**CHAPTER 62-330**

**ENVIRONMENTAL RESOURCE PERMITTING**

**62-330.010 Purpose and Implementation.**

(1) This chapter, together with the rules and all documents it incorporates by reference, implements the comprehensive, statewide environmental resource permit (ERP) program under Section 373.4131, F.S.

(2) The ERP program governs the following: construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works (including docks, piers, structures, dredging, and filling located in, on or over wetlands or other surface waters, as defined and delineated in Chapter 62-340, F.A.C.) (any one or a combination of these may be collectively referred to throughout this chapter as “projects” or “systems”).

(3) The responsibilities for implementing this chapter are described in Operating and Delegation Agreements between the Department of Environmental Protection (“Department”), the water management districts (“Districts”), and local governments (“delegated local governments”). The Agreements are incorporated by reference in Rule 62-113.100, F.A.C. The term “Agency” applies to the Department, a District, or a delegated local government, as applicable, throughout this chapter.

(4) This chapter is used in conjunction with an Applicant’s Handbook, in two volumes, as follows:

(a) Applicant’s Handbook Volume I, “General and Environmental” (hereinafter “Volume I”) applies statewide to all activities regulated under Chapter 62-330, F.A.C. It includes explanations, procedures, guidance, standards, and criteria on what is regulated by this chapter, the types of permits available, how to submit an application or notice for a regulated activity to the Agencies, how applications and notices are reviewed, the standards and criteria for issuance, and permit duration and modification. Volume I, including Appendices G, H, ~~and~~ I, L, M, N and O only, is incorporated by reference herein (TBD 2023 ~~December 22, 2020~~) (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12078>). The *Federal Guidelines for Inundation Mapping of Flood Risks Associated with Dam Incidents and Failures* (FEMA P-946, July 2013), referenced in Appendix L, is incorporated by reference herein (DATE) (http://www.flrules.org/Gateway/reference.asp?No=Ref-XXX).

(b) An Applicant’s Handbook Volume II (hereinafter “Volume II”), has been adopted for use within each District. Each District’s Volume II is incorporated by reference herein and in the rules listed below, which also are incorporated by reference herein. These rules and Handbook Volumes are available as provided in subsection (5), below.

1. Northwest Florida Water Management District ‒ “Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant’s Handbook – Volume II (Design and Performance Standards Including Basin Design and Criteria),” including all appendices, is incorporated by reference herein (TBD 2023 ~~June 1, 2018~~) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09392> and <http://www.flrules.org/Gateway/reference.asp?No=Ref-03173>) or from the Agency as provided in subsection (5).

2. Suwannee River Water Management District, Applicant’s Handbook Volume II, is incorporated by reference herein, (TBD 2023 ~~August, 2013~~) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09398>), and in subsection 40B-400.091(2), F.A.C., (TBD 2023 ~~October 14, 2013~~) (<https://www.flrules.org/Gateway/reference.asp?No=Ref-02523>).

3. St. Johns River Water Management District, Applicant’s Handbook Volume II, is incorporated by reference herein, (TBD 2023 ~~June 1, 2018~~) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09405>), and in subsections 40C-4.091(1) (TBD 2023 ~~June 1, 2018~~) (<https://www.flrules.org/Gateway/reference.asp?No=Ref-09411>), and 40C-44.091(1), F.A.C., (TBD 2023 ~~June 1, 2018~~) (<https://www.flrules.org/Gateway/reference.asp?No=Ref-09410>).

4. Southwest Florida Water Management District, Applicant’s Handbook Volume II, is incorporated by reference herein, (TBD 2023 ~~June 1, 2018~~) (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12079>), and in Rule 40D-~~4~~1.660, F.A.C., (TBD 2023 ~~June 1, 2018~~) (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12080>).

5. South Florida Water Management District, Applicant’s Handbook Volume II, including Appendices A through D, is incorporated by reference herein, (TBD 2023 ~~May 22, 2016~~) (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12081>).

A copy of the incorporated material identified above may be obtained from the Agency Internet site, https://floridadep.gov/water/water/content/water-resource-management-rules#ERP, or as described in subsection 62-330.010(5), F.A.C.

(5) A copy of Volumes I and II and the other Agreements, rules, forms, and other documents incorporated by reference in this chapter also may be obtained from the Agency Internet site or by contacting staff in an Agency office identified in Appendix A of Volume I.

(6) This chapter explains how to submit notices and applications for activities regulated under Part IV of Chapter 373, F.S., and provides the standards for Agency review and action, which must not be harmful to the water resources and not be inconsistent with the overall objectives of the Agency. This chapter also includes procedures for petitions for a formal determination of the landward extent of wetlands and surface waters under Chapter 62-340, F.A.C.

*Rulemaking Authority 373.026(7), 373.043, 373.118, 373.418, 373.4131, 373.4145, 403.805(1) FS. Law Implemented 373.409, 373.413, 373.4131, 373.414(9), 373.4141, 373.4142, 373.4145, 373.416, 373.423, 373.426, 373.428, 373.429, 373.441 FS. History–New 10-1-13, Amended 6-1-18, 12-22-20, ----23.*

**62-330.050 Procedures for Review and Agency Action on Exemption Requests.**

(1) A notice to the Agency is not required to conduct an activity that is exempt under Rule 62-330.051, F.A.C., except where required in a specific exemption. Persons are encouraged, but not required, to use any available electronic self-certification service of the Agency to confirm that the activity meets the exemption.

(2) If a person desires Agency verification of qualification to conduct an exempt activity (other than for silviculture, for which the procedures in Rule 62-330.0511, F.A.C., apply), and a self-certification is not available or the person chooses not to use a self-certification, they may submit a written or electronic Form 62-330.050(1) – “Request for Verification of an Exemption,” (December 22, 2020), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12035>), or a letter that clearly requests an exemption verification. A copy of the form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C. Such request must include:

(a) The processing fee prescribed in Rule 62-330.071, F.A.C. Only one exemption verification processing fee shall be assessed if the request contains multiple exempt activity types on a single parcel;

(b) A location map(s) of sufficient detail to allow someone who is unfamiliar with the area to locate the site of the activity;

(c) Drawings, calculations, and other supporting information to clearly depict and describe the proposed activities;

(d) The tax parcel identification number from the local government tax rolls;

(e) Contact information for the person requesting the verification; and,

(f) Authorization signed by the property owner allowing Agency staff to inspect the location of the proposed activities.

