology that addresses the type of treatment, pollution abatement volumes, and recovery analysis.
  - 2. Construction plans and calculations that address stage-storage and design elevations, which demonstrate compliance with the appropriate water quality treatment criteria.
- F. Volumetric and mounding analysis for the proposed systems.
- G. A description of the methodology, assumptions and references for the parameters listed above, and a copy of all such computations, engineering plans, and specifications used to analyze the system. If a computer program is used for the analysis, provide the name of the program, a description of the program, input and output data, a portable media or electronic copy, if available, and justification for model selection.

**VI. Operation and Maintenance and Legal Documentation**

- A. Describe the overall maintenance and operation schedule for the proposed system.
- B. Identify the entity that will be responsible for operating and maintaining the system in perpetuity if different than the permittee, a draft document enumerating the enforceable affirmative obligations on the entity to properly operate and maintain the system in perpetuity, and documentation of the entity's financial responsibility for long-term maintenance. If the proposed operation and maintenance entity is not a property owner's association, provide proof of the existence of an entity, or the future acceptance of the system by an entity that will operate and maintain the system. If a property owner's association is the proposed operation and maintenance entity, provide copies of the articles of incorporation for the association and copies of the declaration, restrictive covenants, deed restrictions, or other operational documents that assign responsibility for the operation and maintenance of the system. Provide information ensuring the continued adequate access to the system for maintenance purposes. Before transfer of the system to the operating entity will be approved, the permittee must document that the transferee will be bound by all terms and conditions of the permit.
- C. Copies of all proposed conservation easements, storm water management system easements, property owner's association documents, and plats for the property containing the proposed system.

**VII. Water Use**



If the stormwater management system will be used for water supply, including landscape irrigation, provide the reuse plans as set forth in Section 12 of Applicant's Handbook Volume II.

Be advised that if you are proposing any consumptive uses of water, you may need applicable permits under Chapter 40A-2, F.A.C. (March 27, 2006), from the NFWFMD. If required, the following information will need to be provided to the NFWFMD:

- A. If a Consumptive Use or Water Use permit has been issued for the project, provide the permit number.
- B. If no Consumptive Use or Water Use permit has been issued for the project, indicate if such a permit will be required and when the application for a permit will be submitted.
- C. Indicate how any existing wells located within the project site will be utilized or abandoned and the number proposed.
- D. Provide stormwater reuse plans if appropriate.



**TABLE 1**  
**Project Impact Summary**

<u>WL &amp; SW ID</u>	<u>WL &amp; SW TYPE</u>	<u>WL &amp; SW SIZE (ac.) ON SITE</u>	<u>WL &amp; SW ACRES NOT IMPACTED</u>	<u>PERMANENT IMPACTS TO WL &amp; SW</u>		<u>TEMPORARY IMPACTS TO WL &amp; SW</u>		<u>MITIGATION ID</u>
				<u>IMPACT SIZE (acres)</u>	<u>IMPACT CODE</u>	<u>IMPACT SIZE (acres)</u>	<u>IMPACT CODE</u>	
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____

**WL** = Wetland; **SW** = Surface water; **ID** = Identification number, letter, etc.

**Wetland Type:** Use an established wetland classification system and, in the comments section below, indicate which classification system is being used.

**Impact Code (Type):** D = dredge; F = fill; H = change hydrology; S = shading; C = clearing; O = other. Indicate the final impact if more than one impact type is proposed in a given area. For example, show F only for an area that will first be demucked and then backfilled.

**Note:** Multiple entries per cell are not allowed, except in the "Mitigation ID" column. Any given acreage of wetland should be listed in one row only, such that the total of all rows equals the project total for a given category (column). For example, if Wetland No. 1 includes multiple wetland types and multiple impact codes are proposed in each type, then each proposed impact in each wetland type should be shown on a separate row, while the size of each wetland type found in Wetland No. 1 should be listed in only one row.

Comments: \_\_\_\_\_



**TABLE 2  
ON-SITE MITIGATION SUMMARY**

MITIGATION ID	CREATION		RESTORATION		ENHANCEMENT		WETLAND PRESERVE		UPLAND PRESERVE		OTHER	
	AREA	TARGET TYPE	AREA	TARGET TYPE	AREA	TARGET TYPE	AREA	TARGET TYPE	AREA	TARGET TYPE	AREA	TARGET TYPE
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
<b>PROJECT TOTALS:</b>	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____

CODES (multiple entries per cell not allowed): Target Type or Type = target or existing habitat type from an established wetland classification system or land use classification for non-wetland mitigation

COMMENTS: \_\_\_\_\_



**TABLE 3  
OFF-SITE MITIGATION SUMMARY**

MITIGATION ID	CREATION		RESTORATION		ENHANCEMENT		WETLAND PRESERVE		UPLAND PRESERVE		OTHER	
	AREA	TARGET TYPE	AREA	TARGET TYPE	AREA	TARGET TYPE	AREA	TARGET TYPE	AREA	TARGET TYPE	AREA	TARGET TYPE
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
<b>PROJECT TOTALS:</b>	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____

CODES (multiple entries per cell not allowed):

\_\_\_\_\_ Target Type=target or existing habitat type from an established wetland classification system or land use classification for non-wetland mitigation



**TABLE 4  
DOCKING FACILITY SUMMARY**

Type of Structure*	Type of Work**	Number of Identical Docks	Length (feet)	Width (feet)	Height (feet)	Total square feet over water	Number of slips
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
					<b>TOTALS:</b>	<b>Existing</b>	<b>Proposed</b>
*Dock, Pier, Finger Pier, or other structure (please specify what type)					Number of Slips	_____	_____
**New, Replaced, Existing (unaltered), Removed, or Altered/Modified					Square Feet over the water	_____	_____

Use of Structure:

\_\_\_\_\_

Will the docking facility provide: \_\_\_\_\_

Live-aboard Slips? If yes, Number: \_\_\_\_\_

Fueling Facilities: If yes, Number \_\_\_\_\_

Sewage Pump-out Facilities? If yes, Number: \_\_\_\_\_

Other Supplies or Services Required for Boating (excluding refreshments, bait and tackle)

Yes  No

Type of Materials for Decking and Pilings (i.e., CCA, pressure treated wood, plastic, or concrete)

Pilings \_\_\_\_\_

Decking \_\_\_\_\_

Proposed Dock-Plank Spacing (if applicable) \_\_\_\_\_

Proposed Size (length and draft), Type, and Number of Boats Expected to Use or Proposed to be Mooring at the facility) \_\_\_\_\_



**Table 5: SHORELINE STABILIZATION**

**IF YOU ARE CONSTRUCTING A SHORELINE STABILIZATION PROJECT, PLEASE PROVIDE THE FOLLOWING:**

<u>Type of Stabilization Being Done</u>	<u>Length (in feet) of New</u>	<u>Length (in feet) of Replaced</u>	<u>Length (in feet) of Repaired</u>	<u>Length (in feet) of Removed</u>	<u>Slope: H: V:</u>	<u>Width of the Toe (in feet)</u>
<u>Vertical Seawall</u>	_____	_____	_____	_____	_____	_____
<u>Seawall plus Rip-Rap</u>	_____	_____	_____	_____	_____	_____
<u>Rip-Rap</u>	_____	_____	_____	_____	_____	_____
<u>Rip-Rap plus Vegetation</u>	_____	_____	_____	_____	_____	_____
<u>Other Type of Stabilization Being Done:</u> _____	_____	_____	_____	_____	_____	_____

Size of the Rip Rap: \_\_\_\_\_

Type of Rip Rap: \_\_\_\_\_

COMMENTS:

\_\_\_\_\_





## **SECTION E** **Information to Establish a for Mitigation Banks**

Please provide the information requested below if you are applying for a mitigation bank permit or a mitigation bank conceptual approval.

A. General Site Conditions. Provide the following:

1. A map, at regional scale, of the mitigation bank in relation to the regional watershed and proposed mitigation service area.
2. A vicinity map showing the mitigation bank in relation to adjacent lands and off-site areas of ecological or hydrologic significance which could affect the long term viability or ecological value of the bank;
3. A recent aerial photo of the mitigation bank (no photocopies) identifying boundaries of the project area;
4. A highway map showing points of access to the mitigation bank for site inspection;
5. A legal description of the proposed mitigation bank;
6. A description and assessment of current site conditions including:
  - (a) Soils map of the mitigation bank site;
  - (b) Topographic map of the mitigation bank site and adjacent hydrologic contributing and receiving areas;
  - (c) Hydrologic features map of the mitigation bank and adjacent hydrologic contributing and receiving areas;
  - (d) Current hydrologic conditions in the mitigation bank site;
  - (e) Vegetation map of the mitigation bank site;
  - (f) Ecological benefits currently provided to the regional watershed by the mitigation bank site;
  - (g) Adjacent lands, including existing land uses and conditions, projected land uses according to comprehensive plans adopted pursuant to Chapter 163, F.S., by local governments having jurisdiction, and any special designations or classifications associated with adjacent lands or waters;
  - (h) Disclosure statement of any material fact which may affect the contemplated use of the property; and
  - (i) Phase I environmental audit of the property (not required for a Conceptual Approval).



## B. Mitigation Bank Information

1. A description of the ecological significance of the proposed mitigation bank to the regional watershed in which it is located.
2. A mitigation plan describing the actions proposed to establish, construct, operate, manage and maintain the mitigation bank including:
  - (a) construction-level drawings detailing proposed topographic alterations and all structural components associated with proposed activities (not required for a Conceptual Approval permit);
  - (b) proposed construction activities, including a detailed schedule for implementation (not required for a Conceptual Approval permit);
  - (c) the proposed vegetation planting scheme and detailed schedule for implementation;
  - (d) measures to be implemented during and after construction to avoid adverse impacts related to proposed activities;
  - (e) a detailed long-term 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; and
  - (f) a proposed monitoring plan to demonstrate mitigation success.
3. An assessment of improvement or changes in ecological value anticipated as a result of proposed mitigation actions including:
  - (a) Description of anticipated site conditions in the mitigation bank after the mitigation plan is successfully implemented;
  - (b) Comparison of current fish and wildlife habitat to expected habitat after the mitigation plan is successfully implemented; and
  - (c) Description of the expected ecological benefits to the regional watershed.
4. Evidence of sufficient legal or equitable interest in the property which is to become the mitigation bank to meet the requirements of the Applicant's Handbook / Basis of Review (not required for a Conceptual Approval permit).
5. Draft documentation of financial responsibility meeting the requirements of the Applicant's Handbook / Basis of Review (not required for a Conceptual Approval permit).
6. Any engineering calculations and/or computer modeling (such as hydrograph or staging) needed to assess the effects of the project on the hydrologic characteristics of the mitigation bank site and upstream and downstream areas.



## SECTION F

### Application for Authorization to Use State-owned Submerged Lands

**Part I:** State-owned submerged lands title information (see Page 5 of 5 of this section for an explanation). Please read and answer the applicable questions listed below:

- A. I have a state-owned submerged lands title determination from the Division of State Lands which indicates that the proposed project is NOT ON state-owned submerged lands (Please attach a copy of the title determination to the application). Yes  No
- If you answered "Yes" to Question A and you have attached a copy of the Division of State Lands Title Determination to this application, you do not have to answer any other questions under Part I or II of Section G.
- B. I have a state-owned submerged lands title determination from the Division of State Lands which indicates that the proposed project is ON state-owned submerged lands (Please attach a copy of the title determination to the application). Yes  No
- If you answered yes to question B please provide the information requested in Part II. Your application will be deemed incomplete until the requested information is submitted.
- C. I am not sure if the proposed project is on state-owned submerged lands (please check here).
- If you have checked this box department staff will request that the Division of State Lands conduct a title determination. If the title determination indicates that the proposed project or portions of the project are located on state-owned submerged lands you will be required to submit the information requested in Part II of this application. The application will be deemed incomplete until the requested information is submitted.
- D. I am not sure if the proposed project is on state-owned submerged lands and I DO NOT WISH to contest the Department's findings (please check here).
- If you have checked this box refer to Part II of this application and provide the requested information. The application will be deemed incomplete until the requested information is submitted.
- E. It is my position that the proposed project is NOT on state-owned submerged lands (please check here).
- If you have evidence that indicates that the proposed project is not on state-owned submerged lands please attach the documentation to the application. If the Division of State Lands title determination indicates that your proposed project or portion of your proposed project are on state-owned submerged lands you will be required to provide the information requested in Part II of this application.
- F. If you wish to contest the findings of the title determination conducted by the Division of State Lands please contact the Department of Environmental Protection's Office of General Counsel. Your proposed project will be deemed incomplete until either the information requested in Part II is submitted or a legal ruling indicates that the proposed project is not on state-owned submerged lands.

**Part II:** If you were referred to this section by Part I, please provide this additional information. Please note that if your proposed project is on state-owned submerged lands and the below requested information is not provided, your application will be considered incomplete.

- A. Provide evidence of title to the subject riparian upland property in the form of a recorded deed, title insurance, legal opinion of title, or a long-term lease which specifically includes riparian rights. Evidence submitted must demonstrate that the application has sufficient title interest in the riparian upland property.
- B. Provide a detailed statement describing the existing and proposed upland uses and activities. For commercial uses, indicate the specific type of activity, such as marina, ship repair, dry storage (including the number of storage spaces), commercial fishing/seafood processing, fish camp, hotel, motel resort restaurant, office complex, manufacturing operation, etc.



For rental operations, such as trailer or recreational vehicle parks and apartment complexes, indicate the number of wet slip units/spaces available for rent or lease and describe operational details (e.g., are spaces rented on a month-to-month basis or through annual leases).

For multi-family residential developments, such as condominiums, townhomes, or subdivisions, provide the number of living units/lots and indicate whether or not the common property (including the riparian upland property) is or will be under the control of a homeowners association.

For projects sponsored by a local government, indicate whether or not the facilities will be open to the general public. Provide a breakdown of any fees that will be assessed, and indicate whether or not such fees will generate revenue or will simply cover costs associated with maintaining the facilities.

C. Provide a detailed statement describing the existing and proposed activities located on or over the state-owned submerged lands at the project site. This statement must include a description of docks and piers, types of vessels (e.g., commercial fishing, liveaboards, cruise ships, tour boats), length and draft of vessels, sewage pumped facilities, fueling facilities, boat hoists, boat ramps, travel lifts, railways, and any other structure or activities existing or proposed to be located waterward of the mean/ordinary high water line.

If slips are existing and/or proposed, please indicate the number of powerboat slips and sailboat slips and the percentage of those slips available to the general public on a "first come, first served" basis. This statement must include a description of channels, borrow sites, bridges, groins, jetties, pipelines, or other utility crossings, and any other structures or activities existing or proposed to be located waterward of the mean/ordinary high water line. For shoreline stabilization activities, this statement must include a description of seawalls, bulkheads, riprap, filling activities, and any other structure or activities existing or proposed to be located along the shoreline.

D. Provide the linear footage of shoreline at the mean/ordinary high water line owned by the application which borders state-owned submerged lands.

E. Provide a recent aerial photo of the area. A scale of 1"=200' is preferred. Photos are generally available at minimal cost from your local government property appraiser's office or from district Department of Transportation offices. Indicate on the photo the specific location of your property/project site.

**Note: An applicant must meet the sufficient upland interest requirements of paragraph 18-21.004(3)(b), F.A.C. (April 14, 2008), for any activities proposed on riparian lands located waterward of the mean high water or ordinary high water line that are titled to the Board of Trustees.**

Paragraph 18-21.004(3)(b), F.A.C. (April 14, 2008), provides: "Satisfactory evidence of sufficient upland interest is required for activities on sovereignty submerged lands riparian to uplands, unless otherwise specified in this chapter. Public utilities and state and other governmental agencies proposing activities such as utility lines, roads or bridges must obtain satisfactory evidence of sufficient upland interest prior to beginning construction, but need not provide such evidence as part of any required application. Satisfactory evidence of sufficient upland interest is not required for activities on sovereignty submerged lands that are not riparian to uplands, or when a governmental entity conducts restoration and enhancement activities, provided that such activities do not unreasonably infringe on riparian rights."

Subsection 18-21.003(55), F.A.C. (April 14, 2008), provides that: "Satisfactory evidence of sufficient upland interest" shall be demonstrated by documentation, such as a warranty deed; a certificate of title issued by a clerk of the court; a lease; an easement; or condominium, homeowners or similar association documents that clearly demonstrate that the holder has control and interest in the riparian uplands adjacent to the project area and the riparian rights necessary to conduct the proposed activity. Other forms of documentation shall be accepted if they clearly demonstrate that the holder has control and interest in the riparian uplands adjacent to the project area and the riparian rights necessary to conduct the proposed activity.

In addition to the above, an application to conduct activities on state-owned submerged lands as part of this Joint Application will NOT constitute an application to use Board of Trustees-owned uplands (these uplands may exist between the waterward edge of your property and the mean high water/ordinary high water line of the waterbody). A separate application to use state-owned uplands is required to be submitted to the Bureau of Public Lands Administration, Division of State Lands, 3900 Commonwealth Boulevard, M.S. 130, Tallahassee, Florida 32399-3900.



## PROPRIETARY PROJECT DESCRIPTIONS

Please check the most applicable activity which applies to your project(s):

### Leases

- Commercial marinas (renting wet slips) including condos, etc., if 50% or more of their wet slips are available to the general public
- Public/Local governments
- Yacht Clubs/Country Clubs (when a membership is required)
- Condominiums (requires upland ownership)
- Commercial Uplands Activity (temporary docking and/or fishing pier associated with upland revenue generating activities, i.e., restaurants, hotels, motels) for use of the customer at no charge
- Miscellaneous Commercial Upland Enterprises where there is a charge associated with the use of overwater structure (Charter Boats, Tour Boats, Fishing Piers)
- Ship Building/Boat Repair Service Facilities
- Commercial Fishing Related (Offloading, Seafood Processing)
- Private Single-family Residential Docking Facilities; Townhome Docking Facilities; Subdivision Docking Facilities (upland lots privately owned)

### Public Easements and Use Agreements

- Miscellaneous Public Easements and Use Agreements
- Bridge Right-of-way (DOT, local government)
- Breakwater of groin
- Subaqueous Utility Cable (TV, telephone, electrical)
- Subaqueous Outfall or Intake
- Subaqueous Utility Water/Sewer
- Overhead Utility w/Support Structure on State-owned Submerged Lands
- Disposal Site for Dredged Material
- Pipeline (gas)
- Borrow Site

### Private Easements

- Miscellaneous Private Easements
- Bridge Right-of-way
- Breakwater Groin
- Subaqueous Utility Cable (TV, telephone, electrical)
- Subaqueous Outfall or Intake
- Subaqueous Utility Water/Sewer
- Overhead Utility Crossing
- Disposal Site for Dredged Material
- Pipeline (gas)



**Letters of Consent/Consent by Rule**

- Aerial Utility Crossing w/no support structures on state-owned submerged lands
- Private Dock
- Public Dock
- Multi-family Dock
- Fishing Pier (private or Multi-family)
- Private Boat Ramp
- Sea Wall
- Dredge
- Maintenance Dredge
- Navigation Aids/Markers
- Artificial Reef
- Riprap
- Public Boat Ramp
- Public Fishing Pier
- Repair/Replace Existing Public Fishing Pier
- Repair/Replace Existing Private Dock
- Repair/Replace Existing Public Dock
- Repair/Replace Existing Multi-family Dock
- Repair/Replace Existing Fishing Pier (Private or Multi-family)
- Repair/Replace Existing Private Boat Ramp
- Repair/Replace Existing Sea Wall, Revetments, or Bulkheads
- Repair/Replace/Modify structures/activities within an existing lease, easement, management agreement or use agreement area or repair/replace existing grandfathered structures
- Repair/Replace Existing Public Boat Ramp

**Miscellaneous**

- Biscayne Bay Letters of Consistency/Inconsistency w/258.397, F.S.
- Management Agreements - Submerged Lands
- Reclamation
- Purchase of Filled, Formerly Submerged Lands
- Purchase of Reclaimed Lake Bottom
- Treasure Salvage
- Insect Control Structures/Swales
- Miscellaneous projects which do not fall within the activity codes listed above



—For Your Information—  
**“DIFFERENCES BETWEEN PROPRIETARY” AND “REGULATORY” PROGRAMS**

The following summarizes the proprietary and regulatory functions of the Department of Environmental Protection’s (DEP’s) Submerged Lands and Environmental Resources program.

The word “regulatory” refers to a type of authority that allows an entity of the government, such as DEP, to limit certain activities on private property, as well as on publicly owned lands, to some specific degree for the greater public good. DEP, in its regulatory capacity, is required by acts of the Florida Legislature, to protect the natural resources of the state, such as air, water and wildlife, to insure that these resources will be healthy and abundant for present and future generations. DEP’s Submerged Lands and Environmental Resources regulatory program reviews applications for proposed works in wetlands and other surface waters, as well as in uplands, that can affect water quality and quantity, to ensure compliance with the Florida Administrative Code and Florida Statutes.

Over a century ago, the Governor and Cabinet, as the State of Florida Board of Trustees of the Internal Improvement Trust Fund (Trustees), were designated by the state legislature as the Trustees of sovereign submerged lands. All tidally influenced waters to the mean high water line and navigable fresh waterbodies to the ordinary high water line in existence when Florida became a state in 1845 are considered sovereign. In accordance with the Constitution of the State of Florida, these lands are held in trust by the state for all the people. As the Trustees, the Governor and Cabinet have proprietary (ownership) authority over sovereign submerged lands and their uses and are responsible for insuring that these lands and the associated aquatic resources remain healthy and in abundance for present and future generations.

The DEP, in addition to its regulatory capacity, acts as the staff to the Trustees in the review of proposed uses of sovereign submerged lands. If you are proposing to conduct an activity in waters that are not sovereign submerged lands, you will only be required to meet regulatory standards. If your proposed activity is located on sovereign submerged lands, you will be required to meet both regulatory and proprietary requirements of the Florida Statutes and Florida Administrative Code.



**Attachment 1  
DEPARTMENT and NFWFMD Permitting Responsibilities**

**Note:** This attachment provides an overview of the Operating Agreement between the Department of Environmental Protection (Department) and the Northwest Florida Water Management District (NFWFMD), which divides responsibilities for processing and taking agency action on permit applications and other responsibilities. For more detailed information consult the actual Operating Agreement, a copy of which is available as Appendix A in Applicant’s Handbook Volume 1, and on the Internet sites of the Department and NFWFMD.

**RESPONSIBILITIES OF THE DEPARTMENT DEP**

The Department is responsible for the review and final action on all applications for permits, petitions for variances, verification of exemptions [including those under Section 403.813(1), F.S.], and review of notices for noticed general permits under Part IV of Chapter 373, F.S., and variances or waivers under Section 120.542, F.S., for the project types listed below. In addition, the Department is responsible for the review and final action on all other applications for permits and petitions for variances, under Section 373.4145, F.S., and variances or waivers under Section 120.542, F.S., for project types that are not specifically the responsibility of the NFWFMD, as summarized below.