(3) Additional information on completing and submitting a request for verification of an exemption is contained in sections 3.2, 4.2, 4.2.1, 4.3, and 4.4 of Volume I.

(4) The Agency shall take reasonable efforts to determine within 30 days of receipt of a request whether the submitted materials demonstrate the activity qualifies for an exemption or, if they do not, what information would enable the Agency to make such a determination. If those materials are not received within 60 days of the Agency’s request, the Agency shall advise the person that it cannot verify that the activity qualifies for an exemption. The materials submitted and responses received shall not be considered an application for a general, conceptual approval, or individual permit unless requested in writing.

(5) If, after receipt of an application for a permit, the Agency determines the proposed activity qualifies in whole for an exemption under this chapter, the Agency shall make such determination within 30 days of receipt of the application and refund any processing fees received in excess of those required under Rule 62-330.071, F.A.C.

(6) The Agency will consider exempt activities included in an application to conduct other activities as part of an entire application requiring a permit, and will review and act upon the entire application at one time. However, an applicant may request the Agency separately determine whether specific activities that are part of the application qualify for an exemption. In such a case, the applicant shall pay an additional processing fee for the exemption verification, but only one additional exemption verification processing fee will be required even if more than one kind of exempt activity is included. In accordance with section 10.2.7(d) of Volume I, the Agency with consider the secondary impacts arising from activities described in Section 403.813(1), F.S., that are very closely linked and causally related to the activities proposed in the application.

(7) The Agency’s determination of qualification for an exemption is subject to Chapter 120, F.S. Self-certification is not an Agency action subject to Chapter 120, F.S., unless the Agency determines the self-certification does not meet all of its applicable terms and conditions.

(8) Activities conducted in accordance with an exemption under this chapter remain subject to other applicable permitting, authorization, and performance requirements (including, but not limited to, those governing the “take” of listed species) of the Agencies, the Board of Trustees, and other federal, state, and local government entities.

(9) The following apply when specified in an exemption in Rule 62-330.051, F.A.C.:

(a) Activities shall not exceed a permitting threshold in section 1.2 of the applicable Volume II;

(b) Construction, alteration, and operation shall not:

1. Adversely impound or obstruct existing water flow, cause adverse impacts to existing surface water storage and conveyance capabilities, or otherwise cause adverse water quantity or flooding impacts to receiving water and adjacent lands;

2. Cause an adverse impact to the minimum flows and levels established pursuant to Section 373.042, F.S.;

3. Cause adverse impacts to a Work of the District established pursuant to Section 373.086, F.S.;

4. Adversely impede navigation or create a navigational hazard;

5. Cause or contribute to a violation of state water quality standards. Turbidity, sedimentation, and erosion shall be controlled during and after construction to prevent violations of state water quality standards, 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 due to construction-related activities. Erosion and sediment control best management practices shall be installed and maintained in accordance with the guidelines and specifications described in the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual* (Florida Department of Transportation and FloridaDepartment of Environmental Protection, July 2013 ~~June 2007~~*)*, incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-02530>), and the *Florida Stormwater Erosion and Sedimentation Control Inspector’s Manual Tier I* (Florida Department of Environmental Protection, Division of Environmental Assessment and Restoration ~~Nonpoint Source Management Section~~, Tallahassee, Florida, October 2018 ~~July 2008~~), incorporated by reference herein ([https://www.flrules.org/Gateway/reference.asp?No=Ref-#](https://www.flrules.org/Gateway/reference.asp?No=Ref-02531)####[~~https://www.flrules.org/Gateway/reference.asp?No=Ref-02531~~](https://www.flrules.org/Gateway/reference.asp?No=Ref-02531)) and the *Florida Stormwater Erosion and Sedimentation Control Inspector’s Manual Tier II* (Florida Department of Environmental Protection, Division of Environmental Assessment and Restoration, Tallahassee, Florida, October 2018), incorporated by reference herein ([https://www.flrules.org/Gateway/reference.asp?No=Ref-#####](https://www.flrules.org/Gateway/reference.asp?No=Ref-)); nor

6. Allow excavated or dredged material to be placed in a location other than a self-contained upland disposal site, except as expressly allowed in an exemption in Rule 62-330.051, F.A.C.

(c) When performed in waters accessible to federally- or state-listed aquatic species, such as manatees, marine turtles, smalltooth sawfish, and Gulf sturgeon, all in-water work shall comply with the following:

1. All vessels associated with the project shall operate at “Idle Speed/No Wake” at all times while in the work area and where the draft of the vessels provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.

2. All deployed siltation or turbidity barriers shall be properly secured, monitored, and maintained to prevent entanglement or entrapment of listed species.

3. All in-water activities, including vessel operation, must be shut down if a listed species comes within 50 feet of the work area. Activities shall not resume until the animal(s) has moved beyond a 50-foot radius of the in-water work, or until 30 minutes elapses since the last sighting within 50 feet. Animals must not be herded away or harassed into leaving. All onsite project personnel are responsible for observing water-related activities for the presence of listed species.

4. Any listed species that is killed or injured by work associated with activities performed shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1(888)404-3922 and ImperiledSpecies@myFWC.com.

Copies of incorporated materials identified above may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C.

(10) A person requesting verification of an exemption may waive the timeframes in subsections (4) and (5), above, if the project also requires a State 404 Program authorization under Chapter 62-331, F.A.C., that must be reviewed using the timeframes in that chapter. Waiving the timeframes allows the Agency(ies) to issue agency action for the verification of exemption and the State 404 Program authorization at the same time. This is strongly recommended by the Agencies to ensure consistency and to reduce the potential need for project modifications to resolve inconsistencies that may occur when the agency actions are issued at different times.

*Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4145, 403.805(1) FS. Law Implemented 373.109, 373.406, 373.4131, 373.4145, 403.813(1), 668.003, 668.004, 668.50 FS. History–New 10-1-13, Amended 6-1-18, 12-22-20, -----23.*

**62-330.052** **General Permits – General** No change.

Rules 62-330.401 through 62-330.635, F.A.C., contain the procedures to submit a notice to use a general permit, the procedures for their review, the general conditions that apply to them, and the terms and specific conditions of each general permit. Those provisions do not apply to activities that qualify for the general permit in Section 403.814(12), F.S.

*Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.4131, 373.414(9), 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.118(1), 373.406(5), 373.4131, 373.414(9), 373.4145, 373.416, 373.418, 373.426 FS. History–New 10-1-13.*

**62-330.055 Conceptual Approval Permits for Urban Infill or Redevelopment.**

A county or municipality may request a conceptual approval permit for activities occurring within urban infill and redevelopment areas or community redevelopment areas created under chapter 163, F.S. Following approval of the conceptual permit, any construction, alteration, operation, maintenance or removal consistent with the conceptual permit may be authorized under a notice of intent to use the general permit for urban infill and redevelopment in rule 62-330.450, F.A.C.

(1) An urban infill or redevelopment conceptual approval permit shall be reviewed as provided below and in rule 62-330.056, F.A.C., but does not have to meet all of the stormwater quality and quantity design and performance criteria of Volume I and Volume II, provided the county or municipality submits a stormwater management master plan for the urban infill or redevelopment area that includes the following:

(a) Identification of the proposed urban infill or redevelopment area and the total contributing drainage area, including any major drainage basins and sub-basins;

(b) Identification of the receiving waters associated with the proposed urban infill or redevelopment area; and

(c) Calculation and assignment of the predevelopment annual loading of pollutants of concern as determined during the permit application review, on a drainage basin or sub-basin basis, for all areas to be included within the conceptual approval permit. Loadings must be specific to the types of land use and must be expressed as a “mass per area” basis. The basin or sub-basin loading assignments will serve as the pollutant goal for future urban infill or redevelopment in each of those areas (target pollutant load). Future development that meets the predevelopment pollutant load assignment will be presumed to meet the net improvement requirements of paragraph (2)(a), below.

(2) An application for a conceptual approval permit for urban redevelopment and infill activities shall also include the following:

(a) A demonstration that the redevelopment will achieve a net improvement of the quality of stormwater in accordance with section 373.4131(1)(b)2., F.S.

(b) Documentation of the rate and volume of stormwater discharges existing as of the date of the application, and information sufficient to estimate the maximum rate and volume of stormwater discharges that will exist as of the date of issuance of the conceptual approval permit.

(c) A commitment that activities within the redevelopment area will use ~~stormwater~~ best management practices (BMPs) for stormwater treatment to the maximum extent practicable.

(d) Provisions demonstrating that the individual or regional stormwater management systems within the urban infill or redevelopment area will be operated and maintained in perpetuity, consistent with the terms and conditions of the conceptual approval permit.

(e) An identification of proposed construction and no-construction areas.

(f) An estimate of the maximum extent of impacts to wetlands and other surface waters and details of any proposed mitigation for those impacts.

(g) An estimate of the maximum amount of anticipated impervious surface and description of the stormwater treatment system for those areas.

(h) An identification of the general location and types of activities proposed on any state-owned submerged lands.

(i) A timetable for redevelopment, including the requested duration of the conceptual approval permit.

(3) Consistent with the approved stormwater management master plan, the conceptual approval permit will:

(a) Provide a ledger that indicates the target pollutant load (mass per area) for each drainage basin or sub-basin. Any general permit for construction that is submitted in association with the conceptual permit must demonstrate that the proposed project does not exceed the target pollutant load for the receiving waters.

(b) Provide the annual pollutant load (mass per area) for each type of land use category, and the pollutant removal efficiency for the anticipated BMPs to be employed. Activities requested under the general permit in rule 62-330.450, F.A.C., that use the BMPs approved in the stormwater master plan, that reduce impervious surfaces, or that otherwise meet the pollutant loading target in the stormwater master plan, and that also comply with all the terms and conditions of the general permit, will result in a debit to the ledger. Once the entire pollutant load target is reached for the receiving waters, no more development is allowed under the general permit.

(c) Contain specific conditions necessary to ensure that the future applications for permits to construct, alter, operate, maintain, remove, or abandon systems authorized in the conceptual approval permit are consistent with the redevelopment conceptual approval permit and the general permit in rule 62-330.450, F.A.C.

(d) Allow the rate and volume of stormwater discharges for stormwater management systems within the urban infill or redevelopment area to continue up to the maximum rate and volume of stormwater discharges allowed under section 373.4131(1)(b)4., F.S.

(4) If changes are proposed to the design of existing or future phases, or where there have been changes to state water quality standards, special basins, or site characteristics during the duration of the conceptual approval permit, the applicant must modify the conceptual approval permit if it wishes to continue to rely on it as a basis that reasonable assurance exists for the Agency to issue future construction or operation permits under the terms and conditions of this section. If the permittee fails to do this, the conceptual approval permit can no longer be relied upon as a basis, in part or whole, under which permits to construct or operate future phases will be issued, and the Agency will reevaluate the terms and conditions of the conceptual approval permit at the time a permit application is received to construct the next phase of activities included in the original conceptual approval permit, or at the next requested extension of the conceptual approval permit duration in accordance with subsection 62-330.056(11), F.A.C., whichever occurs first.

(5) Issuance of the conceptual approval permit and activities undertaken under the general permit in rule 62-330.450, F.A.C., must comply with the provisions of section 373.4131(1)(b)1., F.S.