1. Permits, Variances, and Verification of Exemptions and Noticed General Permits

- a. All activities, in whole or in part, in, on, or over submerged lands owned by the State of Florida, including sovereignty submerged lands (the latter are lands that were conveyed to the state by the federal government when Florida became a state in 1845).
- b. All activities, that involve dredging, filling, or construction in, on, or over 5 or more acres of wetlands or other surface waters of the state, as defined in Chapter 62-340 Rule 62-312.030, F.A.C., including all associated development that requires a stormwater permit pursuant to Section 373.4145(1)(a), F.S.

~~However, if the proposed dredge and fill activity is limited to transportation (ingress, egress, and interior roadways, bridges, and culvert crossings, but excluding individual residential driveways) impacts to no more than 0.5 acres of surface waters of the state, the NFWFMD shall be responsible for processing the application for the stormwater permit under Section 373.4145(1)(a), F.S., and the DEPARTMENT shall retain responsibility for processing the dredge and fill application.~~

- c. All wet or dry docking facilities, piers, and shore protection structures, including all adjacent associated residential, commercial, and governmental development and any needed dredging and filling associated with such facilities, structures, and development, regardless of the acreage of any associated dredging or filling, except retaining walls or other bulkhead structures that are an integral component of stormwater management systems that are the responsibility of the DISTRICT.
- d. All “in water” type activities that do not require an associated stormwater management system, such as:
  - (1) Navigational and other canal, channel, and ditch dredging, except dredging of ditches that are a component of an activity that is otherwise the responsibility of the DISTRICT;
  - (2) Organic detrital material dredging, removal, and relocation, aquatic plant management activities regulated under Chapter 369, F.S., and lake, pond, and other waterbody restoration and enhancement that is not otherwise mitigation for an activity that is the responsibility of the DISTRICT; and
  - (3) Boat ramps, ski jumps, ski slalom courses, aids to navigation, mooring buoys and fields, piling supported structures that are not physically connected to uplands, fish attractors, artificial reefs, treasure salvage, deadhead logging, and archaeological research or exploration.





~~e.~~ A system serving or consisting of up to three contiguous parcels of land under single ownership, where each parcel contains or is proposed to contain only one single family dwelling unit, duplex, triplex, or quadruplex (hereinafter referred to as a dwelling unit).

~~f.~~ ~~e.~~ Systems proposed in whole or in part seaward of the coastal construction control line (CCCL). In areas where a CCCL has not been established, systems proposed in whole or in part seaward of a point 50 feet landward of the mean high water line at any riparian coastal location fronting the Gulf of Mexico coast shoreline, exclusive of bays, inlets, rivers, bayous, creeks, passes, and the like.

~~g.~~ ~~d.~~ All mines, as defined in Chapter 378, F.S.

However, the NFWMD shall review and take final action on permit applications for sand, shell, and clay (other than fuller's earth) mines that do not involve processing other than use of a scalping screen to remove large rocks, wood, and debris, and that do not involve any excavation, construction, or other dredging or filling in, on, or, over wetlands or other surface waters of the state.

~~h.~~ ~~e.~~ Seaports and adjacent seaport related development where the applicant or property owner is a port authority as defined in Section 315.02(2), F.S.

~~f.~~ ~~—~~ ~~Dry storage facilities for 10 or more vessels where the dry storage facility is functionally associated with a boat launching area, including when the dry storage facility does not involve any work in, on, or over waters of the state.~~

~~i.~~ ~~g.~~ Projects constructed, operated, or maintained, and other activities by the DISTRICT.

~~j.~~ ~~h.~~ All solid waste management facilities that require a permit under Chapter 403, F.S.

However, the NFWMD shall review and take final action on permit applications when the solid waste management facility qualifies for a solid waste general permit, is merely an incidental component of a project for which the DEPARTMENT does not review and take final action on permit applications under any other paragraph in Section II.A.1 of the Operating Agreement, and is not located within wetlands or other surface waters of the state.

~~k.~~ ~~i.~~ Hazardous waste facilities that require a permit under Chapter 403, F.S.

However, the NFWMD shall review and take final action on permit applications when the storage of hazardous waste is merely an incidental component of a project for which the DEPARTMENT does not review and take final action on permit applications under any other paragraph in Section II.A.1. of the Operating Agreement, and is not located within wetlands or other surface waters of the state.

~~l.~~ ~~j.~~ Domestic or industrial wastewater treatment, storage, transmission, effluent disposal, or water reuse facilities that require a permit under Chapter 403, F.S. This includes: all facilities and activities located at the domestic or industrial wastewater treatment facility; all reuse sites permitted under Parts II or IV of Chapter 62-610, F.A.C.; land application sites permitted under Part VI of Chapter 62-610, F.A.C.; and wetlands created using reclaimed water (from domestic wastewater or industrial wastewater sources).

However, the NFWMD shall review and take final action on permit applications for the following activities that are a part of a larger project for which the NFWMD is otherwise responsible under the provisions of Section II.B. of the Operating Agreement:

- (1) Water reuse sites permitted under Part III of Chapter 62-610, F.A.C.; such as facilities for the storage and application of reclaimed water to irrigate crops, golf courses, or other landscapes;
- (2) Activities involving the application of reclaimed water to rehydrate wetlands or to provide artificial recharge to reduce or mitigate drawdown impacts due to well withdrawals;



- (3) Those facilities that are subject to any of the requirements of Chapter 62-346, F.A.C., through a system or activity which is not fully contained on the domestic or industrial wastewater facility site, but which is part of a larger project for which the NFWWMD reviews and takes final action on permit applications under Section II.B. of the Operating Agreement;
- (4) Those facilities that qualify for a general or generic permit pursuant to Rules 62-660.801, F.A.C. (General Permit for a Wastewater Disposal System for a Laundromat), 62-660.802, F.A.C. (General Permit for a Pesticide Waste Degradation System), 62-660.803, F.A.C. (General Permit for Car Wash Systems), 62-660.805, F.A.C. (General Permit for Disposal of Tomato Wash), or 62-621.300(2), F.A.C. (Generic Permit for Discharge of Produced Ground Water from any Non-Contaminated Site Activity); and
- (5) Those facilities in which the industrial wastewater component is merely an HVAC (heating, ventilation, and air conditioning) cooling tower discharge, or other industrial wastewater treatment facility which is merely an incidental component of a project for which the NFWWMD reviews and takes final action on permit applications under Section II.B. of the Operating Agreement.

m. ~~k.~~ Potable water facilities that require a permit under Chapter 403, F.S. This includes drinking water treatment plants as well as distribution mains.

However, the NFWWMD shall review and take final action on permit applications for distribution lines that are fully contained within systems for which the NFWWMD reviews and takes final action on permit applications under Section II.B. of the Operation Agreement.

n. ~~l.~~ Power plants and electrical distribution and transmission lines and other facilities related to the production, transmission and distribution of electricity.

However, the NFWWMD shall review and take final action on electrical distribution lines fully contained within any larger plan of development for which the NFWWMD reviews and takes final action on permit applications under Section II.B. of the Operating Agreement.

o. ~~m.~~ Communication cables and lines.

However, the NFWWMD shall review and take final action on communication cables and lines fully contained within any larger plan of development for which the NFWWMD reviews and takes final action on permit applications under Section II.B. of the Operating Agreement.

p. ~~n.~~ Natural gas or petroleum exploration, production, and distribution activities and facilities, product pipelines, and other facilities related to the exploration, production, and distribution of natural gas and petroleum.

However, the NFWWMD shall review and take final action on natural gas distribution lines fully contained within any larger plan of development for which the NFWWMD reviews and takes final action on permit applications under Section II.B. of the Operating Agreement.

q. ~~o.~~ Temporary systems proposed for commercial film productions.

r. ~~p.~~ Aquaculture activities not exempt pursuant to Section 373.406(8), F.S.

s. ~~q.~~ Projects constructed, operated or maintained by the U.S. Army Corps of Engineers.

t. ~~r.~~ Ecosystem Management Agreements, and activities conducted in accordance with Ecosystem Management Agreements under Section 403.0752, F.S.

**~~The following activities and authorizations include those submitted for Chapter 62-312, F.A.C., wetland resource (dredge and fill) permits and Chapter 62-25, F.A.C., stormwater permits pursuant to Section 373.4145(6), F.S.~~**



2. Formal Determinations

The DEPARTMENT shall review and take final action on all petitions for formal determinations of the extent of wetlands and other surface waters pursuant to Section 373.421, F.S.

3. Mitigation Banks and Regional Offsite Mitigation Areas Agreements (ROMAs)

The DEPARTMENT shall review and take final action on all permit applications for mitigation banks and ROMA agreement proposals under Sections 373.4135 and 373.4136, F.S.



## RESPONSIBILITIES OF THE NFWWMD

1. The Northwest Florida Water Management District (NFWWMD) ~~is shall be~~ responsible for the review and final action on all applications for permits under Section 373.4145(1)(a), F.S., petitions for variances, verification of exemptions (including those under Section 403.813(1), F.S.), and review of notices for noticed general permits under Part IV of Chapter 373, F.S., and variances or waivers under Section 120.542, F.S., for the project types listed in this section.
  - a. Residential, commercial, and governmental development, including roadways, and associated surface water management systems, and related construction that meet all of the following:
    - (1) ~~Is Are~~ not located, in whole or in part, in, on or over submerged lands owned by the state of Florida;
    - (2) ~~Involves a total of less than 5 acres of dredging, filling, or construction~~ Are not located in whole or in part in, on, or over wetlands or other surface waters of the state, as delineated by Chapter 62-340 defined in Rule 62-312.030, F.A.C., except when such development includes docks, piers, shore protection structures, or "in water" activities that are the responsibility of the DEPARTMENT.  
  

However, the DISTRICT shall review and take agency action on activities that incorporate retaining walls or other bulkhead structures as an integral component of stormwater management systems that are not located in, on, or over state-owned submerged lands.

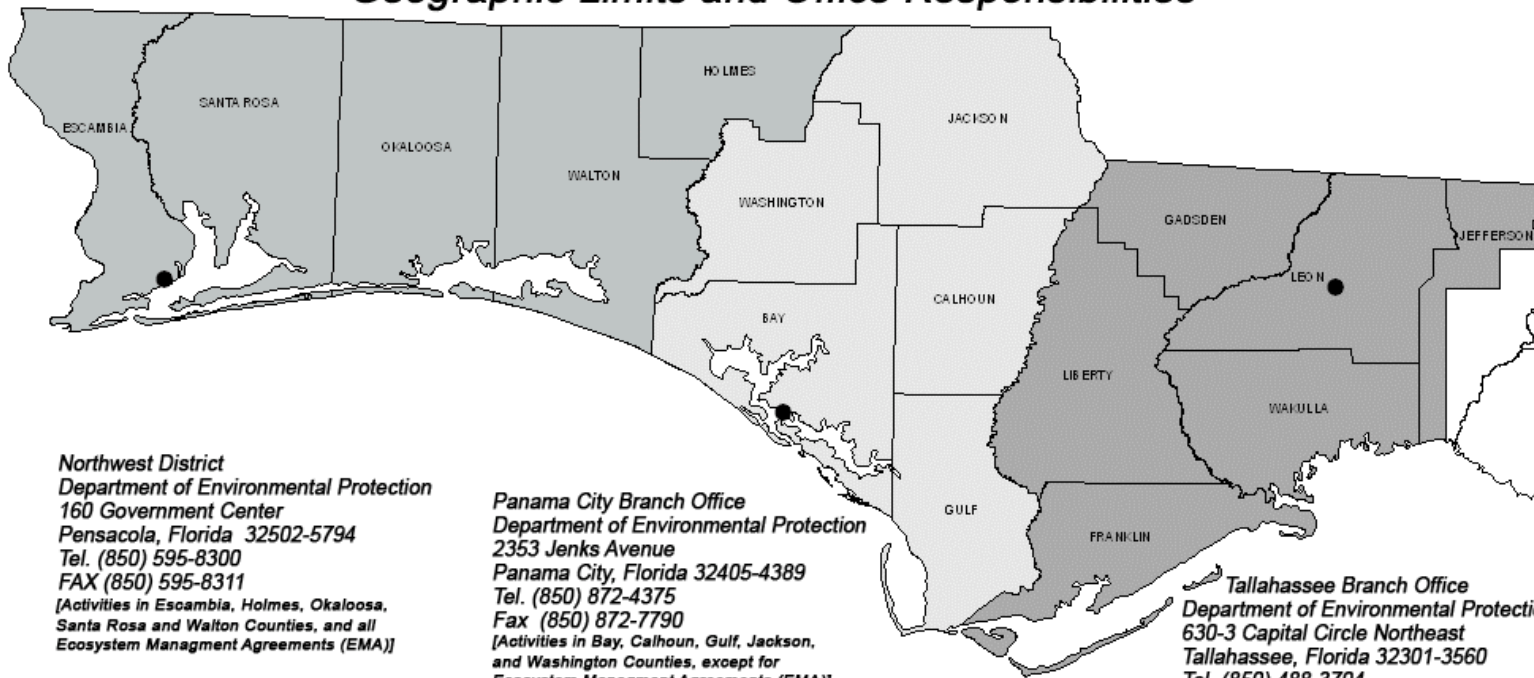
~~Special Case: However, when the proposed activity over such waters is limited to transportation (ingress, egress, and interior roadways, bridges, and culvert crossings, but excluding individual residential driveways) impacts to no more than 0.5 acres of surface waters, the NFWWMD shall be responsible for processing the application for the stormwater permit under Section 373.4145(1)(a), F.S., and the NFWWMD shall forward the dredge and fill application to the DEPARTMENT within five working days, while retaining responsibility for processing the stormwater application.~~
    - (3) ~~Do not consist~~ Consists of a system on four or more contiguous parcels of land intended to serve more than one single-family residential unit, duplex, triplex, or quadruplex, or of three or fewer contiguous parcels of land under single ownership, that have or are proposed to have a system serving more than one single-family dwelling unit, duplex, triplex, or quadruplex.
    - (4) ~~Is Are~~ not located seaward of the coastal construction control line or in other areas that are the responsibility of the Department as described in Section II.A.1.e of the Operating Agreement;
    - (5) ~~Is Are~~ not associated with a seaport as described under the Department's responsibilities, or in Section II.A.1.e. of this Agreement, or with activities of the U.S. Army Corps of Engineers;
    - (6) ~~Is Are~~ not associated with temporary systems for commercial film production as described under the Department's responsibilities, in Section II.A.1.o. of the Operating Agreement; and
    - (7) Does not consist of or include an aquaculture activity.
  - b. Mining activities that are not the responsibility of the DEPARTMENT ~~under Section II.A.1.d. of the Operating Agreement.~~
  - c. Solid waste management, hazardous waste, domestic or industrial waste, and potable water facilities, electrical distribution lines, communication cables and lines, and natural gas distribution lines that are not the responsibility of the DEPARTMENT under Sections II.A.1.h through n. of the Operating Agreement.
  - d. Projects constructed, operated, or maintained, and other activities by the DEPARTMENT.
  - e. Agriculture and silviculture activities regulated under Chapter 40A-44, F.A.C. (July 1, 1998).



- f. ~~Management and Storage of Surface Waters projects regulated under Chapter 40A-4, F.A.C.~~
2. The NFWMD shall review and take final action on the following:
- a. ~~All Works of the DISTRICT permits under Chapter 40A-6, F.A.C. (March 2, 2000).~~
- b. Management and Storage of Surface Waters projects regulated under Chapters 40A-4 (March 2, 2000) and 40A-44 (July 1, 1998), F.A.C. However, the DISTRICT shall provide technical assistance to the DEPARTMENT during the review of activities that are retained by the DEPARTMENT that also require a separate permit under Chapter 40A-4, F.A.C. (March 2, 2000)



**Figure 1A:  
Florida Department of Environmental Protection Northwest District  
Geographic Limits and Office Responsibilities**



**Northwest District**  
 Department of Environmental Protection  
 160 Government Center  
 Pensacola, Florida 32502-5794  
 Tel. (850) 595-8300  
 FAX (850) 595-8311  
 [Activities in Escambia, Holmes, Okaloosa, Santa Rosa and Walton Counties, and all Ecosystem Management Agreements (EMA)]

**Panama City Branch Office**  
 Department of Environmental Protection  
 2353 Jenks Avenue  
 Panama City, Florida 32405-4389  
 Tel. (850) 872-4375  
 Fax (850) 872-7790  
 [Activities in Bay, Calhoun, Gulf, Jackson, and Washington Counties, except for Ecosystem Management Agreements (EMA)]

**Tallahassee Branch Office**  
 Department of Environmental Protection  
 630-3 Capital Circle Northeast  
 Tallahassee, Florida 32301-3560  
 Tel. (850) 488-3704  
 Fax (850) 922-3620  
 [Activities in Franklin, Gadsden, Jefferson, Leon, Liberty, and Wakulla Counties, except for Ecosystem Management Agreements(EMA)].

**Additional Office information Listed below**

**Bureau of Mining and Mineral Regulation**  
 Department of Environmental Protection  
 2051 E. Paul Dirac Drive (Collins Building)  
 Tallahassee, FL 32310-3760  
 Tel. (850) 488-8217  
 FAX (850) 488-1254  
 (For applications for mines as defined in 82-346.030(27), F.A.C.)

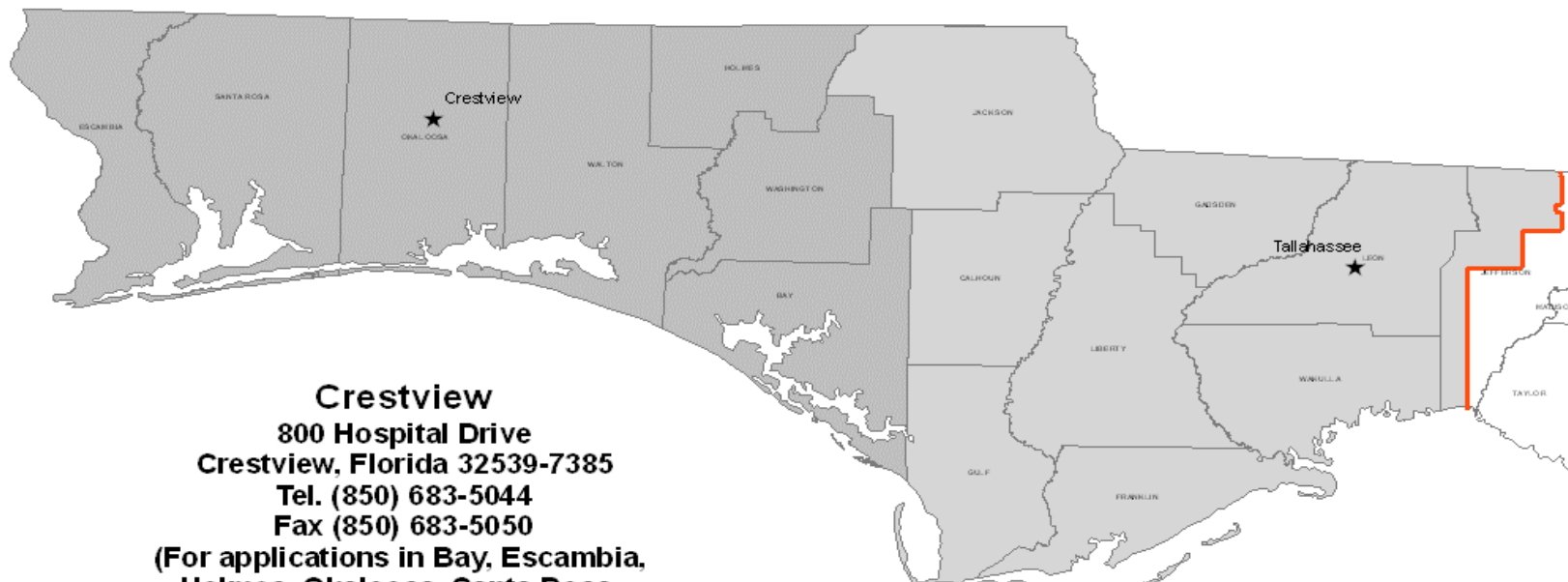
**Bureau of Beaches and Coastal Systems**  
 3900 Commonwealth Blvd MS 300  
 Tallahassee, FL 32399-3000  
 Tel. (850) 922-7881  
 FAX (850) 488-5257  
 (Activities that affect the movement of sand along natural, sandy beaches along the Atlantic or Gulf coasts, e.g., beach restoration, beach nourishment, inlet dredging with sand bypassing, jetties, groins, breakwaters, and revetments that extend into the water. Navigational dredging for deepwater ports.)

**Office of Submerged Lands and Environmental Resources**  
 Department of Environmental Protection  
 2600 Blair Stone Road, MS 2500  
 Tallahassee, FL 32399-2400  
 Tel. (850) 488-8474  
 FAX (850) 488-8499  
 (For Petitions for Formal Determinations and Mitigation Banks)



## Figure 1B: Northwest Florida Water Management District Geographic Limits and Office Responsibilities

*Note: Electronic applications can be submitted to the NFWMD via the web. Paper applications can be submitted to the office covering the geographic area in which the project is located.*



**Crestview**  
**800 Hospital Drive**  
**Crestview, Florida 32539-7385**  
**Tel. (850) 683-5044**  
**Fax (850) 683-5050**  
**(For applications in Bay, Escambia,**  
**Holmes, Okaloosa, Santa Rosa,**  
**Walton, and Washington Counties)**

**Delaney Center**  
**2252 Killeam Center Blvd, Suite 2D**  
**Tallahassee, Florida 32309-3573**  
**Tel. (850) 921-2986**  
**Fax (850) 921-3082**  
**(For applications in Calhoun, Franklin, Gadsden,**  
**Gulf, Jackson, Jefferson, Leon, Liberty, Wakulla)**



## ATTACHMENT 23 SUMMARY OF EXEMPTIONS, PERMIT TYPES, AND THRESHOLDS

The summary below is intended to assist applicants in determining the type of permit or authorization a project normally will require from the State of Florida. These lists are only a brief summary of the various exemptions or permit types and do not contain all of the exemptions, permit types, or requirements for each exemption or permit. Applicants unfamiliar with the details of all the requirements that apply to the various exemptions or permit types, or uncertain of how the conditions would apply to a specific situation, should discuss their project with staff of the appropriate reviewing agency before submitting an application. For activities that qualify for an exemption or noticed general permit, applicants are encouraged to review the specific language for the exemption or noticed general permit as adopted by statute or rule.

### EXEMPTIONS

Persons conducting activities authorized as exempt are not required to apply for a permit for these activities, although some exemptions do require a notice be provided prior to beginning construction. However, some activities on state-owned submerged lands that are exempt from the permitting requirements of Chapter 62-346, F.A.C., require a separate authorization to use such lands under Chapters 253 and 258, F.S., and Chapters 18-20 (May 27, 1999) and 18-21, F.A.C. (April 14, 2008).

**Persons proposing to conduct an exempt activity should review the actual language of the specific exemption in Sections 373.406, 373.4145(3), or 403.813(1), F.S., Rule 62-346.051, F.A.C., and Section 3.4 of the Applicant's Handbook Volume I adopted by reference in Rule 62-346.091, F.A.C., prior to conducting the activity.** Chapter 403, F.S., may be accessed at:

[http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&URL=Ch0403/tit0403.htm](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=Ch0403/tit0403.htm). Chapter 62-346, F.A.C., and the Applicant's Handbook may be accessed at:

<http://www.dep.state.fl.us/water/wetlands/erp/rules/guide.htm>, or by contacting a local office of the Department or NFWFMD. You should contact the agency with jurisdiction in the location where the activity is proposed if you are uncertain if your specific project meets the conditions for an exemption, and to determine whether a separate submerged lands authorization is required.

**~~If the proposed activity does not involve any work in waters of the state, and you desire verification whether the work qualifies for an exemption, refer to the "Exemptions and Noticed General Permits" section in the Introduction to this application form, and to paragraph 62-346.070(2)(c), F.A.C.~~**

Many activities that qualify for an exemption under the state of Florida rules also qualify for the State of Florida to authorize the federal dredge and fill permit in accordance with a State Programmatic General Permit (SPGP IV), which may be accessed at: <http://www.dep.state.fl.us/water/wetlands/erp/spgp.htm>. **However, at this time, the SPGP IV does NOT apply within the geographic limits of the NFWFMD.**

Persons are cautioned that activities that qualify as an exemption from the need to obtain a Stormwater Permit under Section 373.4145(1)(a), F.S., and hence do not require an application for a permit, are not relieved from their need to be authorized or otherwise permitted by other local, regional, state, or federal agencies.

### NOTICED GENERAL PERMITS (NGPs)

**Applicants who believe their projects might qualify should carefully review the general and specific limitations and conditions of these NGPs in chapter 62-341, F.A.C.** This chapter may be viewed at: <http://www.dep.state.fl.us/water/wetlands/erp/rules/guide.htm>, and is available from any office of the Department.

Persons wishing to use a NGP must submit notice to the Department or NFWFMD at least 30 days prior to initiating any activity so authorized. This time period enables the Department or NFWFMD to review the notice and determine that the requested activity meets all the terms and conditions of the NGP. If it does not, the Department or NFWFMD will notify the person submitting the notice within 30 days of receipt of the notice. Some NGPs also require prior





confirmation of qualification from the Department or NFWFMD before work may begin. Additional information on processing noticed general permits is contained in Rule 62-346.090(1), F.A.C. If you have any questions regarding qualification, you should discuss the proposed project with the agency having responsibility for reviewing the notice, in accordance with the Operating Agreement incorporated by reference in Rule 62-346.091, F.A.C., and the office responsible for the location where the activity is proposed (see Figures 1A and 1B as applicable) prior to submitting such notice.

Some activities that qualify for a noticed general permit also qualify for the State of Florida to authorize the federal dredge and fill permit in accordance with a State Programmatic General Permit, which may be accessed at: <http://www.dep.state.fl.us/water/wetlands/erp/spgp.htm>. However, at this time, the SPGP IV does NOT apply within the geographic limits of the NFWFMD.

Persons are cautioned that because an activity qualifies as a noticed general permit ~~under Section 373.4145(1)(a), F.S.,~~ does not relieve them from any requirements to obtain applicable permits or authorizations from other local, regional, state, or federal agencies, ~~including, where applicable, dredge and fill permits under Chapter 62-312, F.A.C.~~ For example, NGP activities conducted on state-owned submerged lands, must also be authorized in accordance with Chapters 253 and 258, F.S., and Chapters 18-20 (May 27, 1999) and 18-21, F.A.C. (April 14, 2008), as applicable.

## INDIVIDUAL PERMITS

Any project or activity involving the construction, alteration, operation, maintenance, repair, or abandonment of any surface water or stormwater management system, dam, impoundment, reservoir, appurtenant work or works, that does not qualify for an exemption or noticed general permit, must receive an **individual permit**, in accordance with subsection 62-346.050(3), F.A.C. Conceptual approval permits are a type of individual permit.



**ATTACHMENT 3**  
**SUMMARY OF U.S. ARMY CORPS OF ENGINEERS PERMITS**

**REGIONAL AND STATEWIDE PERMITS AS OF JANUARY 9, 2009**

<b>Permit #</b>	<b>Activity</b>	<b>Geographic Locale</b>	<b>Issue Date</b>	<b>Expiration Date</b>	
SAJ-5	Maintenance Dredging of Residential Canals	All FL	11/6/2006	11/7/2011	
SAJ-12	Single-Family Boat Ramp	All FL	11/6/2006	11/7/2011	
SAJ-13	Aerial Transmission Lines	All FL	11/6/2006	11/7/2011	
SAJ-14	Subaqueous Transmission	All FL	11/6/2006	11/7/2011	
SAJ-17	Minor Structures	All FI	11/6/2006	11/7/2011	
SAJ-18	Boat Slips in Upland Cuts	All FL	11/6/2006	11/7/2011	
SAJ-20	Private Single-Family Piers	All FL	5/1/2007	5/1/2012	
SAJ-33	Private Multi-Family Piers	All FL	5/1/2007	5/1/2012	
SAJ-34	Commercial Piers	All FL	11/6/2006	11/7/2011	
SAJ-42	Various Activities	Miami-Dade County	5/1/2002	5/1/2007	Extended
SAJ-46	Bulkheads & Backfill in Residential Canals	All FL	11/6/2006	11/7/2011	
SAJ-67	Minor Activities in Okeechobee	CESAJ-CO	2/7/2007	2/7/2012	
SAJ-71	Live Rock Aquaculture	All FL EEZ via NMFS	8/12/2005	8/12/2010	
SAJ-72	Residential Docks Citrus County	Citrus County	11/6/2006	11/7/2011	
SAJ-74	Fill/Bird Drive Basin	Miami-Dade County	5/31/2005	5/31/2010	
SAJ-75	Royal Palm Beach Subdivision	Royal Palm Beach SD	3/9/2004	3/9/2009	
SAJ-77	Fill/Jupiter Farms	Jupiter Farms SD via DEP	6/19/2007	6/19/2012	
SAJ-78	Fill/Palm Beach Country Estates	PB Country Estates SD	6/19/2007	6/19/2012	
SAJ-80	Miccosukee Tribe of Indians of Florida	Miccosukee Lands	12/28/2006	12/28/2011	
SAJ-82	Variety of Activities in the Florida Keys	Florida Keys only	4/26/2007	4/26/2012	
SAJ-83	Seminole Tribe - Big Cypress	Seminole Tribal Lands	2/19/2008	2/19/2013	
SAJ-86	St. Joe's	St. Joes - Bay & Walton only	6/30/2004	6/30/2009	
SAJ-87	Plantation Acres	Plantation only	5/10/2005	5/10/2010	
SAJ-90	Fill in NE FL	NE FL only	2/10/2006	2/10/2011	
SAJ-91	GP for Cape Coral	Cape Coral only	10/12/2007	10/12/2012	
SAJ-92	Fill for FDOT and FTE in N/C FL	FDOT & FTE only	8/25/2008	8/25/2013	
SAJ-93	Maintenance Dredging by FIND	Resurrected for review			
SAJ-95	Subdivision Phasing to SWFWMD	SWFWMD only	3/24/2008	3/24/2013	
SAJ-96	Pinellas County SF Docks & Shoreline	Pinellas County only	7/13/2007	7/13/2012	
SPGP	Variety of activities to DEP		7/24/2006	7/24/2011	



**NATIONWIDE PERMITS EFFECTIVE MARCH 12, 2007**

<b><u>Nationwide Permit Number &amp; Description</u></b>	<b><u>Water Quality Certification</u></b>	<b><u>Coastal Zone Consistency</u></b>	<b><u>Pre-Construction Notification Requirements</u></b>
1: Aids to Navigation	N/A	<u>Concurrence Granted</u>	None
2: Structures in Artificial Canals	N/A	<u>Concurrence Granted</u>	None
3: Maintenance	Issued	<u>Concurrence Granted</u>	All except repair, replacement, or rehabilitation; Regional conditions #6, #7, #8, #9 and #10; GC #19.
4: Fish & Wildlife Harvesting, Enhancement and Attraction Devices and Activities	Issued	<u>Concurrence Granted</u>	Regional Condition #3
5: Scientific Measurement Devices	Issued	<u>Concurrence Granted</u>	None
6: Survey Activities	Issued	<u>Concurrence Granted</u>	Regional Condition #7
7: Outfall Structures	Issued	<u>Concurrence Granted</u>	All Activities
8: Oil and Gas Structures	N/A	<u>Concurrence Denied</u>	All activities
9: Structures in Fleeting and Anchorage Areas	N/A	<u>Concurrence Granted</u>	None
10: Mooring Buoys	N/A	<u>Concurrence Granted</u>	Regional Condition #4; GC #19
11: Temporary Recreational Structures	N/A	<u>Concurrence Granted</u>	Regional Condition #2
12: Utility Line Activities	Issued	<u>Concurrence Granted</u>	1/10 acre; Section 10; Regional Conditions #2, #4, #6, and #8.
13: Bank Stabilization	Issued	<u>Concurrence Granted</u>	500 ft length; 1cy/ft below OHWM; Project located in a special aquatic site; Regional Conditions #4, #5, and #9; GC #19.
14: Linear Transportation Projects	Issued	<u>Concurrence Granted</u>	1/10 acre; Discharges into special aquatic sites; Regional Conditions #6, #7, and #8.
15: USCG Approved Bridges	Issued	<u>Concurrence Granted</u>	Regional Condition #3; GC #19
16: Return Water from Upland Contained Disposal Facility	Issued	<u>Concurrence Granted</u>	None
17: Hydropower Projects	Issued	<u>Concurrence Granted</u>	All Activities
18: Minor Discharges	Issued	<u>Concurrence Granted</u>	10 cy below OHWM or high tide line; Any fill in special aquatic site; Regional Conditions #2, #5 and #6; GC #19.
19: Minor Dredging	Issued	<u>Concurrence Granted</u>	Regional Conditions #4 and #5; GC #19



<b>Nationwide Permit Number &amp; Description</b>	<b>Water Quality Certification</b>	<b>Coastal Zone Consistency</b>	<b>Pre-Construction Notification Requirements</b>
20: Oil-Spill Cleanup	Issued	Concurrence Granted	None
22: Removal of Vessels	Issued	Concurrence Granted	Vessels listed/eligible for National Register of Historic Places: GC #19
23: Approved Categorical Exclusions	Issued	Concurrence Granted	Those stipulated by the CatExs themselves: GC #19
25: Structural Discharges	Issued	Concurrence Granted	GC #19
27: Aquatic Habitat Restoration, Establishment, and Enhancement Activities	Issued	Concurrence Granted	All Activities
28: Modification of Existing Marinas	N/A	Concurrence Granted	Regional Condition #2; GC #19
29: Residential Developments	Issued	Concurrence Granted	All Activities
30: Moist Soil Management	Issued	Concurrence Granted	GC #19
31: Maintenance of Existing Flood Control Facilities	Issued	Concurrence Granted	All Activities
32: Completed Enforcement Actions	Issued	Concurrence Granted	N/A
33: Temporary Construction and Access and Dewatering	Issued	Concurrence Granted	All Activities
35: Maintenance Dredging of Existing Basins	N/A	Concurrence Granted	Regional Conditions #4 and #5
36: Boat Ramps	Issued	Concurrence Granted	> 50 cy; or > 20 ft width; Regional Conditions #4 and #5; GC#19
37: Emergency Watershed Protection & Rehabilitation	Issued	Concurrence Granted	All Activities
38: Cleanup of Hazardous and Toxic Waste	Issued	Concurrence Granted	All Activities
39: Commercial and Institutional Developments	Issued	Concurrence Granted	All Activities
40: Agricultural Activities	Issued	Concurrence Granted	All Activities
41: Reshaping Existing Drainage Ditches	Issued	Concurrence Granted	Reshaping >500 linear ft; Regional Condition #4, #5, and #6.
42: Recreational Facilities	Issued	Concurrence Granted	All Activities
43: Stormwater Management Facilities	Issued	Concurrence Granted	All new construction or expansion but not maintenance; Regional Conditions #3 and #8.



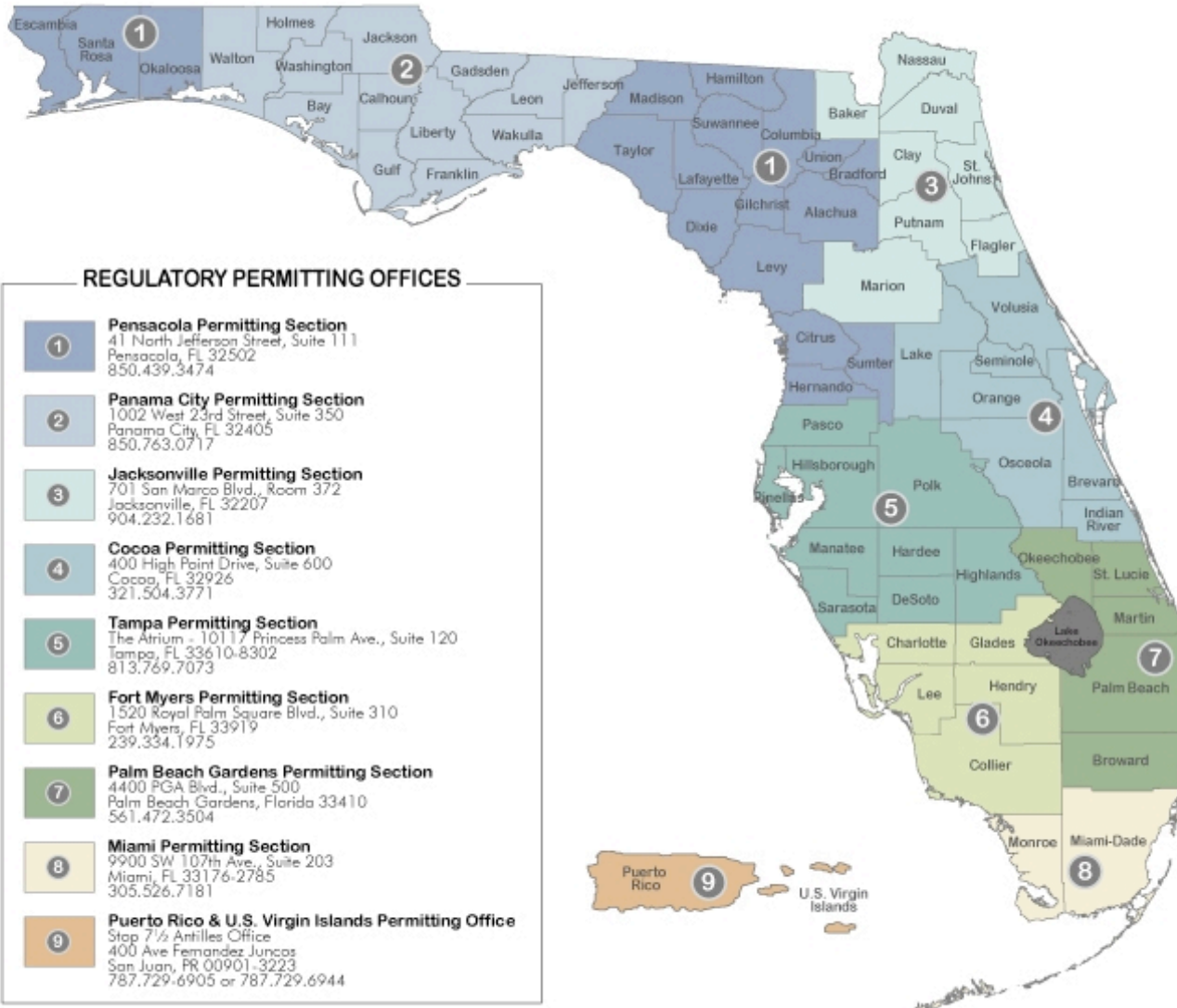
<b>Nationwide Permit Number &amp; Description</b>	<b>Water Quality Certification</b>	<b>Coastal Zone Consistency</b>	<b>Pre-Construction Notification Requirements</b>
44: Mining Activities	Issued	Concurrence Granted	All Activities
45: Repair of Uplands Damaged by Discrete Events	Issued	Concurrence Granted	All activities; Regional Conditions #6, #7, #8, and #9
46: Discharges in Ditches	Issued	Concurrence Granted	Regional conditions #4, #5, and #6
47: Pipeline Safety Program Designated Time Sensitive Inspections and Repairs	Issued	Concurrence Granted	None
48: Existing Commercial Shellfish Aquaculture Activities	Issued	Concurrence Granted	If cover of SAV 25% or greater

Notes: Further explanations of listed activities can be found at 33 CFR Part 330 Appendix B.

All NWP are subject to federal limitations and conditions—see [http://www.usace.army.mil/cw/cecwo/reg/nationwide\\_permits.htm](http://www.usace.army.mil/cw/cecwo/reg/nationwide_permits.htm).

Also see <http://www.dep.state.fl.us/water/wetlands/erp/nwp.htm> for regional conditions that are applicable in the State of Florida.

**IF YOU HAVE QUESTIONS REGARDING ANY OF THE FEDERAL REGIONAL, STATEWIDE, OR NATIONWIDE PERMITS, PLEASE CONTACT THE LOCAL OR JACKSONVILLE OFFICE OF THE U.S. ARMY CORPS OF ENGINEERS.**



**REGULATORY PERMITTING OFFICES**

- 1 Pensacola Permitting Section**  
 41 North Jefferson Street, Suite 111  
 Pensacola, FL 32502  
 850.439.3474
- 2 Panama City Permitting Section**  
 1002 West 23rd Street, Suite 350  
 Panama City, FL 32405  
 850.763.0717
- 3 Jacksonville Permitting Section**  
 701 San Marco Blvd., Room 372  
 Jacksonville, FL 32207  
 904.232.1681
- 4 Cocoa Permitting Section**  
 400 High Point Drive, Suite 600  
 Cocoa, FL 32926  
 321.504.3771
- 5 Tampa Permitting Section**  
 The Atrium - 10117 Princess Palm Ave., Suite 120  
 Tampa, FL 33610-8302  
 813.769.7073
- 6 Fort Myers Permitting Section**  
 1520 Royal Palm Square Blvd., Suite 310  
 Fort Myers, FL 33919  
 239.334.1975
- 7 Palm Beach Gardens Permitting Section**  
 4400 PGA Blvd., Suite 500  
 Palm Beach Gardens, Florida 33410  
 561.472.3504
- 8 Miami Permitting Section**  
 9900 SW 107th Ave., Suite 203  
 Miami, FL 33176-2785  
 305.526.7181
- 9 Puerto Rico & U.S. Virgin Islands Permitting Office**  
 Stop 7 1/2 Antilles Office  
 400 Ave Fernandez Juncos  
 San Juan, PR 00901-3223  
 787.729.6905 or 787.729.6944



**ATTACHMENT 3**  
**SUMMARY OF U.S. ARMY CORPS OF ENGINEERS PERMITS**

**REGIONAL AND STATEWIDE PERMITS AS OF JANUARY 9, 2009**

<b>Permit #</b>	<b>Activity</b>	<b>Geographic Locale</b>	<b>Issue Date</b>	<b>Expiration Date</b>	
SAJ-5	Maintenance Dredging of Residential Canals	All FL	11/6/2006	11/7/2011	
SAJ-12	Single-Family Boat Ramp	All FL	11/6/2006	11/7/2011	
SAJ-13	Aerial Transmission Lines	All FL	11/6/2006	11/7/2011	
SAJ-14	Subaqueous Transmission	All FL	11/6/2006	11/7/2011	
SAJ-17	Minor Structures	All FI	11/6/2006	11/7/2011	
SAJ-18	Boat Slips in Upland Cuts	All FL	11/6/2006	11/7/2011	
SAJ-20	Private Single-Family Piers	All FL	5/1/2007	5/1/2012	
SAJ-33	Private Multi-Family Piers	All FL	5/1/2007	5/1/2012	
SAJ-34	Commercial Piers	All FL	11/6/2006	11/7/2011	
SAJ-42	Various Activities	Miami-Dade County	5/1/2002	5/1/2007	Extended
SAJ-46	Bulkheads & Backfill in Residential Canals	All FL	11/6/2006	11/7/2011	
SAJ-67	Minor Activities in Okeechobee	CESAJ-CO	2/7/2007	2/7/2012	
SAJ-71	Live Rock Aquaculture	All FL EEZ via NMFS	8/12/2005	8/12/2010	
SAJ-72	Residential Docks Citrus County	Citrus County	11/6/2006	11/7/2011	
SAJ-74	Fill/Bird Drive Basin	Miami-Dade County	5/31/2005	5/31/2010	
SAJ-75	Royal Palm Beach Subdivision	Royal Palm Beach SD	3/9/2004	3/9/2009	
SAJ-77	Fill/Jupiter Farms	Jupiter Farms SD via DEP	6/19/2007	6/19/2012	
SAJ-78	Fill/Palm Beach Country Estates	PB Country Estates SD	6/19/2007	6/19/2012	
SAJ-80	Miccosukee Tribe of Indians of Florida	Miccosukee Lands	12/28/2006	12/28/2011	
SAJ-82	Variety of Activities in the Florida Keys	Florida Keys only	4/26/2007	4/26/2012	
SAJ-83	Seminole Tribe - Big Cypress	Seminole Tribal Lands	2/19/2008	2/19/2013	
SAJ-86	St. Joe's	St. Joes - Bay & Walton only	6/30/2004	6/30/2009	
SAJ-87	Plantation Acres	Plantation only	5/10/2005	5/10/2010	
SAJ-90	Fill in NE FL	NE FL only	2/10/2006	2/10/2011	
SAJ-91	GP for Cape Coral	Cape Coral only	10/12/2007	10/12/2012	
SAJ-92	Fill for FDOT and FTE in N/C FL	FDOT & FTE only	8/25/2008	8/25/2013	
SAJ-93	Maintenance Dredging by FIND	Resurrected for review			
SAJ-95	Subdivision Phasing to SWFWMD	SWFWMD only	3/24/2008	3/24/2013	
SAJ-96	Pinellas County SF Docks & Shoreline	Pinellas County only	7/13/2007	7/13/2012	
SPGP	Variety of activities to DEP		7/24/2006	7/24/2011	



**NATIONWIDE PERMITS EFFECTIVE MARCH 12, 2007**

<b><u>Nationwide Permit Number &amp; Description</u></b>	<b><u>Water Quality Certification</u></b>	<b><u>Coastal Zone Consistency</u></b>	<b><u>Pre-Construction Notification Requirements</u></b>
1: Aids to Navigation	N/A	<u>Concurrence Granted</u>	None
2: Structures in Artificial Canals	N/A	<u>Concurrence Granted</u>	None
3: Maintenance	Issued	<u>Concurrence Granted</u>	All except repair, replacement, or rehabilitation; Regional conditions #6, #7, #8, #9 and #10; GC #19.
4: Fish & Wildlife Harvesting, Enhancement and Attraction Devices and Activities	Issued	<u>Concurrence Granted</u>	Regional Condition #3
5: Scientific Measurement Devices	Issued	<u>Concurrence Granted</u>	None
6: Survey Activities	Issued	<u>Concurrence Granted</u>	Regional Condition #7
7: Outfall Structures	Issued	<u>Concurrence Granted</u>	All Activities
8: Oil and Gas Structures	N/A	<u>Concurrence Denied</u>	All activities
9: Structures in Fleeting and Anchorage Areas	N/A	<u>Concurrence Granted</u>	None
10: Mooring Buoys	N/A	<u>Concurrence Granted</u>	Regional Condition #4; GC #19
11: Temporary Recreational Structures	N/A	<u>Concurrence Granted</u>	Regional Condition #2
12: Utility Line Activities	Issued	<u>Concurrence Granted</u>	1/10 acre; Section 10; Regional Conditions #2, #4, #6, and #8.
13: Bank Stabilization	Issued	<u>Concurrence Granted</u>	500 ft length; 1cy/ft below OHWM; Project located in a special aquatic site; Regional Conditions #4, #5, and #9; GC #19.
14: Linear Transportation Projects	Issued	<u>Concurrence Granted</u>	1/10 acre; Discharges into special aquatic sites; Regional Conditions #6, #7, and #8.
15: USCG Approved Bridges	Issued	<u>Concurrence Granted</u>	Regional Condition #3; GC #19
16: Return Water from Upland Contained Disposal Facility	Issued	<u>Concurrence Granted</u>	None
17: Hydropower Projects	Issued	<u>Concurrence Granted</u>	All Activities
18: Minor Discharges	Issued	<u>Concurrence Granted</u>	10 cy below OHWM or high tide line; Any fill in special aquatic site; Regional Conditions #2, #5 and #6; GC #19.
19: Minor Dredging	Issued	<u>Concurrence Granted</u>	Regional Conditions #4 and #5; GC #19





<b>Nationwide Permit Number &amp; Description</b>	<b>Water Quality Certification</b>	<b>Coastal Zone Consistency</b>	<b>Pre-Construction Notification Requirements</b>
20: Oil-Spill Cleanup	Issued	Concurrence Granted	None
22: Removal of Vessels	Issued	Concurrence Granted	Vessels listed/eligible for National Register of Historic Places: GC #19
23: Approved Categorical Exclusions	Issued	Concurrence Granted	Those stipulated by the CatExs themselves: GC #19
25: Structural Discharges	Issued	Concurrence Granted	GC #19
27: Aquatic Habitat Restoration, Establishment, and Enhancement Activities	Issued	Concurrence Granted	All Activities
28: Modification of Existing Marinas	N/A	Concurrence Granted	Regional Condition #2; GC #19
29: Residential Developments	Issued	Concurrence Granted	All Activities
30: Moist Soil Management	Issued	Concurrence Granted	GC #19
31: Maintenance of Existing Flood Control Facilities	Issued	Concurrence Granted	All Activities
32: Completed Enforcement Actions	Issued	Concurrence Granted	N/A
33: Temporary Construction and Access and Dewatering	Issued	Concurrence Granted	All Activities
35: Maintenance Dredging of Existing Basins	N/A	Concurrence Granted	Regional Conditions #4 and #5
36: Boat Ramps	Issued	Concurrence Granted	> 50 cy; or > 20 ft width; Regional Conditions #4 and #5; GC#19
37: Emergency Watershed Protection & Rehabilitation	Issued	Concurrence Granted	All Activities
38: Cleanup of Hazardous and Toxic Waste	Issued	Concurrence Granted	All Activities
39: Commercial and Institutional Developments	Issued	Concurrence Granted	All Activities
40: Agricultural Activities	Issued	Concurrence Granted	All Activities
41: Reshaping Existing Drainage Ditches	Issued	Concurrence Granted	Reshaping >500 linear ft; Regional Condition #4, #5, and #6.
42: Recreational Facilities	Issued	Concurrence Granted	All Activities
43: Stormwater Management Facilities	Issued	Concurrence Granted	All new construction or expansion but not maintenance; Regional Conditions #3 and #8.