(6) An individual permit under this chapter is required for the construction, alteration, operation, maintenance, abandonment, or removal of activities covered by this conceptual approval permit that involve work in wetlands or other surface waters. The following must occur before the Agency can determine that the general permit in rule 62-330.450, F.A.C., can be used to construct roads, parking areas, buildings, and other structures within the project area authorized by that individual permit, or on lands served by a stormwater management system authorized by that individual permit:

(a) The individual permit must be obtained;

(b) Dredging and filling necessary to prepare the land for future construction, including construction of any required stormwater management systems, must be completed in accordance with the individual permit; and

(c) Any mitigation required to offset adverse impacts from the work in wetlands and other surface waters must be initiated in conformance with the individual permit. When the applicant proposed the recording of a conservation easement over land as part of its mitigation, then a conservation easement acceptable to the agency must be recorded over the mitigation land consistent with the permitted mitigation plan. If the applicant proposed credits from a mitigation bank or regional offsite mitigation area as part of its mitigation, then such credits must be purchased consistent with the permitted mitigation plan.

(7) An urban infill or redevelopment conceptual permit shall be issued for 20 years, unless a shorter duration is requested. The permit shall be renewed at the request of the permittee for another 20 years, unless a shorter duration is requested, subject to activities remaining in compliance with this section and the terms and conditions of the general permit in rule 62-330.450, F.A.C.

*Rulemaking Authority 373.026, 373.043, 373.044, 373.4131, 373.4145, 373.418, 380.06, 403.805(1) FS. Law Implemented 373.026, 373.409, 373.413, 373.4131, 373.4141, 373.4142, 373.4145, 373.416, 380.06 FS. History–New 10-1-13, Amended 6-1-18, -----23.*

**62-330.301 Conditions for Issuance of Individual and Conceptual Approval Permits.**

(1) To obtain an individual or conceptual approval permit, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of the projects regulated under this chapter:

(a) Will not cause adverse water quantity impacts to receiving waters and adjacent lands;

(b) Will not cause adverse flooding to on-site or off-site property;

(c) Will not cause adverse impacts to existing surface water storage and conveyance capabilities;

(d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters;

(e) Will not adversely affect the quality of receiving waters such that the state water quality standards set forth in Chapters 62-4, 62-302, 62-520, and 62-550, F.A.C., including the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C., will be violated;

(f) Will not cause adverse secondary impacts to the water resources. In addition to the criteria in this subsection and in subsection 62-330.301(2), F.A.C., in accordance with Section 373.4132, F.S., an applicant proposing the construction, alteration, operation, maintenance, abandonment, or removal of a dry storage facility for 10 or more vessels that is functionally associated with a boat launching area must also provide reasonable assurance that the facility, taking into consideration any secondary impacts, will meet the provisions of paragraph 62-330.302(1)(a), F.A.C., including the potential adverse impacts to manatees;

(g) Will not adversely impact the maintenance of surface or ground water levels or surface water flows established pursuant to Section 373.042, F.S.;

(h) Will not cause adverse impacts to a Work of the District established pursuant to Section 373.086, F.S.;

(i) Will be capable, based on generally accepted engineering and scientific principles, of performing and functioning as proposed;

(j) Will be conducted by a person with the financial, legal and administrative capability of ensuring that the activity will be undertaken in accordance with the terms and conditions of the permit, if issued; and

(k) Will comply with any applicable special basin or geographic area criteria established as follows:

1. Within the Northwest Florida Water Management District, Section~~s~~ 12.0~~13.0 through 13.4~~ (Special Basin Criteria for Sensitive Karst Areas, including Appendix A) of Volume II.

2. Within the Suwannee River Water Management District, Section [TBD]5.9 (Sensitive Karst Areas) of Volume II.

3. Within the St. Johns River Water Management District:

a. Chapter 40C-41, F.A.C., “Surface Water Management Basin Criteria,” (October 1, 2013), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-02551>).

b. Sections [TBD]13.0 through 13.8.3 (Part VI, Basin Criteria), of Volume II.

4. Within the South Florida Water Management District:

a. Chapter 40E-41, F.A.C., “Surface Water Management Basin and Related Criteria,” (December 1, 2011), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-02554>).

b. Chapter 40E-63, F.A.C., “Everglades Program,” (November 9, 2010), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-02557>).

c. For activities within the Outstanding Florida Waters of Monroe County, Rules 62-312.400 through 62-312.460, F.A.C.

Copies of incorporated material may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C.

(2) Information shall be provided for dam systems, in accordance with Volume I, section 8.4.5, on Form 62-330.301(25), “Dam System Information,” which is incorporated by reference herein (eff. date) (http://www.flrules.org/Gateway/reference.asp?No=Ref-XXX).

(3~~2~~) In instances where an applicant is unable to meet state water quality standards because existing ambient water quality does not meet standards and the system will contribute to this existing condition, the applicant must implement mitigation measures that are proposed by, or acceptable to, the applicant that will cause net improvement of the water quality in the receiving waters for those parameters that do not meet standards. The applicant shall demonstrate such net improvement whereby the pollutant loads discharged from the post-development condition for the proposed project shall be demonstrated to be less than those discharged based on the project’s pre-development condition.

(4) To calculate the discharged pollutant loads, an applicant shall use total nitrogen (TN) and total phosphorous (TP) event mean concentration (EMC) values accepted by the Agency. Applicants must use the most up-to-date verified EMC values, where available, for their project region. An applicant may use EMC values which are derived from regional or local government studies which have been accepted by the Agency. A list of accepted studies is located [DEP website TBD]. An applicant may use EMC values derived from a regional or local government study which is not on the list if the study meets the applicable criteria given in section 9.2.2(b) of Volume I. If no appropriate regional studies or EMC values exist for the proposed project area, the applicant shall use the EMC values listed in section 9 of Volume I.

(4~~3~~) In addition to the criteria in Chapter 62-330, F.A.C., applications for a mitigation bank must also meet the criteria of Chapter 62-342, F.A.C.