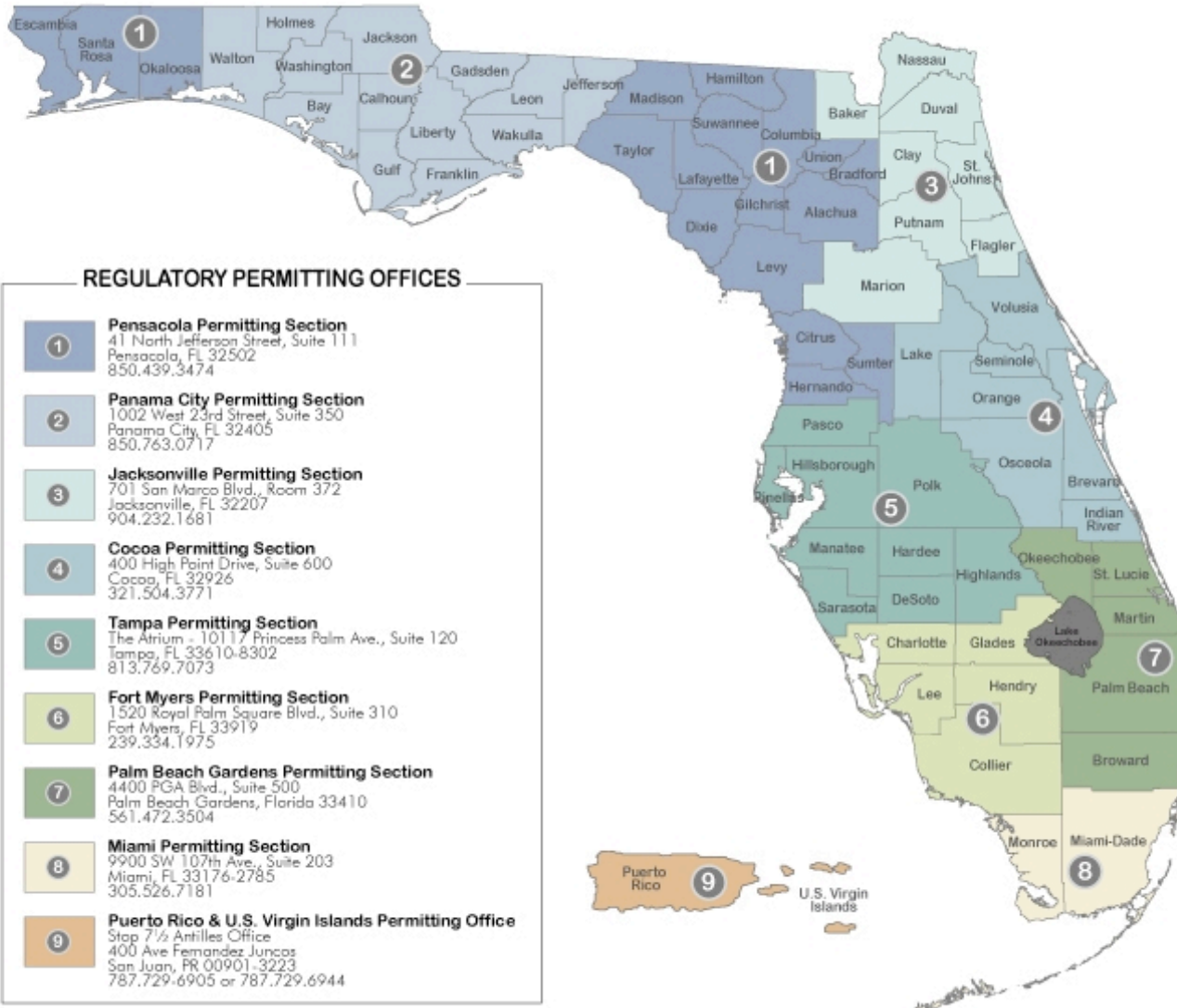
<b>Nationwide Permit Number &amp; Description</b>	<b>Water Quality Certification</b>	<b>Coastal Zone Consistency</b>	<b>Pre-Construction Notification Requirements</b>
44: Mining Activities	Issued	Concurrence Granted	All Activities
45: Repair of Uplands Damaged by Discrete Events	Issued	Concurrence Granted	All activities; Regional Conditions #6, #7, #8, and #9
46: Discharges in Ditches	Issued	Concurrence Granted	Regional conditions #4, #5, and #6
47: Pipeline Safety Program Designated Time Sensitive Inspections and Repairs	Issued	Concurrence Granted	None
48: Existing Commercial Shellfish Aquaculture Activities	Issued	Concurrence Granted	If cover of SAV 25% or greater

Notes: Further explanations of listed activities can be found at 33 CFR Part 330 Appendix B.

All NWP are subject to federal limitations and conditions—see [http://www.usace.army.mil/cw/cecwo/reg/nationwide\\_permits.htm](http://www.usace.army.mil/cw/cecwo/reg/nationwide_permits.htm).

Also see <http://www.dep.state.fl.us/water/wetlands/erp/nwp.htm> for regional conditions that are applicable in the State of Florida.

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9900 SW 107th Ave., Suite 203  
Miami, FL 33176-2785  
305.526.7181
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Stop 7 1/2 Antilles Office  
400 Ave Fernandez Juncos  
San Juan, PR 00901-3223  
787.729.6905 or 787.729.6944



## ATTACHMENT 4 FEES

**Notes:**

- Additional information on This is a **summary** of the fees is contained schedule in Rule 62-346.071, F.A.C.
- Certain small counties and municipalities may qualify for reduced fees — See Section 218.075, F.S., and subsection 62.346-071(5) F.A.C.
- For purposes of determining the applicable fee, the size of the area of any proposed mitigation shall not be considered as part of the project area.

**Permits for Stormwater Management Systems Under Section 373.4145(1)(a), F.S.**

Type of Permit	Fee
<b>A. Individual (Including Conceptual Approval)</b>	
(a) Involving the following amount of <b>dredging, filling, construction, or alteration in, on or over wetlands and other surface waters</b> . The highest fee shall apply whenever an activity meets the criteria for more than one fee category in 1 through (l), below:	
1. Greater than or equal to 100 acres	\$14,020
2. Less than 100 acres and greater than or equal to 50 acres	\$11,220
3. Less than 50 acres and greater than or equal to 10 acres	\$9,120
4. Less than 10 acres and greater than or equal to 5 acres	\$7,710
5. Less than 5 acres and greater than or equal to 2 acres	\$5,610
6. Less than 2 acres and greater than or equal to 1 acre	\$4,210
7. Less than 1 acre	\$710
8. New boat slips:	
a. 50 or more	\$5,610
b. 30 to 49	\$4,210
c. 10 to 29	\$2,110
d. 3 to 9	\$850
e. 1 to 2	\$500
9. Deadhead logging	\$500
(b) For <b>stormwater management systems</b> (not for other surface water management systems such as mitigation banks, new boat slips, or construction or alteration in, on, over wetlands and other surface waters):	
1. Having aA project area of greater than or equal to 100 acres, or that is capable of impounding greater than or equal to 120 acre-feet of water	\$3,510
2. Serving aA project with a total land area of less than 100 acres but greater than or equal to 40 acres, or that is capable of impounding less than 120 but more than 40 acre-feet of water, or that provides for the placement of 12 or more acres of impervious surface that also constitutes more than 40 percent of the total land area	\$1,340
3. Serving aA project that does not exceed any of the thresholds in 1 or 2, above	\$310
(c)4. <b>Retrofits</b> of existing surface water management systems, in accordance with sSection 2.10, Applicant's Handbook Volume II	\$310
(d) Individual permits solely for environmental <b>restoration or enhancement activities</b> , provided such activities are not associated with a mitigation bank and are not being implemented as mitigation for other activities that require a permit under Part IV of Chapter 373, F.S. For the purposes of this provision, the term "environmental restoration or enhancement" means an action or actions designed and implemented solely to convert degraded or altered uplands, wetlands, or other surface waters to intact communities typical of those historically present, or an action or actions that are designed and implemented solely to improve the quality and condition of currently degraded wetlands or other surface waters to a more healthy, functional, and sustaining condition for fish, wildlife, and listed species	\$250
5. Activities requiring an individual permit involving the following types of Class I solid waste disposal facilities, as defined in subsection 62-701.340(3), F.A.C.:	
(e) Class I <b>solid waste disposal facilities</b> , as defined in subsection 62-701.340(3), F.A.C.:	
1.a. New Class I solid waste disposal facility	\$10,520
2.b. Major modification of an existing Class I solid waste disposal facility	\$11,920



<b>(f) Mitigation banks</b>	
1. Mitigation Bank Permit, other than Conceptual Approval	\$6,050
2. Credit Release (credit available for sale)	\$330
3. Credit Withdrawal (actual use of credit)	\$0
4. Mitigation Bank Conceptual Approval Permit	\$6,050
5. Major modifications involving changes to one or more of the following components: service area; credit assessment; success or release criteria; hydrologic structures or alterations; construction or mitigation design that does not increase the project area; elimination of lands; or monitoring or management plans:	
a. Affecting one of the above components	\$1,340
b. Affecting two of the above components	\$2,680
c. Affecting three of the above components	\$4,020
<b>B. Noticed General</b>	\$250
<b>C. Modifications</b>	
<b>(g) 1. Major modifications</b> (see Rule 62-346.100, F.A.C.), including to mitigation bank permits under Chapter 62-342, F.A.C., that increase the project area or involve four or more of the components listed in 62-4.050(4)(h)3.e., F.A.C., of permits, except those involving Class I solid waste disposal facilities, as defined in subsection 62-701.340(3), F.A.C., or as otherwise specified above.	Same fee as a new application permit for the activity
<b>(h) 2. Minor modifications</b> where the modification will not require substantial technical evaluation by the Department, will not lead to substantially different environmental impacts or will lessen the impacts of the original permit, and as further defined in (see Rule section 62-346.100, F.A.C.):	
1.a. To correct minor errors or typographical mistakes and that do not involve technical review or to incorporate changes requested by the Department or required through permits issued by other regulatory agencies, and to change due dates for reporting or performance deadlines when such changes in the due date do not involve any new work, any new work locations, or any new activities, and will not alter, replace, or otherwise eliminate the requirements for otherwise performing the work required by the permit	\$0
b. To incorporate changes requested by the Department or required through permits issued by other regulatory agencies, and to change due dates for reporting or performance deadlines when such changes in the due date do not involve any new work, any new work locations, or any new activities, and will not alter, replace, or otherwise eliminate the requirements for otherwise performing the work required by the permit	\$0
2.e. To convert a permit issued under Part IV of Chapter 373, F.S. from the construction phase to the operation phase	\$0
3.d. That consist of a transfer of a an individual permit or a time extension, other than to convert a permit issued under Part IV of Chapter 373, F.S. from the construction phase to the operation phase	\$80
4. That consist of minor technical changes, minor adjustments to work locations, materials, dimensions or configurations, or elimination of work authorized by the permit when the original permit fee of the issued permit is less than \$300	\$250
5. That consist of minor technical changes, minor adjustments to work locations, materials, dimensions or configurations, or elimination of work authorized by the permit when the original permit fee of the issued permit is more than or equal to \$300	\$420
6. For minor modifications of Individual or Conceptual Approval Permits for Class I solid waste disposal facilities	\$2,110
<b>(i) Individual permits to construct and operate systems for which a conceptual approval permit has been obtained:</b>	
1. First phase of a system, if the construction and operation permit is submitted concurrently with the application for the conceptual approval permit, and construction is proposed to commence within two years of issuance of the conceptual approval permit	\$0
2. First or any subsequent phase of a system, if not requested concurrently with the application for the conceptual approval permit	The fee established in subsection 62-346.071(1), F.A.C.
<b>(j) Verification of qualification to use a nNoticed general permit, except:</b>	\$250
a. Paving of existing municipally owned roads under Rule 62-341.448, F.A.C.	\$0
b. Environmental enhancement and restoration activities conducted by the U.S. Army	\$0



<u>Corps of Engineers under Rule 62-341.486, F.A.C.</u>		
(k) <b>Variances</b> and waivers		<u>\$0</u>
1. <u>Under Section 120.542, F.S.</u>		<u>\$0</u>
2. <u>Under Section 373.414(17), F.S.</u>		
a. <u>Of the prohibition of work in waters approved for shellfish harvesting</u>		<u>\$170</u>
b. <u>Of all other types of variances</u>		<u>\$830</u>
(l) <u>Verification of an <b>exemption</b> under Sections 373.406 or 403.813(1), F.S., or Rule 62-346.051, F.A.C., other than self-certification for which no fee will apply</u>		<u>\$100</u>

**NOTICE OF INTENT TO USE AN ENVIRONMENTAL RESOURCE NOTICED GENERAL PERMIT IN  
NORTHWEST FLORIDA**

**A. General Information**

**1. Applicant Information**

Name (~~last name first unless Corporate or Agency~~): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

**2. Agent Information**

Name (~~last name first~~): \_\_\_\_\_

Corporate or Agency Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

**3. Rule section number of the NGP for which you are applying: 62-341.\_\_\_\_\_, F.A.C.**

**4. Location of proposed activities:**

Address: \_\_\_\_\_

City: \_\_\_\_\_ Zip Code: \_\_\_\_\_ County(ies): \_\_\_\_\_

In (name of waterway): \_\_\_\_\_

Latitude (DMS) \_\_\_\_\_° \_\_\_\_\_' \_\_\_\_\_" Longitude (DMS) \_\_\_\_\_° \_\_\_\_\_' \_\_\_\_\_"

Datum \_\_\_\_\_ (Taken from Central Location)

Tax Parcel Identification Number: \_\_\_\_\_

**5. Date activity is proposed:** To Commence: \_\_\_\_\_ To be Completed: \_\_\_\_\_

**6. Total Extent of Work in Wetlands and Other Surface Waters:** (Use additional sheets and provide breakdown of each category if more space is needed.)

a. Within Federal Jurisdiction:

**Fill** - \_\_\_\_\_ Sq. Ft.; \_\_\_\_\_ Acres; \_\_\_\_\_ Cu. Yds.

**Excavation** - \_\_\_\_\_ Sq. Ft.; \_\_\_\_\_ Acres; \_\_\_\_\_ Cu. Yds.

b. Within State Jurisdiction:

**Fill** - \_\_\_\_\_ Sq. Ft. or \_\_\_\_\_ Acres; \_\_\_\_\_ Cu. Yds.

**Excavation** - \_\_\_\_\_ Sq. Ft. or \_\_\_\_\_ Acres; \_\_\_\_\_ Cu. Yds.

**Fill Waterward of Mean or Ordinary High Water** - \_\_\_\_\_ Cu. Yds.

**Excavation Waterward of Mean or Ordinary High Water** - \_\_\_\_\_ Cu. Yds.



- c. State Jurisdictional Area that will be Severed Landward of Any Fill: \_\_\_\_\_Sq. Ft. or \_\_\_\_\_ Acres
- d. State Jurisdictional Area to be Created from Uplands, Excluding Mitigation: \_\_\_\_\_Sq. Ft. or \_\_\_\_\_ Acres
- e. Docks, Piers, and Over Water Structures:  
 Total Number of Slips \_\_\_\_\_ Total number of mooring pilings \_\_\_\_\_  
 Length \_\_\_\_\_ Width \_\_\_\_\_ Height above MHW \_\_\_\_\_  
 Length \_\_\_\_\_ Width \_\_\_\_\_ Height above MHW \_\_\_\_\_
- Number of Finger Piers \_\_\_\_\_ Length \_\_\_\_\_ Width \_\_\_\_\_ Height \_\_\_\_\_  
 Number of Finger Piers \_\_\_\_\_ Length \_\_\_\_\_ Width \_\_\_\_\_ Height \_\_\_\_\_
- Total area of structure over waters & wetlands \_\_\_\_\_ sq. ft.  
 Use of structure \_\_\_\_\_
- Will the docking facility provide:
- |  | No                       | Yes                      | Number |
|--|--------------------------|--------------------------|--------|
| Liveboard Slips  | <input type="checkbox"/> | <input type="checkbox"/> | _____  |
| Fueling Facilities   | <input type="checkbox"/> | <input type="checkbox"/> | _____  |
| Sewage Pump-out Facilities   | <input type="checkbox"/> | <input type="checkbox"/> | _____  |
| Other Supplies or Services   | <input type="checkbox"/> | <input type="checkbox"/> | _____  |
| Other Supplies or Services Required for Boating<br>(Excluding refreshments, bait and tackle) | <input type="checkbox"/> | <input type="checkbox"/> | _____  |
- f. Seawall length: \_\_\_\_\_ft. Seawall material: \_\_\_\_\_  
 Riprap revetment length: \_\_\_\_\_ft. Slope \_\_\_\_\_H: \_\_\_\_\_V Toe width \_\_\_\_\_ ft.  
 Riprap at toe of seawall length \_\_\_\_\_ft. Slope \_\_\_\_\_ H: \_\_\_\_\_ V Toe width \_\_\_\_\_ ft.  
 Size of riprap \_\_\_\_\_ Type of material \_\_\_\_\_

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## 7. Stormwater Information

- a. Project area: \_\_\_\_\_ ac. Total applicant-owned area contiguous to project: \_\_\_\_\_ ac.
- b. Total area served by system: \_\_\_\_\_ ac.
- c. Impervious area excluding wetlands and other surface waters: \_\_\_\_\_ ac.
- d. Volume of water that the system is capable of impounding: \_\_\_\_\_ ac. ft.
- e. Name of project, including phase if applicable: \_\_\_\_\_
- f. Is this application for part of a multi-phase project? yes no. If you answered yes, please provide permit numbers for other authorized phases:
- | <u>Agency</u> | <u>Date</u> | <u>No.\Application Type</u> |
|---------------|-------------|-----------------------------|
| _____         | _____       | _____                       |
| _____         | _____       | _____                       |
| _____         | _____       | _____                       |
| _____         | _____       | _____                       |
- g. Treatment type proposed: \_\_\_\_\_
- h. Current site conditions and land uses: \_\_\_\_\_
- i. Proposed Land Use: \_\_\_\_\_
- j. Names and classifications of all receiving waters (if available): \_\_\_\_\_





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**8. All Proposed Activities—Describe Proposed Activities (be specific; use additional sheets as necessary).**

- a. What is proposed? \_\_\_\_\_
  
- b. Describe wetland and aquatic habitats to be affected: \_\_\_\_\_
  
- c. Construction methods and schedule: \_\_\_\_\_
  
- d. Additional information that demonstrates that you qualify for the general permit, addressing all the parameters, thresholds, and conditions required in the general permit. \_\_\_\_\_

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**9. Permanent and Temporary Turbidity, Erosion, and Sedimentation Controls Proposed: \_\_\_\_\_**

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**10. Previous Applications for this Project have been:**

- |    |                               |                   |                 |  |
|----|-------------------------------|-------------------|-----------------|--|
|    | <u>Date(s) mm/dd/yyyy</u>     | <u>By:</u>        |                 |  |
| a. | Issued _____/_____/_____      | DEP/DER No. _____ | Corps No. _____ |  |
| b. | Denied _____/_____/_____      | DEP/DER No. _____ | Corps No. _____ |  |
| c. | Other (please explain): _____ |                   |                 |  |

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**B. Drawings**

Please provide scaled or fully dimensioned plan (overhead) and profile (side-view) drawings that clearly delineate and identify the extent of the proposed activities ~~project~~ on drawings of an appropriate size. If the work involves activities located within federal or state wetlands or other surface waters, submit an additional set of all drawings on 8 1/2" x 11" paper. All drawings must ~~which~~ include the following, clearly and accurately depicted:

- a. Existing approximate mean high water (MHW/OHW) shoreline.
- b. Applicant's property boundaries and dimensions.
- c. North arrow.
- d. Location and dimensions of all existing structures.
- e. Location and dimensions of proposed activities.
- f. Boundaries of wetlands and other surface waters, identifying open water areas. Cross-hatch limits of proposed excavation in wetlands and other surface waters, and hatch limits of proposed fill in wetlands and other surface waters.
- g. Boundary area and volume of all temporary and permanent earthwork, including pre- and post-construction grades.
- h. Label all impervious and pervious areas, and indicate their size (area).
- i. Drainage and flow patterns on the property.



- j. Distances of project in relation to permanent landmarks (i.e. trees, buildings, etc.) as appropriate,
- k. Location map(s), clearly locating the proposed project location in relation to streets and roads, which should be clearly labeled. Provide directions to get to site if necessary.
- l. Note: Plans, drawings, and supporting calculations must be signed, sealed, and dated by a registered professional, as required by the relevant statutory provisions when the design of the system requires the services of a registered professional.

**C. Certification**

I hereby certify I have read and will conduct the above activities in accordance with the criteria, limitations, and Specific Conditions of the general permit identified in Item 3, and in accordance with the General Conditions of Rule 62-341.215, F.A.C. Unless otherwise provided in Chapter 62-341, F.A.C., activities conducted pursuant to the above general permit may commence thirty (30) days after receiving written acknowledgment that notice has been provided to the Department of Environmental Protection or the Northwest Florida Water Management District, along with any required additional documentation which may be required to fulfill the requirements of the general permit, unless the Department or Northwest Florida Water Management District responds that the proposed work does not qualify for a general permit. Written acknowledgment may include certified mail return receipt.

I understand I may have to provide any additional information/data that may be necessary to provide reasonable assurance or evidence that the proposed project will comply with the applicable State Water Quality Standards or other environmental standards both before construction and after the process is completed.

I further acknowledge that work done under this general permit may also require the review and approval of other Federal, State, or local agencies, and that commencement of construction before such Federal, State, or local agency approvals or permits are obtained may subject me to enforcement action and fines or penalties by such agencies. Further, the work shall be conducted in a manner that does not violate applicable water quality standards.

In addition, I agree to provide entry to the project site for inspectors with proper identification or documents as required by law from the environmental agencies for the purpose of inspecting the site. Further, I agree to provide entry to the project site for such inspectors to monitor permitted work.

\_\_\_\_\_  
 Typed/Printed Name of Applicant or Agent      Signature of Applicant or Agent      Date

An Agent May Sign Above If Applicant Completes the Following:  
 I hereby designate and authorize the agent listed in Item 2 to act on my behalf as my agent in the processing of this permit application and to furnish on request, supplemental information in support of the application.

\_\_\_\_\_  
 Typed/Printed Name of Applicant (and Corporate Title, if applicable)      Signature of Applicant      Date



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**D. For systems that require the certification of a registered professional:**

This is to certify that the features of the system that are the subject of this application have been designed by me or my designee under my direct supervision and have been examined by me and found to be in conformity the laws and other requirements of my professional practice act. I further certify that the system has been designed in accordance with the applicable criteria and specifications required by the “Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant's Handbook—Volume I (General & Environmental) and Volume II (Design Requirements for Stormwater Treatment and Management Systems — Water Quality and Water Quantity)” effective [Effective Date].

Name of Registered Professional: \_\_\_\_\_

Florida Registration Number: \_\_\_\_\_

Company Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ (Affix Seal)

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

\_\_\_\_\_  
Signature of Registered Professional

\_\_\_\_\_  
Date

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**E.D. Submittal**

Submit this completed form, with attached drawings and with the noticed general permit processing fee of \$250 ~~\$400~~, made payable to the "Florida Department of Environmental Protection," or the "Northwest Florida Water Management District (WMD)," in accordance with the responsibilities of these agencies as provided in Chapter 62-346, F.A.C.



### Construction Commencement Notice

Permit No. \_\_\_\_\_ Date Issued \_\_\_\_\_ Expiration Date \_\_\_\_\_

Identification or Name of Surface Water ~~Stormwater~~ Management System: \_\_\_\_\_

Phase of Surface Water ~~Stormwater~~ Management System (if applicable): \_\_\_\_\_

Name of Permit Holder: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

The undersigned hereby notifies the agency below that the construction of this surface water ~~stormwater~~ management system is expected to commence on \_\_\_\_\_ (mm/dd/yyyy) and is expected to be completed by \_\_\_\_\_ (mm/dd/yyyy).

\_\_\_\_\_  
Signature of Permit Holder or Authorized Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title (if any)

Complete the following if an authorized agent signs above:

Name of Authorized Agent: \_\_\_\_\_

Agent Mailing Address: \_\_\_\_\_

Agent City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Agent Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

**Submit this form to the following office:**

Department of Environmental Protection Northwest Florida Water Management District

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**AS-BUILT CERTIFICATION BY A REGISTERED PROFESSIONAL**

Permit No. \_\_\_\_\_

Identification or Name of Surface Water ~~Stormwater~~ Management System: \_\_\_\_\_

Phase of Surface Water ~~Stormwater~~ Management System (if applicable): \_\_\_\_\_

- The undersigned hereby certifies that all components of this surface water ~~stormwater~~ management system, including areas of dredging and filling, have been built or conducted substantially in accordance with the permit, that the system is functioning as permitted, and that the system is ready for inspection. Any minor deviations (noted below) from the permit will not prevent the system from functioning as designed when properly maintained and operated. This certification is based upon on-site observation of the system conducted by me or my designee under my direct supervision and my review of as-built plans certified by a registered professional.

Minor deviations from the permit (attach additional pages if needed):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Attach a copy of as-built plans ~~when there are deviations~~, with deviations, if any, noted to reflect the changes made during construction or performance of the work. See paragraph 62-346.381(1)(g), F.A.C., for additional information. Deviation of the permitted plans may require a modification of the permit.**

- The undersigned hereby certifies that I or my designee under my direct supervision has inspected this surface water ~~stormwater~~ management system, including areas of dredging and filling, and the system does not appear to have been built or conducted substantially in accordance with the permit or is not functioning in accordance with the requirements of the permit. One of the following applies:
- The system was constructed or conducted with substantial design changes that are not in conformance with the permit (attach description and as-built drawings showing all changes).
  - I am aware that additional work ~~construction~~ is required to bring the system into compliance with the terms and conditions of the permit. As appropriate, I have informed the permittee of the following:
    - (a) That the system does not appear to be functioning properly; and
    - (b) That additional work ~~construction~~ is required to bring the system into compliance.



The following components of the system do not appear to be functioning properly (attach additional pages if needed):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Any components of the system that are not in substantial conformance with the permit require a modification of the permit in accordance with Rule 62-346.100, F.A.C. If the modification request is not approved, the components of the system that are not in conformance with the permit are subject to enforcement action under Sections 373.119, .129, .136, and .430, F.S. If modifications are approved and implemented by the permittee, this form shall be resubmitted to the agency below, together with a completed Form 62-346.900(6).**

Name of Registered Professional: \_\_\_\_\_

Company Name: \_\_\_\_\_ Florida Registration Number: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ (Affix Seal)

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

\_\_\_\_\_  
Signature of Registered Professional \_\_\_\_\_ Date

If more than one registered professional performed the inspection, the other professional(s) must also complete the following:

Name of Registered Professional: \_\_\_\_\_

Company Name: \_\_\_\_\_ Florida Registration Number: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ (Affix Seal)

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

\_\_\_\_\_  
Signature of Registered Professional \_\_\_\_\_ Date



**Submit this certification to the following agency within 30 days of completion of the system:**

Department of Environmental Protection Northwest Florida Water Management District

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## AS-BUILT DRAWINGS AND INFORMATION CHECKLIST

Following is a list of information that is to be verified and submitted by the registered professional in support of the “As-Built Certification.”

1. As-built drawings are to be based on the construction drawings permitted by the Department or NFWFMD, and revised as necessary to reflect any changes made during construction. Both the original design and constructed condition must be clearly shown. The plans need to be clearly labeled as “as-built” or “record” drawings. All surveyed dimensions and elevations shall be verified and signed, dated, and sealed by a registered professional. ~~The following information, at a minimum, shall be verified on the as-built drawings, and supplemental documents, if needed:~~
  - ~~a. Discharge structures — Locations, dimensions, and elevations of all, including weirs, orifices, gates, pumps, pipes, and oil and grease skimmers;~~
  - ~~b. Side bank and underdrain filters, or exfiltration trenches — Locations, dimensions, and elevations of all, including clean-outs, pipes, connections to control structures and points of discharge to receiving waters;~~
  - ~~c. Storage areas for treatment and attenuation — Dimensions, elevations, contours or cross-sections of all, sufficient to determine stage-storage relationships of the storage area and the permanent pool depth and volume below the control elevation for normally wet systems;~~
  - ~~d. System grading — Dimensions, elevations, contours, final grades or cross-sections to determine contributing drainage areas, flow directions, and conveyance of runoff to the system discharge point(s);~~
  - ~~e. Conveyance — Dimensions, elevations, contours, final grades or cross-sections of systems utilized to divert off-site runoff around or through the new system;~~
  - ~~f. Water levels — Existing water elevations(s) and the date determined;~~
  - ~~g. Benchmark(s) — Location and description (minimum of one per major water control structure).~~
2. Submit the final subdivision plat or other legal documents, as recorded in the county public records, showing dedicated rights-of-way, easement locations, and special use areas that are reserved for water management purposes and continuing operation and maintenance;
3. Additional information will be shown on the as-built drawings otherwise provided as needed to verify and support the As-Built Certification (example: homeowner’s association final documents and other items required by permit conditions).





**CONSTRUCTION COMPLETION AND INSPECTION CERTIFICATION  
FOR A SYSTEM SERVING AN INDIVIDUAL, PRIVATE SINGLE-FAMILY  
DWELLING UNIT**

**Note: This form is intended to be used *solely* by or for the permittee of an individual, private single-family dwelling unit, duplex, triplex, or quadruplex that is not part of a larger plan of development proposed by the applicant/permittee**

Permit No. \_\_\_\_\_

Name of Permittee: \_\_\_\_\_

Location of Project: \_\_\_\_\_

The undersigned hereby certifies that all components of the structures and **activities authorized by the above permit have been conducted and/or built substantially in accordance with the terms and conditions of the permit**, that the system is functioning as permitted, and that the system is ready for inspection. Any minor deviations (noted below) from the permit will not prevent the system from functioning and operating as designed, subject to routine custodial maintenance. This certification is based upon on-site inspection of the system conducted by me or my designee under my direct supervision and my review of the permit. If the undersigned is not the permittee, I further certify that I am acting for, and on behalf of the permittee.

Minor deviations from the permit (attach additional pages if needed):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Attach a copy of permit drawings or conditions when there are deviations, with the deviations noted on the drawings or conditions to reflect the changes made during construction or performance of the work. See paragraph 62-346.381(1)(g), F.A.C., for additional information. Deviation of the permitted plans may require a modification of the permit.**

**Sign and complete the information at the bottom of Page 2, and submit this form within 30 days of the inspection.**

Upon receipt of this form, and verification by the Department or Northwest Florida Water Management District, as applicable, that any noted modifications are noted, the construction phase of this permit shall automatically convert to an operation and maintenance phase.

If the above does not apply, complete the information below:



The undersigned hereby certifies that I or my designee under my direct supervision has inspected the system located at the above location and have determined that the system **does NOT appear to have been built or conducted substantially in accordance with the permit**, or is not functioning in accordance with the requirements of the permit. One of the following applies:

The system was constructed or conducted with substantial design changes that are not in conformance with the permit (attach description and permit drawings showing all changes), and either:

I, the permittee, am aware that additional work is required to bring the system into compliance with the terms and conditions of the permit; or

I, the agent inspecting the system on behalf of and for the permittee, have informed the permittee of the following:

(a) That the system does not appear to be functioning properly; and

(b) That additional construction or work is required to bring the system into compliance.

The following components of the system do not appear to be functioning properly (attach additional pages if needed):

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**Any components of the system that are not in conformance with the permit must either be brought into compliance with the permit within 30 days of the inspection, or the permittee must request a modification of the permit in accordance with Rule 62-346.100, F.A.C., within 30 days of the inspection. If the modification request is not approved, the components of the system that are not in conformance with the permit are subject to enforcement action under Sections 373.119, .129, .136, and .430, F.S. If modifications are approved and implemented by the permittee, the permittee shall resubmit this form within 30 days of completion of the remedial work on the permitted system.**

**Complete and sign the information below, and submit this form within 30 days of the inspection.**

Name of Inspector: \_\_\_\_\_, who is:  the permittee;  the agent for the permittee

Company Name (if applicable): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

\_\_\_\_\_  
Signature of Inspector

\_\_\_\_\_  
Date

Construction Completion and Inspection Certification for a System Serving an Individual Private Single-Family Dwelling Unit  
\*\* 4-15-09 for Hearing\*\* [Effective Date]

Page 2 of 3



**If at any time the Department determines that the above system was not built or conducted in conformance with the terms and conditions of the permit, the permittee and the inspector shall be subject to enforcement by the Department, and for all measures required to bring the system into compliance cease with the permit. The permittee shall remain liable for ensuring that that system remains in full and complete compliance with the terms of the permit for the life of the system, unless such permit is transferred in accordance with Rule 62-346.130, F.A.C.**

**Submit this certification to:**

Department of Environmental Protection

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**Request for Conversion of Environmental Resource Individual Stormwater Management Permit Construction Phase to Operation and Maintenance Phase**

Permit No.: \_\_\_\_\_ Date Issued: \_\_\_\_\_ Expiration Date of Construction Phase: \_\_\_\_\_

Identification or Name of Surface Water Stormwater Management System: \_\_\_\_\_

Phase of Surface Water Stormwater Management System (if applicable): \_\_\_\_\_

Name of Current Construction Phase Permittee: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

The undersigned hereby requests that this permit, issued by the agency below, be converted from the construction phase to the operation and maintenance phase.

\_\_\_\_\_  
 Signature of Current Construction Phase Permittee Date

The surface water stormwater management facilities are hereby accepted by the undersigned for operation and maintenance in accordance with the provisions of Rule 62-346.095, F.A.C. Enclosed is a copy of the documentation supporting the transfer as required by that rule and the provisions in section 12.2 of the "Department of Environmental Protection/Northwest Florida Water Management District Environmental Resource Permit Applicant's Handbook Volume I (General)."

The undersigned hereby agrees that all terms and conditions of the permit and subsequent modifications, if any, have been reviewed, are understood and are hereby accepted. Any proposed modifications shall be applied for and obtained prior to such modification.

Operating Entity: \_\_\_\_\_  
 (Signature) Date

Name of Operation and Maintenance Phase Permittee: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_



**This form should ONLY be used to convert a permit from the construction phase to the operation and maintenance phase when the operation and maintenance entity: 1) is the same as the construction phase permittee; or 2) was previously identified and approved as part of the issuance of the permit. In either of these cases, no fee is required for this transfer. Transfer of the permit to any other operation and maintenance entity will require submittal of a “Notification of Transfer of Permit,” Form 62-346.900(7), and payment of the applicable processing fee for modification of a permit, as provided in Rules 62-346.071, 62-346.100, and 62-346.130, F.A.C.**

**Enclosures:**

- Copy of recorded transfer of title for stormwater water management system
- Copy of plat(s)
- Copy of recorded restrictive covenants, articles of incorporation, and certificate of incorporation
- Other \_\_\_\_\_.

**Submit this form to the following office within 30 days following completion of construction:**

Department of Environmental Protection

Northwest Florida Water Management District

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**NOTIFICATION OF TRANSFER OF PERMIT**

Permit No.: \_\_\_\_\_ Date Issued: \_\_\_\_\_

Identification or Name of Surface Water ~~Stormwater~~ Management System: \_\_\_\_\_

Phase of Surface Water ~~Stormwater~~ Management System (if applicable): \_\_\_\_\_

**FROM:**

Name of Current Permit Holder: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

The undersigned hereby notifies the agency below of the sale or other legal transfer of the responsibility of constructing and/or operating of the surface water ~~stormwater~~ management system, and further agrees to assign all rights and obligations as permittee to the applicant in the event the agency below agrees to the transfer of the permit.

\_\_\_\_\_  
Signature of Current Permittee \_\_\_\_\_ Date

\_\_\_\_\_  
Title (if any)

**TO:**

Name of Proposed Permit Holder: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

The undersigned hereby notifies the agency below of having acquired through sale or other legal transfer the responsibility for constructing and/or operating the surface water ~~stormwater~~ management system. The undersigned also states that he or she has examined the permit issued by the below agency, and agrees to assume the rights and liabilities contained in the permit.

\_\_\_\_\_  
Signature of Applicant (Proposed Permit Holder) \_\_\_\_\_ Date

\_\_\_\_\_  
Title (if any)



Name of Registered Professional Project Engineer (if applicable): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

Enclosures:

- Copy of recorded transfer of title for surface water ~~stormwater~~ water management system
- Copy of plat(s)
- Copy of recorded restrictive covenants, articles of incorporation, and certificate of incorporation
- Other \_\_\_\_\_.

**Submit this form to the following office at least 30 days prior to any transfer of ownership or control of the real property at which the permitted activity is located, or at least 30 days prior to any transfer of the permit to an entity other than as approved in the issued permit:**

Department of Environmental Protection Northwest Florida Water Management District

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**OPERATION AND MAINTENANCE INSPECTION CERTIFICATION**

Permit Number: \_\_\_\_\_

Identification or Name of Surface Water ~~Stormwater~~ Management System: \_\_\_\_\_

Phase of Surface Water ~~Stormwater~~ Management System (if applicable): \_\_\_\_\_

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Inspection Date(s): \_\_\_\_\_

Inspection results: (check all that apply)

- The undersigned hereby certifies that the surface water ~~stormwater~~ management system is functioning in substantial conformance with the permit. This certification is based upon on-site observation of the system conducted by me or my designee under my direct supervision and my review of as-built plans certified by an appropriate registered professional.
- The following maintenance was conducted since the last inspection (attach additional pages if needed):

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- The undersigned hereby certifies that I or my designee under my direct supervision has inspected this surface water ~~stormwater~~ management system and the system does not appear to be functioning in substantial conformance with the permit. I am aware that maintenance or alteration is required to bring the system into substantial compliance with the terms and conditions of the permit. As appropriate, I have informed the owner of the following:
  - (a) The system does not appear to be functioning properly;
  - (b) That maintenance or repair is required to bring the system into compliance; and
  - (c) If maintenance or repair measures are not adequate to bring the system into compliance, the system may have to be replaced or an alternative design constructed subsequent to approval by the agency below.

The following components of the system do not appear to be functioning properly (attach additional pages if needed):

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**Any components of the constructed system that are not in substantial conformance with the permitted system shall require a written request to modify the permit in accordance with the**



**provisions of Rule 62-346.100, F.A.C. If such modification request is not approved by the agency below, the components of the system that are not in conformance with the permit are subject to enforcement action under Sections 373.119, .129, .136, and .430, F.S. If such modifications are approved by the Department and implemented by the permittee, this form shall be resubmitted to the Department upon completion of modification.**

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Name of Appropriate Registered Professional: \_\_\_\_\_

Company Name: \_\_\_\_\_ Florida Registration Number: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

---

Signature of Appropriate Registered Professional

\_\_\_\_\_ Date

---

**Report Reviewed by Permittee:**

Name of Permittee: \_\_\_\_\_

\_\_\_\_\_ Signature of Permittee

\_\_\_\_\_ Date

\_\_\_\_\_ Title (if any)

---

**Submit this certification to the following agency within 30 days of completion of the inspection:**

Department of Environmental Protection Northwest Florida Water Management District

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**REGIONAL STORMWATER MANAGEMENT SYSTEM ANNUAL REPORT**

Permit No. \_\_\_\_\_ Permittee Name: \_\_\_\_\_

Identification or Name of Regional Stormwater Management System: \_\_\_\_\_

Phase of Regional Stormwater Management System (if applicable): \_\_\_\_\_

**PART A—Permitted/Previous Status of Regional System; as of \_\_\_\_\_ (date of last report—mm/dd/yyyy):**

Permitted Design Capacity (Inflow Volume): \_\_\_\_\_

Stormwater Quality Inflow Volume (From Last Report): \_\_\_\_\_

Total Project Area Served (From Last Report): \_\_\_\_\_

Impervious Acres Served (From Last Report): \_\_\_\_\_

**PART B—Detail of New Discharges, as of \_\_\_\_\_ (current date—mm/dd/yyyy):**

The following projects have received permission to discharge into the Regional Stormwater Management System since the previous annual report (use additional sheets as necessary):

Project Name: _____				
Project Address: _____				
Permit Number	Project Area (Acres)	Land Use* (Acres)	Added Impervious (Acres)	Stormwater Quality Volume Discharged into Regional Facility
_____	_____	_____	_____	_____

Project Name: _____				
Project Address: _____				
Permit Number	Project Area (Acres)	Land Use* (Acres)	Added Impervious (Acres)	Stormwater Quality Volume Discharged into Regional Facility
_____	_____	_____	_____	_____

Project Name: _____				
Project Address: _____				
Permit Number	Project Area (Acres)	Land Use* (Acres)	Added Impervious (Acres)	Stormwater Quality Volume Discharged into Regional Facility
_____	_____	_____	_____	_____



Project Name:	_____			
Project Address:	_____			
Permit Number	Project Area (Acres)	Land Use* (Acres)	Added Impervious (Acres)	Stormwater Quality Volume Discharged into Regional Facility
_____	_____	_____	_____	_____

\* Land Use Codes:      1 = Single Family Residential; 2 = Multi-family residential; 3 = Commercial;  
4 = Industrial; 5 = Recreational; 6 = Natural; 7 = Water; 8 = Other

**PART C—Current Status**

Cumulative Total Stormwater Quality Inflow Volume: \_\_\_\_\_

Cumulative Total Project Area Served: \_\_\_\_\_

Cumulative Total Impervious Acres Served: \_\_\_\_\_

**PART D—Certification:**

The undersigned owner/operator of this Regional Stormwater Discharge Facility hereby certifies that the statements made in this report are true, accurate and complete and certifies that this facility has adequate capacity to accept the stormwater volumes listed in Part B above and that the facility continues to provide the necessary treatment as required by the above permit issued for the Regional Stormwater Management System.

Name of Current Permit Holder: \_\_\_\_\_

\_\_\_\_\_  
Signature of Current Permittee \_\_\_\_\_  
Date

\_\_\_\_\_  
Title (if any)

**Submit this form to the following office:**

Department of Environmental Protection Northwest Florida Water Management District

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**COUNTY OR MUNICIPALITY REQUEST TO REDUCE PERMIT APPLICATION FEES  
PURSUANT TO SECTION 218.075, F.S.**

Applicant

Name of County or Municipality: \_\_\_\_\_

Authorized Representative: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

The undersigned hereby certifies that the above local government meets the population requirements of Section 218.075, F.S., and:

- Is the applicant for a public purpose project for which this fee reduction is sought; and
- Qualifies for permit processing fee reduction for the \_\_\_\_\_ fiscal year due to one or more of the following factor(s):
  - The per capita taxable value is less than the statewide average for the current fiscal year;
  - The percentage of assessed property value that is exempt from ad valorem taxation is higher than the statewide average for the current fiscal year;
  - A condition specified in Section 218.503, F.S., that determines a state of financial emergency;
  - Ad valorem operating millage rate for the current fiscal year is greater than 8 mills; or
  - A financial condition that is documented in annual financial statements at the end of the current fiscal year and indicates an inability to pay the permit processing fee during that fiscal year.