(5~~4~~) The standards and criteria used to determine whether the reasonable assurances required in this section and Rule 62-330.302, F.A.C., have been provided, including the provisions for elimination or reduction of impacts and mitigation to offset adverse impacts, are contained in Volume I, incorporated by reference in subsection 62-330.010(4), F.A.C., and Volume II, incorporated by reference in subsection 62-330.010(4), F.A.C., for the applicable District.

(6~~5~~) Forms for demonstrating that an applicant has met the financial responsibility requirements of sections 10.3.7 through 10.3.7.9 of Volume I shall be in substantial conformance with the forms incorporated by reference below, a copy of which may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C.

(a) Form 62-330.301(1), “Performance Bond to Demonstrate Financial Assurance for Mitigation,” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09364>).

(b) Form 62-330.301(2), “Irrevocable Letter of Credit to Demonstrate Financial Assurance for Mitigation,” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09365>).

(c) Form 62-330.301(3), “Standby Trust Fund Agreement to Demonstrate Financial Assurance for Mitigation,” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09367>).

(d) Form 62-330.301(4), “Trust Fund Agreement to Demonstrate Financial Assurance for Mitigation,” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09368>).

(e) Form 62-330.301(5), “Escrow Agreement,” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09369>).

(f) Form 62-330.301(6), “Guarantee Bond to Demonstrate Financial Assurance for Mitigation,” (October 1, 2013) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02488>).

 (7~~6~~) Forms for recording of a conservation easement in the public records in favor of the Agency shall be in substantial conformance with the forms incorporated by reference below, a copy of which may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C. The use of these forms shall constitute consistency with section 704.06, F.S. Where the applicant demonstrates that project specific conditions necessitate deviation from language of the accepted forms, alternative language shall be accepted provided that the intent of Section 704.06, F.S., and section 10.3.8 of Volume I continue to be met:

(a) Form 62-330.301(8), “Deed of Conservation Easement‒Standard,” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09370>).

(b) Form 62-330.301(9), “Deed of Conservation Easement‒Standard, with Third Party Beneficiary Rights,” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09371>).

(c) Form 62-330.301(10), “Deed of Conservation Easement‒Passive Recreational Uses,” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09372>).

(d) Form 62-330.301(11), “Deed of Conservation Easement‒Riparian Uses,” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09373>).

(e) Form 62-330.301(12), “Deed of Conservation Easement–for Local Governments,” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09374>).

(f) Form 62-330.301(13), “Deed of Conservation Easement–Third Party Beneficiary Rights to the U.S. Army Corps of Engineers,” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09375>).

(g) Form 62-330.301(14), “Declaration of Restrictive Covenants,” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09376>).

(h) Form 62-330.301(15), “Declaration of Restrictive Covenants‒Insert,” (October 1, 2013) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02496>).

(i) Form 62-330.301(16), “Temporary Easement for Construction Access,” (October 1, 2013) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02497>).

(j) Form 62-330.301(17), “Permanent Access Easement,” (October 1, 2013) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02498>).

(k) Form 62-330.301(18), “Joint Deed of Conservation Easement–Standard (within Broward County),” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09377>).

(l) Form 62-330.301(19), “Joint Deed of Conservation Easement–Standard, with Third Party Beneficiary Rights (within Broward County),” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09378>).

(m) Form 62-330.301(20), “Joint Deed of Conservation Easement–Passive Recreational Uses (within Broward County),” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09379>).

(n) Form 62-330.301(21), “Joint Deed of Conservation Easement–Riparian Uses (within Broward County),” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09380>).

(o) Form 62-330.301(22), “Joint Deed of Conservation Easement–Local Governments (within Broward County),” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09381>).

(p) Form 62-330.301(23), “Joint Deed of Conservation Easement–Third Party Beneficiary Rights to the U.S. Army Corps of Engineers (within Broward County),” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09382>).

(q) Form 62-330.301(24), “Deed of Conservation Easement for Mitigation Banks–Third Beneficiary Rights to U.S. Army Corps of Engineers,” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09383>).

(9) The form for demonstrating that an applicant has met the financial capability requirements of section 12 of Volume I is incorporated by reference below, a copy of which may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C., and found at Form 62-330.301(26), “Certification of Financial Capability for Perpetual Operations and Maintenance Entities,” (eff. date) (http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX).

(10~~7~~) An overwater pier, dock, or similar structure located in a deepwater port listed in section 311.09, F.S., does not require treatment of stormwater runoff from its impervious surfaces subject to the requirements of section 373.406(12), F.S.

*Rulemaking Authority 373.026~~(7)~~, 373.043, 373.4131, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.042, 373.409, 373.413, 373.4131, 373.4132, 373.4142, 373.4145, 373.416, 373.426, 373.429, 704.06 FS. History–New 10-1-13, Amended 6-1-18, ------23.*

**62-330.310 Operation and Maintenance.**

(1) The permit authorizing construction or alteration must be converted to the operation and maintenance phase once the construction or alteration has been completed. The construction or alteration authorized under an individual permit must be certified to be in compliance with the permit before conversion of the permit to the operation and maintenance phase. Procedures for converting the permit to the operation and maintenance phase, and transferring the permit to the perpetual operation and maintenance entity are described in sections 12.2 and 12.2.1 of Volume I.

(2) If the permittee is also the operation and maintenance entity or i~~I~~f a separate entity is to operate and maintain the project, the entity must demonstrate that it will have the financial, legal, and administrative capability to perform operation and maintenance, as described in sections 12.1 through 12.3.5 ~~12.3.4 5~~ of Volume I. Transfer of the permit to the operation and maintenance entity that was approved as part of the permit does not require a permit modification.

(3) If the permittee desires to change or add operation and maintenance entities after the permit is issued, or to allow for multiple entities to operate portions of the project, a permit modification under Rule 62-330.315, F.A.C., must be requested and approved before transfer of the permit to the new entity or entities. Such permit modification request must include a demonstration that the new entity or entities meet the requirements of subsection (2), above. If an interdependent system will have multiple operation and maintenance entities, that modification request must also demonstrate that each entity that will operate and maintain an interdependent part of the system has the capability to operate and maintain all parts of the system necessary to remain in compliance with all conditions of the permit.