The above factors are supported by one of the following :

- A copy of an official resolution by the governing body of the county or municipality, or
- A copy of the official minutes of the governing body of the county or municipality in which the above factors have been affirmed.

Based on this certification, the  Department of Environmental Protection  Northwest Florida Water Management District is hereby requested to reduce the permit application fee for the above public purpose project to \$100 per permit, or, if the application fee is less than \$100, to waive the fee.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title



## **REQUEST FOR VERIFICATION OF AN EXEMPTION**

This form is to request verification whether an activity qualifies for an exemption from the Environmental Resource Permit (ERP) requirements of Part IV of Chapter 373, F.S., and Chapter 62-346, F.A.C., within the geographical territory of the Northwest Florida Water Management District (NFWFMD).

With some exceptions, notice is **not required** to conduct an activity that qualifies for an exemption from permitting under Sections 373.406, 373.4145, or 403.813, F.S., or Rule 62-346.051, F.A.C. However, many local governments request verification of compliance with the rules and statutes of the state prior to issuing a building permit. Further, entities, such as the U.S. Army Corps of Engineers, other state agencies, regional authorities, and local agencies may require a separate permit or other authorization even if the activity does not require an ERP permit. Exceptions where prior notice to the Department is required prior to conducting an exempt activity are:

- Activities having minimal impact under Section 373.406(6), F.S., often called the “de minimis” exemption.
- Section 403.813(1)(f), F.S., when maintenance dredging within previously dredged portions of natural water bodies within drainage rights-of-way or drainage easements which have been recorded in the public records of the county.
- Section 403.813(1)(t), F.S., for the repair, stabilization, or paving of existing county maintained roads and the repair or replacement of bridges that are part of the roadway.
- Section 403.813(1)(u), F.S., for an individual, residential property owner to remove organic detrital material from freshwater rivers or lakes that have a natural sand or rocky substrate and that are not located in an Aquatic Preserve.

### **BE ADVISED**

In accordance with Chapter 253, F.S., and Chapter 18-21, F.A.C., (April 14, 2008) activities conducted on state-owned submerged lands also must be authorized by the Board of Trustees of the Internal Improvement Trust Fund (BOT). The Department of Environmental Protection acts as staff to the BOT. Through the use of this form, the Department will be able to determine if an additional authorization to perform works on these lands is required, or if the activity requested can be automatically authorized (as a Consent by Rule). You may want to review Rule 18-21.005, F.A.C., (March 8, 2004) for additional information (see <http://www.dep.state.fl.us/legal/Rules/shared/18-21.pdf>). Note that activities located in one of the state’s Aquatic Preserves must receive a separate written authorization in accordance with Chapter 258, F.S., and Rule 18-20, F.A.C., (May 27, 1999).

***Requests to “self certify” a private, single-family dock must be submitted to the Department’s Internet site at: <http://approd.dep.state.fl.us/erppa/> and CANNOT be made using this notice. However requests to verify construction of a dock that does not qualify for self certification may be made using this form.***

***Individuals may also use the Northwest Florida Water Management District’s Exemption Self-Certification web application. There is no fee for utilizing the on-line process. Please visit [www.nwfmnd.state.fl.us](http://www.nwfmnd.state.fl.us) for more information.***

### **SUBMITTAL AND FEES**

All information requested in this form should be completed, together with location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity. This information, and the fee required in Rule 62-346.071, F.A.C., should be submitted to the agency having regulatory authority for the activity, as described in the Operating Agreement between the Department of Environmental Protection and the Northwest Florida Water Management District incorporated by reference in Rule 62-346.091, F.A.C. (see Appendix A of the “Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant’s Handbook, Volume I”).



**General Information**

**Applicant Information**

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

**Please identify the exemption you are requesting to use:**

- Subsection/Paragraph 62-346.051(\_\_\_\_)(\_\_\_\_), F.A.C.
- Section 373.406(6), F.S. (known as the “*de minimis*” exemption — see section 3.4.3.7(c) of Applicant’s Handbook Volume I for additional information)
- Section 373.4145(6) (\_\_\_\_), F.S. (for certain “grandfathered” activities)
- Section 403.813(1)(\_\_\_\_), F.S. (generally, “dredge and fill” exemptions)
- I do not know the exemption number

**Please provide numbers for additional Exemptions if you are requesting to use more than one:** \_\_\_\_\_

**Activity Information**

**Location of proposed activities:**

Address: \_\_\_\_\_

City: \_\_\_\_\_ Zip Code: \_\_\_\_\_ County(ies): \_\_\_\_\_

Latitude (DMS): \_\_\_\_\_ ° \_\_\_\_\_ ’ \_\_\_\_\_ ” Longitude (DMS) \_\_\_\_\_ ° \_\_\_\_\_ ’ \_\_\_\_\_ ” (Taken from Central Location)

Datum: \_\_\_\_\_ Tax Parcel Identification Number: \_\_\_\_\_

**Estimated Start Date:** \_\_\_\_\_

**Description of the Activity**

Please describe the activity, including materials to be used and construction methods: \_\_\_\_\_

Describe wetland and aquatic habitats to be affected: \_\_\_\_\_

Is any work proposed in wetlands or other surface waters?  Yes  No

If yes, please specifically describe, with specific references as to how the limits of the proposed work will comply with the terms and conditions of the above exemption: \_\_\_\_\_



Please provide a description of all sediment and erosion controls to be used during the completion of this activity (such as use of turbidity and erosion controls): \_\_\_\_\_

**NOTE: This notice, or any letter submitted requesting verification of an exemption, must contain:**

- Location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity.
- Two sets of plans and drawings, calculations, environmental information, and other supporting documents that clearly and legibly depict and describe the proposed activities in sufficient detail to demonstrate that the work qualifies for the exemption.
- The fee required by Rule 62-346.071, F.A.C.

**ACKNOWLEDGEMENT**

I have read all the terms and conditions of the above exemption. I believe that I can and will comply with all of its terms and conditions.

I understand this notice is being provided solely to seek verification of qualification to use this exemption(s), and that I am NOT requesting the Department to process this notice as an application for a permit.

I hereby understand that the Department will undertake reasonable efforts to determine, within 30 days of receipt of this notice, whether the activity contained in this notice qualifies for the above exemption. If it does not, the Department will provide its determination that the requested activity does not meet the terms and conditions of the exemption, at which time I may provide a new notice with additional or modified information, or I may submit an application for an Environmental Resource Permit. In either case, denial of qualification to use an exemption will be made without prejudice, pending submittal of clarification of any errors or omissions contained in this notice or other information that demonstrates compliance with the terms and conditions of the exemption.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed or Printed Name of Applicant

\_\_\_\_\_  
Title





## Joint Application for Works in the Waters of Florida

Department of the Army (Corps/Florida Department of Environmental Protection (DEP)/  
Water Management District (WMD)

Corps Application Number (official use only)	DEP Application Number (official use only)
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Type or Print Legibly

1. Applicant's Name and Address

Name \_\_\_\_\_  
 \_\_\_\_\_ Last Name, First Name (if individual); Corporate Name; Name of Govt. Agency \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone \_\_\_\_\_ (Day) \_\_\_\_\_ (Night)

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2. Name, Address, Zip Code, Telephone Number and Title of Applicant's Authorized Agent

Name \_\_\_\_\_  
 \_\_\_\_\_ Last Name, First Name

Corporate Name; Name of Govt. Agency \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_ (Day) \_\_\_\_\_ (Night)

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3. Name of Waterway at Work Site: \_\_\_\_\_

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4. \_\_\_\_\_ Street, Road or Other Location of Work \_\_\_\_\_  
 \_\_\_\_\_ Incorporated City or Town \_\_\_\_\_  
 \_\_\_\_\_ Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_  
 \_\_\_\_\_ Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_  
 \_\_\_\_\_ Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_  
 \_\_\_\_\_ County(ies) \_\_\_\_\_

Coordinates in Center of Project: \_\_\_\_\_ Federal Projects Only: \_\_\_\_\_ x \_\_\_\_\_ y  
 \_\_\_\_\_ Latitude \_\_\_\_\_ " \_\_\_\_\_ ' \_\_\_\_\_ " \_\_\_\_\_ Longitude \_\_\_\_\_ " \_\_\_\_\_ ' \_\_\_\_\_ " \_\_\_\_\_  
 \_\_\_\_\_ Lot \_\_\_\_\_ Block \_\_\_\_\_ Subd \_\_\_\_\_ Plat Bk \_\_\_\_\_ Pg \_\_\_\_\_

Directions to Locale Site: \_\_\_\_\_

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5. Names, Addresses, and Zip Codes of Adjacent Property Owners Whose Property Also Adjoins the Water (Excluding Applicant). Show Numbers or Names of These Owners on Plan Views. If More Than Six (6) Owners Adjoin the Project, You May Be Required to Publish a Public Notice for the DEP.

1. \_\_\_\_\_ 2. \_\_\_\_\_  
 \_\_\_\_\_  
 3. \_\_\_\_\_ 4. \_\_\_\_\_  
 \_\_\_\_\_  
 5. \_\_\_\_\_ 6. \_\_\_\_\_



6. Proposed Use (Check one or more as applicable) Private: Single Family  Multi Family   
 Public  Commercial  New Work  Alteration of Existing Works  Maintenance  Other (Explain): \_\_\_\_\_

7. Desired Permit Duration (see Fee Schedule): 5 Yr.  10 Yr  Other (Specify) \_\_\_\_\_

8. General Permit or Exemption Requested:

DEP General Permit FAC Rule 62-312. \_\_\_\_\_ DEP Exemption FAC Rule 62-312. \_\_\_\_\_ Section 403. \_\_\_\_\_ FS. \_\_\_\_\_

9. Total Extent of Work in Jurisdictional Open Waters or Wetlands: (Use additional sheets and provide complete breakdown of each category if more space is needed.)

a. Within Corps Jurisdiction:

Fill: \_\_\_\_\_ Sq. Ft. \_\_\_\_\_ Acres \_\_\_\_\_ Cu. Yds  
 Excavation: \_\_\_\_\_ Sq. Ft. \_\_\_\_\_ Acres \_\_\_\_\_ Cu. Yds.

b. Within DEP Jurisdiction:

Fill: \_\_\_\_\_ Sq. Ft. \_\_\_\_\_ Acres \_\_\_\_\_ Cu. Yds.  
 Excavation: \_\_\_\_\_ Sq. Ft. \_\_\_\_\_ Acres \_\_\_\_\_ Cu. Yds.  
 Excavation Waterward of MHW \_\_\_\_\_ cu. yds (information needed for DEP)

e. DEP Jurisdictional Area Severed (Area Landward of Fill Structures which will be Severed):  
 \_\_\_\_\_ Sq. Ft. \_\_\_\_\_ Acres

d. DEP Jurisdictional Area Created (New Excavation from Uplands, Exclusive of Mitigation):  
 \_\_\_\_\_ Sq. Ft. \_\_\_\_\_ Acres

e. Docks, Piers, and Over Water Structures:

Total Number of Slips: \_\_\_\_\_ Total Number of Mooring Pilings: \_\_\_\_\_  
 Length \_\_\_\_\_ Width \_\_\_\_\_ Height above MHW \_\_\_\_\_  
 Length \_\_\_\_\_ Width \_\_\_\_\_ Height above MHW \_\_\_\_\_  
 Number of Finger Piers \_\_\_\_\_ Length \_\_\_\_\_ Width \_\_\_\_\_ Height \_\_\_\_\_  
 Number of Finger Piers \_\_\_\_\_ Length \_\_\_\_\_ Width \_\_\_\_\_ Height \_\_\_\_\_  
 Total area of structure over waters & wetlands \_\_\_\_\_ sq. ft.  
 Use of structure \_\_\_\_\_

Will the docking facility provide: \_\_\_\_\_ No \_\_\_\_\_ Yes \_\_\_\_\_ Number \_\_\_\_\_

Live-aboard Slips \_\_\_\_\_  \_\_\_\_\_  \_\_\_\_\_

Fueling Facilities \_\_\_\_\_  \_\_\_\_\_  \_\_\_\_\_

Sewage Pump-out Facilities \_\_\_\_\_  \_\_\_\_\_  \_\_\_\_\_

Other Supplies or Services Required for Boating \_\_\_\_\_  \_\_\_\_\_  \_\_\_\_\_  
 (Excluding refreshments, bait and tackle)

f. Seawall length: \_\_\_\_\_ ft. Seawall material: \_\_\_\_\_  
 Riprap revetment length: \_\_\_\_\_ ft. Slope H: \_\_\_\_\_ V \_\_\_\_\_ Toe width \_\_\_\_\_  
 Riprap at toe of seawall length \_\_\_\_\_ ft. Slope H: \_\_\_\_\_ V \_\_\_\_\_ Toe width \_\_\_\_\_  
 Size of riprap: \_\_\_\_\_

Type of riprap or seawall material: \_\_\_\_\_

g. Other (See item 10): \_\_\_\_\_



10. Description of Work (be specific; use additional sheets as necessary).

\_\_\_\_\_

11. Turbidity, Erosion, and Sedimentation Controls Proposed:

\_\_\_\_\_

12. Date Activity is Proposed to Commence \_\_\_\_\_ to be Completed \_\_\_\_\_  
Total Time Required to Construct \_\_\_\_\_

13. Previous Applications for this Project have been: \_\_\_\_\_ DEP No. \_\_\_\_\_ Corps no. \_\_\_\_\_

A. \_\_\_\_\_ Denied (date) \_\_\_\_\_

B. \_\_\_\_\_ issued (date) \_\_\_\_\_

C. \_\_\_\_\_ Other (please explain) \_\_\_\_\_

Differentiate between existing work and proposed work on the drawings.

14. \_\_\_\_\_ Certification. Application is hereby made for a permit or permits to authorize the activities described herein.

A. \_\_\_\_\_ I Certify That: (Please check appropriate space)

1. \_\_\_\_\_ I am the record owner ; lessee ; or the record easement holder  of the property on which the proposed project is to be undertaken, as described in the attached legal document.

2. \_\_\_\_\_ I am not  the record owner, lessee or record easement holder of the property on which the proposed project is to be undertaken, as described in the attached legal document, but I will have, before undertaking the proposed work the requisite property interest. (Please explain what the interest will be and how it will be acquired.)

Attach legal description of property or copy of deed to the property on which project is to occur (must be provided).

B. \_\_\_\_\_ I understand I may have to provide any additional information/data that may be necessary to provide reasonable assurance or evidence that the proposed project will comply with the applicable State Water Quality Standards or other environmental standards both before construction and after the project is completed.

C. In addition, I agree to provide entry to the project site for inspectors with proper identification or documents as required by law from the environmental agencies for the purpose of inspecting the site. Further, I agree to provide entry to the project site for such inspectors to monitor permitted work, if a permit is granted.

D. This is a Joint Application and is not a Joint Permit. I hereby acknowledge the obligation and responsibility for obtaining all of the required state federal or local permits before commencement of construction. I also understand that before commencement of this proposed project, I must be granted separate permits or authorizations from the U.S. Corps of Engineers, the U.S. Coast Guard, the Department of Environmental Protection and the Water Management District (where applicable), as necessary.



E. I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete and accurate, I further certify that I possess the authority to undertake the proposed activities or am acting as the duly authorized agent of the applicant. I understand that knowingly making any false statement or representation in this application is a violation of Section 403.161, FS. and Chapter 837, FS.

\_\_\_\_\_  
Typed/Printed Name of Applicant or Agent                      Signature of Applicant or Agent                      Date

\_\_\_\_\_  
(Corporate Title if applicable)

**AN AGENT MAY SIGN ABOVE IF APPLICANT COMPLETES THE FOLLOWING:**

I hereby designate and authorize the agent listed above to act on *my* behalf as my agent in the processing of this permit application and to furnish on request, supplemental information in support of the application.

\_\_\_\_\_  
Typed/Printed Name of Applicant                      Signature of Applicant                      Date

\_\_\_\_\_  
(Corporate Title if applicable)

18 U.S.C. Section 1001 provides that, Whoever, in any manner within the jurisdiction of any department or agency of The United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

16. \_\_\_\_\_ Please submit this completed form, with attached drawings and the complete DEP processing fee to the appropriate DEP or WMD office with jurisdiction over the project site.



## APPENDIX D

### OPERATION AND MAINTENANCE DOCUMENTS

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#### MODEL LANGUAGE FOR DECLARATION OF COVENANTS AND RESTRICTIONS

\*\*\*\* Note:--When used for applications that are reviewed and acted upon by the NFWFMD, replace all uses of the word "Department" with "Northwest Florida Water Management District" or "NFWFMD" \*\*\*\*

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#### DECLARATION OF COVENANTS AND RESTRICTIONS

##### DEFINITIONS

"Surface Water or Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapter 62-346, F.A.C.

##### USE OF PROPERTY

Surface Water or Stormwater Management System

The \_\_\_\_\_ Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the Department of Environmental Protection (Department). The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted, or if modified as approved by the Department of ~~Environmental Protection~~.

##### AMENDMENT

Any amendment to the Covenants and Restrictions that alter the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the Department of ~~Environmental Protection~~.

##### ENFORCEMENT

The Department shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the surface water or stormwater management system.

## **ARTICLES OF INCORPORATION**

### **Duties**

The Association shall operate, maintain and manage the surface water or stormwater management system(s) in a manner consistent with the requirements of Department of ~~Environmental Protection~~ Permit No. \_\_\_\_\_ and applicable Department rules, and shall assist in the enforcement of the restrictions and covenants contained herein.

### **Powers**

The Association shall levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the surface water or stormwater management system.

### **ASSESSMENTS**

The assessments shall be used for the maintenance and repair of the surface water or stormwater management systems including but not limited to work within retention areas, drainage structures and drainage easements.

### **DISSOLUTION LANGUAGE**

In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the surface water or stormwater management system must be transferred to and accepted by an entity which would comply with Rule 62-346.130 ~~rule 40C-42-027~~, F.A.C., and be approved by the Department of ~~Environmental Protection~~ prior to such termination, dissolution or liquidation.

### **EXISTENCE AND DURATION**

Existence of the Association shall commence with the filing of these Articles of Incorporation with the Secretary of State, Tallahassee, Florida. The Association shall exist in perpetuity.

**CHECKLIST FOR HOMEOWNER/PROPERTY OWNER ASSOCIATION DOCUMENTS**

Application or Permit No. \_\_\_\_\_  
Project Name \_\_\_\_\_

This checklist is to be used by staff in the review of Homeowner/Property Owner Association (Association) Article of Incorporation, Declaration of Protective Covenants, Deed Restrictions, Declaration of Condominium or other recorded documents (Documents) for compliance with section 12.3.3 of the Applicant's Handbook Volume I (A.H. v. I). This checklist also may be useful by applicants to ensure that the documents submitted to the Department for review are complete.

**I. POWERS AND ATTRIBUTES OF THE ASSOCIATION**

Pursuant to Section 12.3.3(a), A.H. v. I, the Articles of Incorporation or other documents of record shall set forth-general powers and attributes of the association.

A. Do the documents give the Association the following powers?

1. To own and convey property; \_\_\_\_\_ ; page number \_\_\_\_\_
2. To operate and maintain common property, including the permitted surface water management system \_\_\_\_\_ ; page number \_\_\_\_\_
3. The power to establish rules and regulations \_\_\_\_\_ ; page number \_\_\_\_\_
4. To assess members and enforce assessments \_\_\_\_\_ ; page number \_\_\_\_\_
5. To sue and be sued \_\_\_\_\_ ; page number \_\_\_\_\_ and \_\_\_\_\_
6. To contract for services to provide for operation and routine custodial maintenance \_\_\_\_\_ ; page number \_\_\_\_\_
7. To require all owners of real property or units to be members of the corporation or association \_\_\_\_\_ ; page number \_\_\_\_\_
8. To demonstrate that the land on which the surface water management system is located is owned or otherwise controlled by the corporation or association to the extent necessary to operate and maintain the system or convey operation and maintenance to another entity \_\_\_\_\_ ; page number \_\_\_\_\_

**II. LEGAL DESCRIPTION AND EASEMENTS**

A. Do the documents cover the entire project according to the legal description? \_\_\_\_\_  
If not, which phase(s) does it cover? \_\_\_\_\_

B. Is the legal description included as an exhibit? \_\_\_\_\_ ; Exhibit number \_\_\_\_\_

C. Is the legal description by plat? \_\_\_\_\_ Are golf courses, if any, platted? \_\_\_\_\_

D. Where or how will conservation, drainage, access and maintenance easements be dedicated? \_\_\_\_\_

- E. 1. Are drainage, access and maintenance easements defined and reserved/dedicated to the operating entity? <sup>1</sup> ; page number
2. Does the dedication/reservation state that the easement may not be removed from its intended use by subsequent owners or others? ; page number
3. If a reservation or dedication to the operating entity is not included in the documents, please identify the document(s) where such a reservation or dedication is made.
- F. Are conservation easement use restrictions defined and included in the documents?<sup>2</sup> ; page number

### **III. OWNERSHIP AND MAINTENANCE**

- A. Pursuant to section 12.3.3(c)1, A.H. v I, the documents should state that “It is the responsibility of the Association to operate and maintain the surface water management system.” Do the documents provide that the association shall operate and maintain the surface water management system? ; page number
- B. Pursuant to section 12.3.3(c)2, A.H. v. I, do the documents state that the Association owns the surface water management system? ; page number
- C. Pursuant to section 12.3.3(c)3, A.H. v. I, there must “be a method of assessing and collecting the assessment for operation and maintenance of the surface water management system.” Do the documents provide that the association can assess and collect for the operation, maintenance and replacement of the surface water management system through regular and special assessments? ; page number

### **IV. AMENDMENTS, DURATION AND DISSOLUTION**

- A. Section 12.3.3(c)4, A.H. v. I, states “That any proposed amendment to the Association’s documents affecting the surface water management system (including environmental conservation areas and the water management portions of the common areas) must be submitted to the Department for a determination of whether the amendment necessitates a modification of the environmental resource permit. If a modification is necessary, the Department will so advise the permittee. The amendment affecting the surface water management system may not be finalized until any necessary permit modification is approved by the Department or the Association is advised that a modification is not necessary.”

Is an amendment section included, which requires Department approval if the surface water management system, environmental conservation areas, and/or water management portions of common areas requested by the permit would be affected? ; page number

- B. Section 12.3.3(c)5, A.H. v. I, provides: “That the governing provisions of the Association must be in effect for at least 25 years with automatic renewal periods thereafter.”

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<sup>1</sup> See Sections 2.4 and 2.5, A.H. v. II.

<sup>2</sup> Although not specifically required by Section 12.3.3, A.H. v. I, the inclusion of conservation easement use restrictions in the documents is considered informative.



Do the documents have minimum 25-year duration with automatic renewal periods thereafter?  
\_\_\_\_\_ ; page number \_\_\_\_\_

C. Section 12.3.3(c)6, A.H. v. I, states: “That the Association shall exist in perpetuity. However, should the Association dissolve, the operational documents shall provide that the surface water management system shall be transferred to and maintained by one of the entities identified in sections 12.3.1(a) through (f), who has the powers listed in section 12.3.3(b)1. through 8., the covenants and restrictions required in section 12.3.3(c)1. through 9., and the ability to accept responsibility for the operation and routine custodial maintenance of the surface water management system described in section 12.3.3(d)1. or 2.