(4)(a) For individual permits NOT associated with an individual, private single-family dwelling unit, duplex, triplex, or quadruplex:

1. Upon completion of construction, and following the general conditions in paragraphs 62-330.350(1)(f) and (g), F.A.C., the permittee shall submit both of the following to the permitting Agency:

a. Form 62-330.310(1), “As-Built Certification and Request for Conversion to Operation Phase,” which is incorporated by reference herein (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09384>); and

b. Form 62-330.310(2), “Request for Transfer of Environmental Resource Permit to the Perpetual Operation and Maintenance Entity,” which is incorporated by reference herein (New Date) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>).

2. The permit will be converted to the operation and maintenance phase upon a certification by the permittee and concurrence by the Agency that the entire project, or an independent portion of the project, has been constructed in compliance with the permit.

3. The permit will be transferred to the operation and maintenance entity once the Agency has verified that the entity meets the requirements of section 12.3 of Volume I, all applicable operation and maintenance documents have been recorded in accordance with section 12.3.4 and 12.3.5 of Volume I, and the entity has accepted responsibility for operation and maintenance of the project or independent portion of the project. The entity is required to sign Form 62-330.310(2), except when the operation and maintenance entity has been accepted at the time of issuance of the permit for the construction phase, or as part of a permit modification.

(b) For individual permits for an individual, private single family dwelling unit, duplex, triplex, or quadruplex, the permit will automatically convert to the operation and maintenance phase upon completion of construction and the Agency’s receipt from the permittee, in accordance with the general conditions in paragraph 62-330.350(1)(f), F.A.C., of a completed Form 62-330.310(3), “Construction Completion and Inspection Certification for Activities Associated with a Private Single-Family Dwelling Unit,” (June 1, 2018) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09386>), which is incorporated by reference herein, certifying that the project was constructed in accordance with the permit.

(c) Copies of the above forms may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C.

(5) Projects authorized under a general permit shall, upon completion, be operated and maintained in perpetuity by the permittee and subsequent owners of the land on which the project is located.

(6) The operation and maintenance entity or entities shall remain liable for compliance with the terms of the permit in perpetuity, unless the permit is transferred in accordance with Rule 62-330.340, F.A.C., or the permit is modified in accordance with subsection (3), above.

(7)(a) The operation phase of mining activities subject to the land reclamation requirements of Chapter 378, F.S., shall terminate, without the need to apply for abandonment of the permit, after the mine, or its subunits as applicable:

1. Has been successfully reclaimed in accordance with Chapter 378, F.S., other than lands disturbed by mining operations that are not subject to the requirements of Chapter 378, F.S.;

2. Has met all 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

3. Does not contain components that require long-term operation or maintenance, such as: stormwater management systems; achievement of mitigation success criteria; work in conservation easements requiring a permit under this chapter; state-owned submerged lands authorizations; dams; above-grade impoundments; works; water control structures; erosion and sedimentation controls; or dewatering pits.

(b) If a 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 Agency over lands reclaimed in accordance with the rules adopted pursuant to Chapter 378, F.S.

*Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4131, 373.4145, 373.416, 373.418, 403.805(1) FS. Law Implemented* ***373.118, 373.4131, 373.4141, 373.416, 373.419, 373.426, 373.429 FS. History–New 10-1-13, Amended 6-1-18, ------23.***

**62-330.311 Inspections and Reporting.**

(1) The operation and maintenance entity shall provide for the inspection of the permitted project after conversion of the permit to the operation and maintenance phase as provided in section 12.5 ~~12.4~~ of Volume I. ~~Minimum inspection frequencies will be established in Volume II for each District as applicable,~~ Inspections are to be conducted and reported as described in section 12.5 of Volume I. ~~but actual~~ ~~inspection~~ Inspection and reporting frequencies for the specific project are subject to revision through permit conditions, based on site- and activity-specific operational and maintenance requirements.

(2) Within 30 days of a stormwater management system inspection, or within 30 days of any failure of a stormwater management system or deviation from the permit, a report shall be submitted to the Agency using Form 62-330.311(1), “Operation and Maintenance Inspection Certification,” (new date ~~October 1, 2013~~) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02502>), incorporated by reference herein, describing the remedial actions taken to resolve the failure or deviation.

(3) The inspection report shall include Form 62-330.311(3), “Inspection Checklists,” (eff. date) (http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX) or another form including the information required in the Inspection Checklist, as provided in section 12.5 of Volume I.

(4~~3~~) The operation and maintenance entity of a regional stormwater management facility must notify the Agency on an annual basis, using Form 62-330.311(2), “Regional Stormwater Management System Annual Report,” (October 1, 2013) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02503>), incorporated by reference herein, of all new systems and their associated stormwater volumes that have been allowed to discharge stormwater into the regional facility, and must confirm that the maximum allowable treatment volume of stormwater authorized to be accepted by the regional facility has not been exceeded.

(5~~4~~) A copy of the above forms may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C.

(6~~5~~) Permits issued prior to the effective date of this section shall continue to be inspected and reported on in accordance with the terms and conditions of the existing permit. However, a permittee may request a modification of the permit to reflect inspection and reporting in accordance with this rule.

(7) Information shall be provided for existing dam systems in accordance with section 8.4.5 of Volume I on Form 62-330.311(4), “Condition Assessment Report,” which is incorporated by reference herein (eff. date), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-XXX>).

*Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4131, 373.4145, 373.416, 373.418, 403.805(1) FS. Law Implemented 373.118, 373.4131, 373.4141, 373.423, 668.003, 668.004, 668.50 FS. History–New 10-1-13, Amended 6-1-18, ------23.*

**62-330.350 General Conditions for Individual Permits.**

(1) The following general conditions are binding on all individual permits issued under this chapter, except where the conditions are not applicable to the authorized activity, or where the conditions must be modified to accommodate project-specific conditions.

(a) All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.

(b) A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.

(c) Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation, July 2013 ~~June 2007~~)*, incorporated in Rule 62-330.050(9)(b)5. and referenced in section 11.2.1 of Volume I, available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-04227>, the *Florida Stormwater Erosion and Sedimentation Control Inspector’s Manual Tier I* (Florida Department of Environmental Protection, Division of Environmental Assessment and Restoration, Tallahassee, Florida, October 2018), and the *Florida Stormwater Erosion and Sedimentation Control Inspector’s Manual Tier II* (Florida Department of Environmental Protection, Division of Environmental Assessment and Restoration, Tallahassee, Florida, October 2018) ~~and the~~ *~~Florida Stormwater Erosion and Sedimentation Control Inspector’s Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)~~*~~,~~ available at <https://www.fsesci.com/downloads/>., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.

(d) At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), “Construction Commencement Notice,” (October 1, 2013), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02505>), incorporated by reference herein, indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C., and shall be submitted electronically or by mail to the Agency. However, for activities involving more than one acre of construction that also require a NPDES stormwater construction general permit, submittal of the Notice of Intent to Use Generic Permit for Stormwater Discharge from Large and Small Construction Activities, DEP Form 62-621.300(4)(b), shall also serve as notice of commencement of construction under this chapter and, in such a case, submittal of Form 62-330.350(1) is not required.

(e) Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms, and conditions of the permit for the life of the project or activity.

(f) Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:

1. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex ‒ “Construction Completion and Inspection Certification for Activities Associated with a Private Single-Family Dwelling Unit” [Form 62-330.310(3)]; or

2. For all other activities ‒ “As-Built Certification and Request for Conversion to Operation Phase” [Form 62-330.310(1)].

3. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.

(g) If the final operation and maintenance entity is a third party:

1. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as-built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see section~~s~~ 12.3 ~~thru 12.3.4~~ of Volume I) as filed with the Florida Department of State, Division of Corporations, and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.

2. Within 30 days of submittal of the as-built certification, the permittee shall submit “Request for Transfer of Environmental Resource Permit to the Perpetual Operation and Maintenance Entity” [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.

(h) The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.

(i) This permit does not:

1. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;

2. Convey to the permittee or create in the permittee any interest in real property;

3. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or

4. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.

(j) Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.

(k) The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.

(l) The permittee shall notify the Agency in writing:

1. Immediately if any previously submitted information is discovered to be inaccurate; and

2. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.

(m) Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.

(n) If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, stone tools, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the vicinity of the discovery. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section (DHR), at (850)245-6333, as well as the appropriate permitting agency office. Project activities shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, F.S. For project activities subject to prior consultation with the DHR and as an alternative to the above requirements, the permittee may follow procedures for unanticipated discoveries as set forth within a cultural resources assessment survey determined complete and sufficient by DHR and included as a specific permit condition herein.

(o) Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.

(p) The permittee shall provide routine operation and maintenance of all components of the stormwater management system to remove trapped sediments and debris, and to ensure that the system continues to function as designed and permitted, including at a minimum, implementation of operation and maintenance activities under any required operation and maintenance plan. Any removed ~~Removed~~ materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.

(q) This permit is issued based on the applicant’s submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.

(r) A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with subsection 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

(2) In addition to those general conditions in subsection (1), above, the Agency shall impose any additional project-specific special conditions necessary to assure the permitted activities will not be harmful to the water resources, as set forth in Rules 62-330.301 and 62-330.302, F.A.C., Volumes I and II, as applicable, and the rules incorporated by reference in this chapter.

*Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.116, 373.117, 373.409, 373.413, 373.4131, 373.4142, 373.4145, 373.416, 373.418, 373.419, 373.422, 373.423, 373.426, 373.428, 403.0877 FS. History‒New 10-1-13, Amended 6-1-18, (effective date)------23.*

**62-330.351 General Conditions for Conceptual Approval Permits. [No change.]**

The following general conditions are binding on all conceptual approval permits issued under this chapter, except where the conditions are not applicable to the activity or where the conditions must be modified to accommodate project-specific situations. In addition to these general conditions, the Agency shall impose any additional special conditions necessary to assure the permitted activities will not be harmful to the water resources, as set forth in Rules 62-330.301 and 62-330.302, F.A.C., Volumes I and II, as applicable, and the rules incorporated by reference in this chapter.

(1) This permit does not authorize any construction, alteration, maintenance, operation, removal, or abandonment, except where such activities are specifically authorized as the first phase of an individual permit or are authorized to occur in accordance with a general permit or exemption under Chapter 62-330, F.A.C.

(2) This permit does not:

(a) Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;

(b) Convey to the permittee or create in the permittee any interest in real property;

(c) Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or

(d) Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.

(3) The permittee shall notify the Agency in writing:

(a) Immediately if any previously submitted information is discovered to be inaccurate; and

(b) Within 30 days of any conveyance or division of ownership or control of the property or the system, the name and contact information for the new owner.

(4) Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample, and test the project site to ensure conformity with the permit.

(5) Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.

(6) This conceptual approval permit only authorizes design concepts for a master or future plan to construct, alter, operate, maintain, remove, or abandon projects that require a permit under Part IV of Chapter 373, F.S. It does not authorize any construction, alteration, operation, maintenance, removal, or abandonment, or the establishment and operation of a mitigation bank, or relieve the permit holder of any requirements to obtain such permits.

(7) Subsequent applications to construct and operate activities shall be prepared and submitted using the applicable procedures in Rules 62-330.052, 62-330.054, 62-330.060, and 62-330.402, F.A.C., and sections 4.2.2, 4.2.3, 4.3, and 4.4 of Volume I. An application for conceptual approval for a mitigation bank shall also include the materials required by Chapter 62-342, F.A.C.