1. Do the documents provide that the Association shall exist in perpetuity? \_\_\_\_\_ ; page number \_\_\_\_\_

2. If the Association is dissolved, are their provisions requiring the surface water management system, property containing the surface water management system and water management portions of common areas required to be conveyed to an entity meeting the requirements explained above? \_\_\_\_\_ ; page number \_\_\_\_\_

## **V. MONITORING AND MAINTENANCE**

If monitoring and/or maintenance of mitigation areas are required by the permit, please answer the following questions.

Section 12.3.3(c)7, A.H. v. I, states: “If wetland mitigation monitoring is required by the environmental resource permit and the operational entity will be responsible to carry out this obligation, the rules and regulations shall state that it will be the Association’s responsibility to complete the task successfully, including meeting all conditions associated with mitigation maintenance and monitoring.”

A. If wetland mitigation monitoring will be the responsibility of the Association, do the Association documents indicate that the Association shall be responsible for mitigation monitoring? \_\_\_\_\_ ; page number \_\_\_\_\_

B. Are any requirements pertaining to perpetual mitigation maintenance included in the documents? \_\_\_\_\_ ; page number \_\_\_\_\_

## **VI. ENFORCEMENT**

A. Section 12.3.3(c)8, A.H. v. I, provides: “The Department has the right to take enforcement action, including a civil action for an injunction and penalties, against the Association to compel it to correct any outstanding problems with the surface water management system facilities or in mitigation or conservation areas under the responsibility or control of the Association.”

Do the Association documents indicate that the Department has the right to take enforcement action against the Association as stated above? \_\_\_\_\_ ; page number \_\_\_\_\_

## **VII. PHASED PROJECTS OR INDEPENDENT ASSOCIATIONS**

A. Section 12.3.3(d)1, A.H. v. I, provides that if a master association is proposed for a project which will be constructed in phases and subsequent phases will use the same surface water management



## **Additional Documents Required Prior to Construction Completion Certification**

Prior to or simultaneous with the submittal of the construction completion/construction certification statement, the following additional documents will be required:

1. Filed copy of the articles of incorporation;
2. Recorded copy of deed restrictions and associated exhibits;
3. Copy of the certificate of incorporation;
4. Copies of all plats; and
5. A signed written statement from the proposed transferee that it has reviewed the Department permit and project design and will be bound by all terms and conditions of the permit, including all compliance requirements, for the duration of the permit.

Application No(s). \_\_\_\_\_

Permit No. \_\_\_\_\_

Project Name: \_\_\_\_\_

### **CERTIFICATION**

I, \_\_\_\_\_, on behalf of \_\_\_\_\_  
in the capacity as \_\_\_\_\_, hereby certify to the  
following pertaining to the above project:

**[per 12.3.3(b), A.H. v. I]** I certify that the Home or Property Owners' or Condominium or Community or Master-Association has the following general powers and attributes set forth in the Articles of Incorporation or other documents on the page numbers indicated:

1. <u>The power to:</u>	
a. <u>Own and convey property;</u>	Page no. _____
b. <u>Operate and perform routine custodial maintenance of the surface water management system as exempted or permitted by the Department, including all lakes, retention areas, culverts and related appurtenances;</u>	Page no. _____
c. <u>Establish rules and regulations;</u>	Page no. _____
d. <u>Assess members and enforce assessments;</u>	Page no. _____
e. <u>Sue and be sued; and</u>	Page no. _____
f. <u>Contract for services to provide for operation and maintenance services.</u>	Page no. _____
g. <u>Require all owners of real property or units are members of the Association</u>	Page no. _____
h. <u>Demonstrate that the land on which the surface water management system is located is owned or otherwise controlled by the corporation or association to the extent necessary to operate and maintain the system or convey operation and maintenance to another entity; and</u>	Page no. _____

**[per 12.3.3(c), A.H. v. I]** I further certify that the following covenants and restrictions are contained in the Declaration of Protective Covenants, Declaration of Condominium, Deed Restrictions or Articles of Incorporation (documents) on the page numbers indicated:

1. <u>The Association is responsible for the operation and maintenance of the surface water management system described in the permit.</u>	Page no. _____
--	----------------

<p>2. <u>The surface water management system is owned by the Association or described therein as common property.</u></p>	<p>Page no. _____</p>
<p>3. <u>The Association is responsible for assessing and collecting fees for the operation and maintenance of the surface water management system.</u></p>	<p>Page no. _____</p>
<p>4. <u>Any amendment proposed to these documents which would affect the surface water management system (including environmental conservation areas and water management portions of the common areas) will be submitted to the Department for a determination of whether the amendment necessitates a modification of the permit. Any amendment affecting the surface water management system will not be finalized until any necessary permit modification is approved by the Department or the Association is advised that a modification is not necessary.</u></p>	<p>Page no. _____</p>
<p>5. <u>The rules and regulations shall remain in effect for a minimum of twenty-five (25) years and shall be automatically renewed thereafter.</u></p>	<p>Page no. _____</p>
<p>6. <u>That Association shall exist in perpetuity. However, should the Association dissolve, the surface water management system will be transferred to and maintained by one of the entities identified in sections 12.3.1(a) through (f), of the Department's Applicant's Handbook Volume I, who has the powers listed in section 12.3.3(b) 1. through 8., the covenants and restrictions required in section 12.3.3(c) 1. through 9., and the ability to accept responsibility for the operation and routine custodial maintenance of the surface water management system described in section 12.3.3(d) 1. or 2. prior to its dissolution.</u></p>	<p>Page no. _____</p>
<p>7. <u>If wetland mitigation or monitoring is required the association shall be responsible to carry out this obligation. The rules and regulations state that it shall be the Association's responsibility to complete the task successfully, including meeting all (permit) conditions associated with wetland mitigation, maintenance and monitoring.</u></p>	<p>Page no. _____</p>
<p>8. <u>The Department has the right to take enforcement action, including a civil action for an injunction and penalties, against the Association to compel it to correct any outstanding problems with the surface water management system facilities or in mitigation or conservation areas under the responsibility or control of the Association.</u></p>	<p>Page no. _____</p>
<p>9. <u>The environmental resource permit and its conditions will be attached to the rules and regulations as an exhibit. The Registered Agent for the Association will maintain copies of all further permitting actions for the benefit of the Association.</u></p>	<p>Page no. _____</p>

[per 12.3.3(d), A.H. v. J] If the project is a phased project or has independent associations, I further certify that the following powers and duties are contained in the documents:

1. <u>The (Master) Association has the power to accept into the association subsequent phases, that will utilize the same surface water management system; or</u>	Page no. _____
2. a. <u>The documents provide that independent associations have the right to use the permitted surface water management system;</u>	Page no. _____
b. <u>The documents delineate maintenance responsibilities between the independent associations;</u>	Page no. _____
c. <u>Cross easements for drainage, and ingress and egress for maintenance, copies of which are attached, have been granted between all independent associations utilizing the surface water management system.</u>	Page no. _____
d. <u>The golf course owner / operator is a member of the Association and the documents reflect this relationship.</u>	Page no. _____

\_\_\_\_\_

Signature

State of Florida  
 County of \_\_\_\_\_ )

I HEREBY CERTIFY that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, an officer authorized in the State aforesaid and in the County aforesaid to take acknowledgements by \_\_\_\_\_, who is personally known to me or has produced \_\_\_\_\_ as identification and who did (did not) take an oath.

\_\_\_\_\_

Notary Public, State of Florida

**APPENDIX E**

**FINANCIAL RESPONSIBILITY DOCUMENTS**

STATE OF FLORIDA  
PERFORMANCE BOND  
TO DEMONSTRATE FINANCIAL ASSURANCE FOR MITIGATION

Date bond executed: \_\_\_\_\_

Period of coverage: \_\_\_\_\_

Effective date: \_\_\_\_\_

Principal:

\_\_\_\_\_  
*Legal Name and Business Address of Principal*  
\_\_\_\_\_

Type of Organization:                   Individual  
          Joint Venture  
          Partnership  
          Corporation

State of Incorporation: \_\_\_\_\_

Surety(ies): \_\_\_\_\_  
   *Name(s) and Business Address(es)*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Scope of coverage: Maintenance and monitoring of mitigation pursuant to the requirements of permit number \_\_\_\_\_ issued by the Florida Department of Environmental Protection (Department) including the plans approved by said permit.

Total penal sum of bond: \_\_\_\_\_

Surety's bond number: \_\_\_\_\_

Period of Coverage: This Bond shall continue to be effective until notification of final release by the Department. The Department shall provide this notification of final release within 30 days of determining the mitigation is successful in accordance with Applicant's Handbook v. I, section 10.3.7.4(d), incorporated by reference into Rule 62-346, Florida Administrative Code.

Know All Persons By These Presents, that we, the Principal and Surety(ies) hereto are firmly bound to the Florida Department of Environmental Protection in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and



severally; provided that, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be full amount of the penal sum.

NOW, THEREFORE, the conditions of the obligation are such that if the Principal shall successfully complete mitigation, maintenance and monitoring to the satisfaction of the Department which this Performance Bond ("Bond") guarantees, as required by Department permit number \_\_\_\_\_ and the plans approved by such permit, as such permit and plans may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended.

Or, if the Principal shall provide alternate financial assurance, as specified in the administrative rules of the Department, and obtain the Department's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the Department from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this Bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the Secretary of the Department that the Principal has been found in violation of the requirements of permit number \_\_\_\_\_ by failing to perform the mitigation, maintenance and monitoring activities for which this Bond guarantees performance, the Surety(ies) shall, within 60 days of receiving such notice, either perform such construction and implementation in accordance with the permit and other permit requirements and pursuant to the written directions of the Department, or place the Bond amount guaranteed for the \_\_\_\_\_ mitigation, maintenance and monitoring (the total penal sum of this Bond) into a standby trust fund as directed by the Department.

Upon notification by the Secretary of the Department that the Principal has failed to provide alternate financial assurance and obtain written approval of such assurance from the Department during the 90 days following receipt by both the Principal and the Department of a notice of cancellation of the Bond, the Surety(ies) shall place funds in the amount guaranteed for the mitigation, maintenance and monitoring (the total penal sum of this Bond) into a standby trust fund as directed by the Department.

The Surety(ies) hereby waive(s) notification of amendments to the \_\_\_\_\_ mitigation plans, permits, applicable laws, statutes, rules, and regulations and agree(s) that no such amendment shall in any way alleviate its (their) obligation on this Bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum shown on the face of the Bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and the Department; provided, however that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the Department, as evidenced by the return receipts.

The Principal may terminate this Bond by sending written notice to the Surety(ies); provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the Bond by the Department.

Principal and Surety(ies) hereby agree to adjust the penal sum of the Bond every two years so that it guarantees increased or decreased mitigation, maintenance and monitoring cost provided that no decrease in the penal sum takes place without the written permission of the Department.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this Performance Bond is substantially similar to Form No. 62-342.900(1) which form has been incorporated by reference as an administrative rule in Rule 62-342.900 of the Florida Administrative Code.

PRINCIPAL

CORPORATE SURETY(IES)

For each co-surety provide the following

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Name and Address*

\_\_\_\_\_  
*Type Name and Title*

\_\_\_\_\_  
*State of Incorporation*

Liability Limit \$ \_\_\_\_\_

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Type Name and Title*

Corporate Seal

Corporate Seal

STATE OF FLORIDA

IRREVOCABLE LETTER OF CREDIT  
TO DEMONSTRATE FINANCIAL ASSURANCE FOR MITIGATION

Florida Department of Environmental Protection  
[Address of Permitting Office]  
[City, State, Zip of Permitting Office]

\_\_\_\_\_ *Address of Issuing Institution*

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. \_\_\_\_\_ in your favor, at the request and for the account of

\_\_\_\_\_  
*Permittee's Name and Address*  
\_\_\_\_\_

up to the aggregate amount of \_\_\_\_\_  
*In Words*  
U.S. dollars \$ \_\_\_\_\_, available upon presentation of

- (1) your sight draft, bearing reference to this letter of credit No. \_\_\_\_\_, and either:
- (2) a Certificate issued by the Florida Department of Environmental Protection in the form of Certificate I attached hereto and made a part hereof; or
- (3) a Certificate issued by the Florida Department of Environmental Protection in the form of Certificate II attached hereto and made a part hereof.

This letter of credit may be drawn on to cover mitigation activities as authorized and required by Department permit number \_\_\_\_\_ as such permit may be amended and including all plans approved by such permit.

This letter of credit is effective as of \_\_\_\_\_ and shall expire on \_\_\_\_\_ but such expiration date shall be automatically extended without amendment for additional periods of one year from the present or future expiration date unless, at least 120 days before an expiration date, we notify both you and [insert Permittee's name \_\_\_\_\_] by certified mail that we have decided not to extend this letter of credit for any such additional period. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and [insert Permittee's name \_\_\_\_\_] as shown on the signed return receipts.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the \_\_\_\_\_, in accordance with your instructions.  
*Name of Trust Fund*

We certify that the wording of this letter of credit is substantially similar to the wording specified in Form No. 62-342.900(2) which has been adopted by reference in section 62-342.900 of the Florida Administrative Code, as such regulations were constituted on the date shown immediately below.

---

*Signature(s), Title(s) of Official(s) of Issuing Institution* *Date*

---

---

This credit is subject to

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*Insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code".*

CERTIFICATE I  
TO

Name of Issuing Bank  
IRREVOCABLE LETTER OF CREDIT NO. \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Issuing Bank's Name and Address  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Permittee's Name and Address  
\_\_\_\_\_

Ladies and Gentlemen:

The undersigned \_\_\_\_\_, the Secretary of the Florida Department of Environmental Protection (the "Department"), hereby certifies to \_\_\_\_\_ (the "Bank") and \_\_\_\_\_, with reference to \_\_\_\_\_ Issuing Bank's Name \_\_\_\_\_ Permittee Irrevocable Letter of Credit No. \_\_\_\_\_, dated \_\_\_\_\_, (the "Letter of Credit"), issued by the Bank in favor of the Department as follows:

1. \_\_\_\_\_ The Department has heretofore provided written notice by U.S. Mail to \_\_\_\_\_ of the Department's present right to draw upon the Letter of Credit in accordance with the provisions of that certain Permit # \_\_\_\_\_, dated \_\_\_\_\_, issued by the Department in favor of \_\_\_\_\_ Permittee.
  
2. \_\_\_\_\_ Permittee has failed to comply with the terms and conditions of the Permit.

Funds paid pursuant to the provisions of the Letter of Credit shall be transferred to \_\_\_\_\_, as Trustee (the "Trustee") under the certain Mitigation Bank Standby Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance, dated as of \_\_\_\_\_, between \_\_\_\_\_ and the Trustee for the benefit of the \_\_\_\_\_ Permittee Department in accordance with the following instructions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN WITNESS WHEREOF, this Certificate has been duly executed and delivered on behalf of the Department as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: \_\_\_\_\_  
Name: \_\_\_\_\_



IN WITNESS WHEREOF, this Certificate has been duly executed and delivered on behalf of the Department as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_



STATE OF FLORIDA  
STANDBY TRUST FUND AGREEMENT  
TO DEMONSTRATE FINANCIAL ASSURANCE  
FOR MITIGATION ACTIVITIES

TRUST AGREEMENT, the "Agreement," entered into as of \_\_\_\_\_ by and  
\_\_\_\_\_ Date  
between \_\_\_\_\_  
Name of Permittee  
a \_\_\_\_\_ (the Grantor),  
Name of State Insert "corporation, partnership, association, or proprietorship",  
and  
\_\_\_\_\_  
Name and Address of Corporate Trustee  
\_\_\_\_\_  
(the Trustee.)  
Insert "incorporated in the State of \_\_\_\_\_" "or" a national bank"

WHEREAS, Grantor is the owner of certain real property in \_\_\_\_\_ County, Florida, and has received from the Florida Department of Environmental Protection ("Department") that certain permit number \_\_\_\_\_ ("Permit") which authorizes mitigation activities;

WHEREAS, the Department, a Florida agency created under Section 20.255 of the Florida Statutes, has established certain regulations applicable to the Grantor, requiring that the Permittee shall provide assurance that funds will be available when needed for corrective action if Grantor fails to monitor and maintain the mitigation activities,

WHEREAS, the Grantor has elected to establish a \_\_\_\_\_ to provide all or part of such financial assurance  
[insert either a "surety bond" or "letter of credit"]  
for the \_\_\_\_\_ Permit identified herein and, is required to establish a standby trust fund able to accept payments from that instrument,

WHEREAS, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the \_\_\_\_\_ who enters into  
[insert Permittee's name]  
this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means \_\_\_\_\_ the Trustee who  
[insert trustee's name]  
enters into this Agreement and any successor Trustee.

(c) The term "Department" means the Florida Department of Environmental Protection, a public entity in the State of Florida or any successor thereof.

(d) The term "investment obligations" means:

- (i) United States of America Treasury and Federal agency securities or other obligations issued or unconditionally guaranteed as to principal and interest by the United States of America, in each case with maturities of not more than one year from the date acquired;
- (ii) Demand deposits, certificates of deposit, bankers acceptances and time deposits of any bank organized or licensed to conduct a banking business under the laws of the United States of America or any state thereof having capital, surplus and undivided profits of not less than \$100,000,000, and whose deposits are insured by the Federal Deposit Insurance Corporation or any successor thereof;
- (iii) Securities of entities incorporated under the laws of the United States of America or any State thereof commonly known as “commercial paper” that at the time of purchase have been rated and the ratings for which are not less than “P1” if rated by Moody’s Investors Services, Inc., and not less than “A1” if rated by Standard and Poor’s Corporation, in each case with maturities of not more than one year from the date acquired;
- (iv) State or local government securities, which debt obligations at the time of purchase are rated investment grade by one or more nationally recognized rating agencies, in each case with maturities of not more than one year from the date acquired;
- (v) Repurchase obligations with any banking or financial institution described in clause (ii) above which are fully collateralized at all times by any of the foregoing obligations;
- (vi) Corporate fixed income securities whose ratings at the time of purchase are rated not less than “A-” if rated by Standard and Poor’s Corporation and “A3” if rated by Moody’s Investors Services, Inc. in each case with maturities of not more than one year from the date acquired; and
- (vii) Investments in any one or more professionally managed money market funds generally regarded as investment grade with a portfolio size of not less than \$100,000,000.

Section 2. Identification of Cost Estimates. This Agreement pertains to the cost estimate to monitor and maintain the mitigation activities of the \_\_\_\_\_ Permit identified in Attachment A hereto.

Section 3. Standby Trust. This trust shall remain dormant until funded with the proceeds from the financial mechanism listed on Attachment “A”. The Trustee shall have no duties or responsibilities beyond safekeeping this Document. Upon funding this trust shall become active and be administered pursuant to the terms of this instrument.

Section 4. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund (the Fund), for the benefit of the Department. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as a standby to receive payments and shall not consist of any property. Payments made by the Grantor pursuant to the Department’s instructions are transferred to the Trustee and referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this

Agreement. The Fund shall be held by the Trustee, IN TRUST for the benefit of the Department, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the Department.

Section 5. Initial Payments Comprising the Fund. Initial Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee and shall consist initially of proceeds from the

Insert "Letter of Credit" or "Surety Bond"

identified in Attachment A hereto.

Section 6. Additional Payments to the Fund. After the initial deposit of principal into the Fund, the Grantor shall increase the principal if so required by the Department pursuant to its administrative regulations and the requirements of the Permit. Such deposit may be in cash or securities acceptable under Section 1(d) above.

Section 7. Payment for Completing Construction and Implementation. The Trustee shall make payments from the Fund as the Secretary of the Department, or the Secretary's designee, shall direct in writing to provide for the payment of the costs of completing construction and implementation of the mitigation covered by this Agreement pursuant to the requirements of the permit. The Trustee shall reimburse persons specified by the Department from the Fund for monitoring and maintenance expenditures in such amounts as the Department shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the Department specifies in writing as unnecessary or excessive corpus for purposes of the trust. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

The Fund may not be drawn upon to cover any of the following:

- (a) Any obligation of Grantor under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
- (b) Bodily injury to an employee of Grantor arising from, and in the course of employment by Grantor;
- (c) Bodily injury or non-realty property damage arising from the ownership, maintenance, use, or entrustment to others by Grantor of any aircraft, motor vehicle, or watercraft;
- (d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by Grantor that is not the direct result of the construction and implementation of the Mitigation Bank; or
- (e) Bodily injury or property damage for which Grantor is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

Section 8. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund in one or more investment obligations and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge its duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

- (a) Securities or other obligations of the Grantor, or any other owner or operator of the Mitigation Bank, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or a state government;
- (a) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or a state government; and
- (b) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 9. Commingling and Investment. The Trustee is expressly authorized in its discretion:

- (a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and
- (b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 10. Express Power of Trustee. Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

- (a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;
- (c) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (d) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;
- (e) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or a State government; and

(f) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 11. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 12. Annual Valuation. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the Department a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the fund. The failure of the Grantor or the Department to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the Department shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 13. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 14. Trustee Compensation. Grantor shall pay the Trustee any necessary fees for services rendered. Where the Grantor is no longer in existence, the Trustee is authorized to charge against the Trust its published Trust fee schedule in effect at the time services are rendered. However, all Trustee compensation charged against the Trust shall be paid from trust income, unless the Department authorizes in writing payment from the trust principal.

Section 15. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor Trustee, the successor is approved by the Department, and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Department may nominate a successor. If the Department does not act, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Department, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 14.

Section 16. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by \_\_\_\_\_ or such other designees as the Grantor may designate by amendment to this agreement. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Department to the Trustee shall be in writing, signed by the Department's Secretary, or the Secretary's designee, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Department hereunder has occurred.

The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the Department, except as provided for herein.

Section 17. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the Department, or by the Trustee and the Department if the Grantor dies, is legally incapacitated, is administratively or judicially dissolved or otherwise ceases to exist.

Section 18. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 17, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the Department, or by the Trustee and the Department, if the Grantor dies, is legally incapacitated, is administratively or judicially dissolved or otherwise ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered pursuant to the written agreement terminating the trust or, where Grantor has ceased to exist, then to the Department.

Section 19. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Department issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 20. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of Florida.

Section 21. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written.

\_\_\_\_\_  
Signature of Grantor

\_\_\_\_\_  
Signature of Trustee

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Attest:

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Seal

Seal

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a Florida corporation, on behalf of the corporation. Such person did not take an oath and:

\_\_\_\_\_ is/are personally known to me  
\_\_\_\_\_ produced a current Florida driver's license as identification  
\_\_\_\_\_ produced \_\_\_\_\_ as identification

\_\_\_\_\_  
Signature of Notary

(Notary Seal)

\_\_\_\_\_  
Name of Notary (typed, printed or stamped)  
Commission number (if not legible on seal) \_\_\_\_\_  
My commission expires: (if not legible on seal) \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_ Bank, on behalf of the corporation. Such person did not take an oath and :

\_\_\_\_\_ is/are personally known to me  
\_\_\_\_\_ produced a current Florida driver's license as identification  
\_\_\_\_\_ produced \_\_\_\_\_ as identification

(Notary Seal)

\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Name of Notary (typed, printed or stamped)

\_\_\_\_\_  
Commission number (if not legible on seal)

\_\_\_\_\_  
My commission expires: (if not legible on seal)



**ATTACHMENT A**

[NAME OF SURETY BOND OR IRREVOCABLE LETTER OF CREDIT]

\_\_\_\_\_

**STATE OF FLORIDA**  
**TRUST FUND AGREEMENT**  
**TO DEMONSTRATE FINANCIAL ASSURANCE**  
**FOR MITIGATION ACTIVITIES**

TRUST AGREEMENT, the "Agreement," entered into as of \_\_\_\_\_ by and  
between \_\_\_\_\_ *Date*  
a \_\_\_\_\_ *Name of Permittee* (the Grantor.)  
and \_\_\_\_\_ *Name of State* *Insert "corporation, partnership, association, or proprietorship".*  
\_\_\_\_\_ *Name and Address of Corporate Trustee* (the Trustee.)  
\_\_\_\_\_ *Insert "incorporated in the State of" "or" a national bank"*

WHEREAS, Grantor is the owner of certain real property in \_\_\_\_\_ County, Florida, and has received from the Florida Department of Environmental Protection ("Department") that certain permit number \_\_\_\_\_ ("Permit") which authorizes mitigation activities;

WHEREAS, the Department, a Florida agency created under Section 20.255 of the Florida Statutes, has established certain regulations applicable to the Grantor, requiring that the Permittee shall provide assurance that funds will be available when needed for corrective action if Grantor fails to monitor and maintain the mitigation activities pursuant to the requirements of the Permit,

WHEREAS, the Grantor has elected to establish this trust fund agreement to provide such financial assurance for the mitigation activities described in the \_\_\_\_\_ Permit identified herein,

WHEREAS, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

- (a) The term "Grantor" means the \_\_\_\_\_ who enters into this Agreement  
*[insert Permittee's name]*  
and any successors or assigns of the Grantor.
- (b) The term "Trustee" means \_\_\_\_\_ the Trustee who enters into  
*[insert trustee's name]*  
this Agreement and any successor Trustee.
- (c) The term "Department" means the Florida Department of Environmental Protection, a public entity in the State of Florida or any successor thereof.

(d) The term “investment obligations” means:

- (i) United States of America Treasury and Federal agency securities or other obligations issued or unconditionally guaranteed as to principal and interest by the United States of America, in each case with maturities of not more than one year from the date acquired;
- (ii) Demand Deposits, certificates of deposit, bankers acceptances and time deposits of any bank organized or licensed to conduct a banking business under the laws of the United States of America or any state thereof having capital, surplus and undivided profits of not less than \$100,000,000, and whose deposits are insured by the Federal Deposit Insurance Corporation or any successor thereof;
- (iii) Securities of entities incorporated under the laws of the United States of America or any State thereof commonly known as “commercial paper” that at the time of purchase have been rated and the ratings for which are not less than “P1” if rated by Moody’s Investors Services, Inc., and not less than “A1” if rated by Standard and Poor’s Corporation, in each case with maturities of not more than one year from the date acquired;
- (iv) State or local government securities, which debt obligations at the time of purchase are rated investment grade by one or more nationally recognized rating agencies, in each case with maturities of not more than one year from the date acquired;
- (v) Repurchase obligations with any banking or financial institution described in clause (ii) above which are fully collateralized at all times by any of the foregoing obligations;
- (vi) Corporate fixed income securities whose ratings at the time of purchase are rated not less than “A-” if rated by Standard and Poor’s Corporation and “A3” if rated by Moody’s Investors Services, Inc. in each case with maturities of not more than one year from the date acquired; and
- (vii) Investments in any one or more professionally managed money market funds generally regarded as investment grade with a portfolio size of not less than \$100,000,000.

Section 2. Identification of Cost Estimates. This Agreement pertains to the cost estimate for monitoring and maintaining the mitigation activities required by the Permit identified in Attachment A hereto.

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund (the Fund), for the benefit of the Department (hereafter sometimes referred to as the “Beneficiary”) The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established by the Grantor’s deposit of \$ \_\_\_\_\_ into the Fund. Such monies and other monies subsequently placed in the Fund are referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, for the benefit of the Department as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the Department.

Section 4. Additional Payments Into the Fund. After the initial deposit of principal into the Fund, the Grantor shall increase the principal if so required by the Department pursuant to its administrative regulations and the requirements of the Permit. Such deposit may be in cash or securities acceptable under Section 1(d) hereof.

Section 5. Payment for Undertaking Perpetual Management Activities. The Trustee shall make payments from the Fund as the Grantor or the Secretary of the Department, or the Secretary's designee, shall direct in writing to provide for the payment of the costs of undertaking activities to provide for the monitoring and maintenance of the mitigation activities covered by this Agreement pursuant to the requirements of the Permit. The Trustee shall reimburse persons specified by the Grantor or the Department from the Fund for monitoring and maintenance expenditures in such amounts as the Grantor or the Department shall direct in writing. In the event of conflicting instructions from the Grantor and the Department, the Department's instructions shall prevail. The Trustee shall not make any payments from the principal of the Fund pursuant to the Grantor's direction without the Department's written consent. The Trustee shall cease honoring Grantor's instructions if so directed by the Department in writing. In addition, the Trustee shall refund to the Grantor such amounts as the Department specifies in writing as unnecessary or excessive corpus for purposes of the trust. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

The Fund may not be drawn upon to cover any of the following:

- (a) Any obligation of Grantor under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
- (b) Bodily injury to an employee of Grantor arising from, and in the course of employment by Grantor;
- (c) Bodily injury or non-realty property damage arising from the ownership, maintenance, use, or entrustment to others by Grantor of any aircraft, motor vehicle, or watercraft;
- (d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by Grantor that is not the direct result of the construction and implementation of the Mitigation Bank;
- (e) Bodily injury or property damage for which Grantor is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund in one or more investments and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge its duties with respect to the trust fund solely in the interest of the Department and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

- (a) Securities or other obligations of the Grantor, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or a state government;
- (b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or a state government; and

(c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Power of Trustee. Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or a State government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trust shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the Department a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the fund. The failure of the Grantor or the Department to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the Department shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. Grantor shall pay the Trustee any necessary fees for services rendered. Where the Grantor is no longer in existence, the Trustee is authorized to charge against the Trust its published Trust fee schedule in effect at the time services are rendered. However, all Trustee compensation charged against the Trust shall be paid only from trust income unless the Department authorizes payment from the trust principal in writing.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor Trustee, the successor is approved by the Department, and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Department may nominate a successor. If the Department does not act, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Department, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 12.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by \_\_\_\_\_ or such other designees as the Grantor may designate by amendment to this agreement. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Department to the Trustee shall be in writing, signed by the Department's Secretary, or the Secretary's designee, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Department hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the Department, except as provided for herein.

Section 15. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the Department, or by the Trustee and the Department if the Grantor dies, is legally incapacitated, is administratively or judicially dissolved or otherwise ceases to exist.

Section 16. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 15, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the Department, or by the Trustee and the Department, if the Grantor dies, is legally incapacitated, is administratively or judicially dissolved or otherwise ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered pursuant to the written agreement terminating the trust or where Grantor has ceased to exist, then to the Department.

Section 17. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Department issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 18. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of Florida.

Section 19. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written.

\_\_\_\_\_  
Signature of Grantor

\_\_\_\_\_  
Signature of Trustee

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Attest:

Attest:

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Seal

Seal

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a Florida corporation, on behalf of the corporation. Such person did not take an oath and:

\_\_\_\_\_ is/are personally known to me  
\_\_\_\_\_ produced a current Florida driver’s license as identification  
\_\_\_\_\_ produced \_\_\_\_\_ as identification

\_\_\_\_\_  
Signature of Notary

(Notary Seal)

\_\_\_\_\_  
Name of Notary (typed, printed or stamped)  
Commission number (if not legible on seal) \_\_\_\_\_  
My commission expires: (if not legible on seal) \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_ Bank, on behalf of the corporation. Such person did not take an oath and :

\_\_\_\_\_ is/are personally known to me  
\_\_\_\_\_ produced a current Florida driver’s license as identification  
\_\_\_\_\_ produced \_\_\_\_\_ as identification

\_\_\_\_\_  
Signature of Notary

(Notary Seal)

\_\_\_\_\_  
Name of Notary (typed, printed or stamped)  
Commission number (if not legible on seal) \_\_\_\_\_  
My commission expires: (if not legible on seal) \_\_\_\_\_



**ATTACHMENT A**

**MITIGATION MONITORING AND MAINTENANCE COST ESTIMATE**

## APPENDIX F

### GUIDANCE FOR EVALUATING BORROW PIT ACTIVITIES

#### Background

Borrow pits are considered mining activities by FDEP's Bureau of Mining and Mineral Regulation (BMMR) when the extracted shell, sand, or clay are taken offsite for commercial, industrial or construction use. According to the Operating Agreement, BMMR performs ERP permitting for all mines, including sand, shell, and clay mines that have some form of onsite material processing associated with the extraction activity. Therefore, the Water Management District (District) should only be permitting sand, shell, and clay mines that do not involve onsite processing of material, other than very basic screening or scalping for removal of large rocks or debris. These facilities are commonly known as "borrow pits." Also, the Operating Agreement indicates that any borrow pit that involves construction in, on, or over wetlands or other surface waters must be permitted by FDEP.

#### General

Borrow pits as well as other types of mines are somewhat unique in that the entire project activity consists of a short-term or long-term excavation of a pit (or pits). Typically, much of the runoff from the activity is directed to the mine pit itself.

Prior to the start of mining, a "Notice of Intent to Mine or Mining Other Resources" must be provided to the BMMR if the mining will exceed 20 acres. Upon completion of the mining, there is a BMMR requirement that lands disturbed by mining operations be reclaimed. The reclamation requirement applies to mines of any size. This is in addition to, and separate from any ERP permitting requirements. The finished project is typically a borrow "lake" that may be planted with littoral zone vegetation. Some pits may be excavated in-the-dry, and may ultimately be stabilized with upland vegetation per BMMR rules. Additional information about the mine reclamation program is available at: Bureau of Mining and Mineral Regulation, Department of Environmental Protection, 2051 East Paul Dirac Drive, Tallahassee, Florida 32310-3760, (850)488-8217, Fax: (850)488-1254.

There is the potential for confusion on what criteria apply to borrow pits, particularly with respect to activities in Karst areas, and also for use as stormwater treatment facilities for future development. There are also issues related to borrow pits that may be exempt from ERP permitting (grandfathering).

#### Permits Required and Grandfathering

Section 373.4145(6)(a), F.S. provides that the operation and maintenance of any activity legally in existence prior to October 1, 2007, may continue without the need for an ERP permit. For the purposes of evaluating borrow pits, this means that a borrow pit operator may continue to extract material from a pit that was *existing* prior to October 1, 2007, provided they do not encroach beyond the limits of land that has been prepared for mining prior to October 1, 2007. Land prepared for mining includes those lands intended for immediate mining and may involve preparation such as land clearing, root raking, removal of top soil, etc. A pit existing prior to October 1, 2007 that has no additional land prepared for mining, may also continue to extract material in the vertical direction within the footprint of the existing disturbed borrow pit area.

Any new borrow pits, or expansion of existing borrow pits that necessitates additional preparation of land for mining that occurs after October 1, 2007, must obtain an ERP permit prior to initiating construction or land clearing activities.

Compliance and enforcement activities related to such facilities that were legally in existence prior to October 1, 2007, and that have not expanded the borrow pit operation such that an ERP is required, remain the responsibility of FDEP. Similarly, compliance and enforcement activities for borrow pits that require an ERP permit will typically be the responsibility of the District, subject to the terms of the Operating Agreement.

### **Thresholds, Fees, and the Governing Board**

For purposes of determining design criteria and application fees, it is important to evaluate the proposed **completed** pit regarding the capability of impounding a volume of water at the top of the berm or excavation rim. Often for borrow pits, thresholds related to the potential volume of water impounded will govern fees, design criteria, and Governing Board participation (for NFWFMD actions only). Consider that for a 5 acre borrow pit site, it is possible to exceed 40 ac-ft of potential storage, thus invoking both a \$1,300 application fee and A.H. II, Part III requirements for peak discharge. Similarly, relatively “small” sites can exceed the potential storage of 120 ac-ft, thus invoking a \$2,500 fee, A.H. II, Part III requirements for peak discharge, **and** the need for final approval by the Governing Board.

A borrow pit may also require a permit under Chapter 40A-4, F.A.C. (March 2, 2000). A “dam safety permit” will be required if a perimeter berm will be used that has a height of five feet or greater and is capable of impounding water. Note that the height is measured from the top of berm to the outside toe of slope. Berms in the interior of the pit used to separate cells or are otherwise below grade are not considered jurisdictional.

### **Borrow Pits NOT Within Sensitive Karst Area**

Generally for borrow pits, much or all of the stormwater runoff is directed to the pit. Often, the pit operator will construct a perimeter berm in order to keep all runoff on-site during all phases of construction. Many times there will be no discharge of surface water from the site, even for extreme storms, and freeboard measuring several feet may be provided. In most cases, a no-discharge condition may be asserted if an applicant can demonstrate that available storage at any time during excavation exceeds the cumulative volume from back-to-back 25-year, 24-hour storm events.

Where there is a reasonable assertion that the site will operate under a no-discharge condition, the pit acts as retention for water quality purposes. This is generally the case whether the activity is a wet pit, or excavated in-the-dry. The conditions for issuance for water quality are met without further demonstration. However, the applicant must demonstrate that this excessive storage is available throughout the life of the project by showing various construction phases and stages. Alternatively, the applicant may demonstrate that the pit has sufficient capacity to meet retention requirements under A.H. II, Part IV, including the volume recovery components. Further, any activities such as access roads or office and parking areas that discharge off-site, must meet stormwater treatment requirements prior to discharge, similar to other types of development. Locations where petroleum products or other hazardous materials are stored, and equipment maintenance areas may need separate containment system to prevent direct stormwater flow to the pit.

For those pits that trip A.H. II, Part III thresholds, the applicant must demonstrate that post development peak discharges do not exceed pre development discharges. For no-discharge pits, this is a fairly simple demonstration as the site will easily contain the entire storm volume in the post condition.

Any proposed borrow pit application that cannot demonstrate a no-discharge condition, must be reviewed under the criteria similar to any other type of development.

If a pit is owned entirely by one person, surface water quality standards will not apply in the borrow pit, except with respect to potential discharges to groundwater and to off-site waters. As such, they may be appropriate for use within a future system for stormwater treatment and attenuation that serves development adjacent to the pit.

#### **Borrow Pits WITHIN the Sensitive Karst Area**

Generally, the same criteria as described above for pits not within Karst areas apply for pits within Karst areas with a few important exceptions. Reasonable assurance must be provided demonstrating that groundwater quality standards will not be violated by excavation activities that have the potential to penetrate confining layers, or are working directly in the limestone. Breaching of confining layers or working directly in the limestone presents a high potential for direct discharge of untreated stormwater pollutants in the aquifer. In such cases, site grading must direct runoff from areas that are potential sources of pollutants into stormwater treatment areas that are designed in compliance with A.H., Part IV., prior to discharge to the pit. Entrance roads, parking areas, vehicle maintenance and wash areas, and any storage of petroleum, etc., are examples of areas that are potential sources of pollutants. Normal activities associated with excavating, stockpiling and loading of material are not considered potential sources for pollutants. Please see A.H. II, section 17.4 for more information.

Storage within borrow pits in karst areas that breach confining layers or directly contact limestone may be used in future development to **attenuate peak discharge only**, and then only if stormwater treatment is provided prior to discharge to the pit. Finished pits may only be used for stormwater treatment if the pit meets the criteria in A.H., section 17.3.2., or if the applicant can demonstrate that groundwater standards will not be violated. The applicant must also demonstrate that confining layers have not been breached.

Additionally, the potential for inducing sinkholes or solution pipes within a borrow pit must be evaluated for all proposed pits within the Karst area. For dry pits, vertical staging of stormwater is limited to a maximum of 10 feet of water depth under design storm conditions. For wet pits, vertical staging of stormwater is similarly limited to a maximum of 10 feet of water depth above the seasonal high groundwater table elevation under design storm conditions. At minimum, the 25-year, 24-hour storm event peak stage should be used for this measurement.

#### **Other Hydrological Considerations**

Borrow pits that are excavated in wet conditions have the potential to affect adjacent wetlands, particularly those pits employing multiple work areas, and where pumping is involved. Particular attention should be paid to significant changes in water table elevations when adjacent wetlands may be considered within the zone of influence. Depending on soil permeability, this zone of influence may range from 100 to 500 feet, or more. The applicant must demonstrate that any significant decrease in on-site water table elevations will not negatively affect adjacent wetland systems. Similarly, the influence of on-site depressed water tables must be evaluated for any negative impacts on any shallow well systems located nearby.

## APPENDIX G

### PROCEDURES FOR EVALUATING PROPOSED ACTIVITIES FOR SITES PREVIOUSLY PERMITTED UNDER CHAPTER 62-25, F.A.C.

#### Background

Authorizations for activities regulated under Chapter 62-25, Florida Administrative Code (F.A.C.), have been issued in the geographic area of the Northwest Florida Water Management District since the early 1980's by the Department of Environmental Regulation/Protection (Department). Activities legally in existence prior to the implementation of Chapter 62-25, F.A.C. were considered "grandfathered."

In 1996, delegation to issue authorization for stormwater general permits under Chapter 62-25, F.A.C., was granted by the Department to the City of Tallahassee. This delegation was terminated in conjunction with the implementation of the Environmental Resource Permit program rule for Northwest Florida, Chapter 62-346, F.A.C., which became effective on October 1, 2007.

Along with specific exemptions for systems serving single family residences, Chapter 62-25, F.A.C. provided two authorizations — construction permits (Rule 62-25.040, F.A.C.) and general permits (Rule 62-25.035, F.A.C.). Construction permits were required for projects that did not meet the conditions for issuance for a general permit. Authorizations to use the general permit were verified for those projects that met specific criteria in Rule 62-25.035, F.A.C. These authorizations were not modifiable and also do not expire. As of October 1, 2007, authorizations under Chapter 62-25, F.A.C., will no longer be issued, except for activities authorized under Section 373.4145(6), F.S.

#### Section A: New Permit Required

Modifications that are proposed to a system authorized by a Chapter 62-25, F.A.C., general or construction permit will require a new permit under Chapter 62-346, F.A.C., under the following circumstances:

- **Project Area** – Whenever any increase is proposed in the treatment area from that originally authorized under the Chapter 62-25, F.A.C. permit.
- **Project Design** — When the permitted project design is altered, such as by adding new impervious area within the land area served by the treatment BMP, in an amount that requires a modification to the treatment BMP design (such as may be required by a local government to address increased water volume), or that can be expected to result in more than minimal or insignificant individual and cumulative adverse impact on the water resources of the district.
- **Treatment BMP** – When the treatment BMP is altered in a manner that:
  - Changes the treatment type;
  - Modifies the treatment train by adding or removing other BMPs;
  - Changes the capacity of the treatment facility; or
  - Changes the discharge in a manner that may result in un-permitted impacts, or relocates the treatment system.
- **Alteration in the Activity** – A change in the activity on site that may increase the pollutant load created by the surface water management system. **This should be reviewed on a case by case basis.**

- **Where an Alteration is a Subset of an Activity Previously Permitted**  
Where activities for a proposed project require a permit under Chapter 62-346, F.A.C. for the conditions described above, and the project area is contained wholly in or extends into an existing project that was permitted under Chapter 62-25, F.A.C., the new project area shall be considered a separate project requiring authorization under Chapter 62-346, F.A.C. The remaining project area for the activity permitted under Chapter 62-25, F.A.C., may proceed under the existing authorization.

Chapter 62-346, F.A.C., applies only to the modified project area, provided:

- Runoff from the modified project area is served by its own system, and does not co-mingle with or discharge to treatment systems authorized by the Chapter 62-25, F.A.C., permit; and
- The final “As-Built” plans submitted to the Department in accordance with the Chapter 62-25, F.A.C., permit provide a verbal description of the changes to the permitted activity and also include a reference to the Chapter 62-346, F.A.C., permit number.

*Activities that do not increase the authorized treatment area, do not alter the treatment BMP, and result in no change in activity type remain authorized under the previous Chapter 62-25, F.A.C., permit and do not require a new Chapter 62-346, F.A.C., permit.*

## **Section B: Guidance**

When trying to determine if a proposed activity is authorized under Chapter 62-25, F.A.C., identify the following:

- **Construction date of the facility**
  - Pre 1982, the site may have been grandfathered.
  - Between 1982 and 2007, the site may have a Chapter 62-25, F.A.C., permit.
  - Post 2007, the site may have a Chapter 62-346, F.A.C., permit.
- **Location of the Facility**
  - Facility is located in Tallahassee:
    - Permitted between 1996 and 2007; permit may have been issued by the City of Tallahassee.
    - Permitted prior to 1996, or for State or City projects; permit may have been issued by the Department.
    - Originally constructed between 1996-2007 and **does not** have a City issued Chapter 62-25, F.A.C., permit — a permit may have been issued by the Department due to annexation into the City after the time of permitting. This is because the limits of the City Tallahassee are subject to change.
  - Facility is located outside the City of Tallahassee, regardless of the construction date — a permit may have been issued by the Department (i.e. the activity required a construction permit, and did not qualify for a general permit under Chapter 62-25, F.A.C.).
- **Permitting Agency**
  - The original permitting agency should conduct the initial review of the proposed activities to determine if they are covered under the previous authorization. When such a determination is made, the original agency shall notify the permittee as to the entity that needs to review and authorize the proposed modification.
  - If it is determined that the activities are not authorized by the original permit, then the permittee/applicant shall be directed to the agency currently responsible for regulating that activity under Chapter 62-346, F.A.C.

- Agency responsibilities are defined in the operating agreement between the Department of Environmental Protection and the Northwest Florida Water Management District.
  - This document can be found in Appendix A, of the Applicants Handbook Volume I.
- **Where No Previous Chapter 62-25, F.A.C., Permit Exists**
    - If a previous permit cannot be located, and proof of one having been issued cannot be provided by the applicant, the proposed activities will be reviewed under Chapter 62-346, F.A.C., as new construction. Treatment is only required under Chapter 62-346, F.A.C., for the system serving the new activity. Where the new activity cannot be isolated from larger drainage basins, including run-off from off-site sources, treatment must be provided for the entire drainage basin that includes the new activity.
    - Activities resulting in reduced impervious surface or reduced pollutant loading may, on a case-by-case basis, be exempted under Section 373.406(6), F.S. However, redevelopment activities that include demolition of an existing site resulting in a “bare earth” condition in preparation for new development, must meet the requirements of Chapter 62-346, F.A.C. In such cases, the “pre-development” condition for purposes of the stream-bank protection criteria in section 4.5, Applicant’s Handbook Volume II, shall be the “developed condition” prior to demolition.
    - Review permit information and documents used to issue the original permit against the activity described.

NOTE: Generally, new activities that exceed permit thresholds for a site that was in existence prior to the implementation Chapter 62-25, F.A.C., (February 1, 1982) that was considered grandfathered under Chapter 62-25, F.A.C., will result in the need for a new ERP permit.