(8) Issuance of this conceptual approval permit is a determination, within the level of detail provided in the application, that the activities approved in this permit are consistent with applicable rules at the time of issuance. This permit provides the conceptual approval permit holder with a rebuttable presumption, during the duration of this permit, that the engineering design and scientific principles upon which the conceptual approval permit approved herein are likely to meet applicable rule criteria for issuance of permits for subsequent phases of the project, provided all of the following are met at the time of receipt of a complete application to construct and operate the future phases:

(a) The application to construct and operate the future phases remains consistent with the designs and conditions of this permit. Primary areas for consistency comparisons include the size, location, and extent of the activities proposed, the type and nature of the activities, percent imperviousness, allowable discharge and points of discharge, location and extent of wetland and other surface water impacts, mitigation plans implemented or proposed, control elevations, extent of stormwater reuse, detention and retention volumes, and the extent of flood elevations.

If an application for construction of any portion of the land area covered by this permit is inconsistent with the design concepts and conditions approved herein, the application will be reviewed to determine the extent to which the inconsistency will affect the designs and conditions for the remainder of the lands contained in this permit. If the inconsistency will materially affect those designs and conditions, then the applicant must demonstrate that the holder of this permit agrees to that inconsistency. In such a case, the holder of the conceptual approval permit may:

1. Modify the conceptual approval permit to conform to the revised design;

2. Abandon reliance on the conceptual approval permit; or

3. Rely on those portions of the conceptual approval permit for only those areas that were not affected by the inconsistency.

(b) There are no changes to state water quality standards that would be affected by activities authorized in the conceptual approval permit that have not already been authorized for construction or operation.

(c) There have been no amendments to Florida law governing special basin criteria that would affect future activities authorized by the conceptual approval permit that have not already been authorized for construction.

(d) There are no substantive changes in the site characteristics that would affect whether the design concepts approved in the conceptual approval permit can continue to be reasonably expected to meet the conditions for authorizing construction of future phases. This shall include such things as changes in the designation of listed species, and changes to nesting, denning, and critical designation status of listed species that exist within the lands served by the project area.

(9) If changes are proposed to the design of existing or future phases, or where there have been changes to state water quality standards, special basins, or site characteristics as described in conditions paragraphs (3)(a) through (d), above, during the duration of this permit, the applicant must modify this permit if it wishes to continue to rely on this permit as a basis that reasonable assurance exists for the Agency to issue future construction or operation permits under the terms and conditions of this permit. If the permittee fails to do this, this conceptual approval permit can no longer be relied upon as a basis, in part or whole, under which permits to construct or operate future phases will be issued, and the Agency will reevaluate the terms and conditions of this permit at the time a permit application is received to construct the next phase of activities, or at the next requested extension of this permit’s duration in accordance with subsection 62-330.056(11), F.A.C., whichever occurs first.

*Rulemaking Authority 373.026(7), 373.118(1), 373.043, 373.406(5), 373.4131, 373.414(9), 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.116, 373.117, 373.118(1), 373.406(5), 373.409, 373.413, 373.4131, 373.414(9), 373.4142, 373.4145, 373.416, 373.418, 373.419, 373.422, 373.423, 373.426, 373.428, 403.0877 FS. History‒New 6-1-18.*

**62-330.405 General Conditions for All General Permits.**

The following general permit conditions are binding upon the permittee and are enforceable under chapter 373, F.S. These conditions do not apply to the general permit for stormwater management systems under section 403.814(12), F.S.

(1) The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit and may subject the permittee to enforcement action and revocation of the permit under chapter 373, F.S.

(2) The general permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any construction, alteration, operation, maintenance, removal or abandonment authorized by this permit; and it does not authorize any violation of any other applicable federal, state, local, or special district laws (including, but not limited to, those governing the “take” of listed species).

(3) The general permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the general permit.

(4) The general permit does not relieve the permittee from liability and penalties when the permitted activity causes harm or injury to: human health or welfare; animal, plant or aquatic life; or property. It does not allow the permittee to cause pollution that violates state water quality standards.

(5) Section 253.77, F.S., provides that a person may not commence any excavation, construction, or other activity involving the use of state-owned or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required consent, lease, easement, or other form of authorization authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on state-owned lands.

(6) The authorization to conduct activities under a general permit may be modified, suspended or revoked in accordance with chapter 120, F.S., and section 373.429, F.S.

(7) The general permit is not transferable to a new third party. To be used by a different permittee, a new notice to use a general permit must be submitted in accordance with rule 62-330.402, F.A.C. Activities constructed in accordance with the terms and conditions of a general permit are automatically authorized to be operated and maintained by the permittee and subsequent owners in accordance with subsection 62-330.340(1), F.A.C. Any person holding the general permit, persons working under the general permit, and owners of land while work is conducted under the general permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to sale, conveyance, or other transfer of ownership or control of the permitted project, activity, or the real property at which the permitted project or activity is located.

(8) Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the permitted system to ensure conformity with the plans and specifications approved by the general permit.

(9) The permittee shall maintain any permitted project or activity in accordance with the plans submitted to the Agency and authorized in the general permit.

(10) A permittee’s right to conduct a specific activity under the general permit is authorized for a duration of five years.

(11) Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be implemented and maintained immediately prior to, during, and after construction as needed to stabilize all disturbed areas, including other measures specified in the permit to prevent adverse impacts to the water resources and adjacent lands. Erosion and sediment control measures shall be installed and maintained in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation, July 2013 ~~June 2007~~)*, available at https://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX, the *Florida Stormwater Erosion and Sedimentation Control Inspector’s Manual Tier I* (Florida Department of Environmental Protection, Division of Environmental Assessment and Restoration, Tallahassee, Florida, October 2018), and the *Florida Stormwater Erosion and Sedimentation Control Inspector’s Manual Tier II* (Florida Department of Environmental Protection, Division of Environmental Assessment and Restoration, Tallahassee, Florida, October 2018), ~~and the~~ *~~Florida Stormwater Erosion and Sedimentation Control Inspector’s Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)~~*~~,~~ available at https://www.fsesci.com/downloads/.

(12) Unless otherwise specified in the general permit, temporary vehicular access within wetlands during construction shall be performed using vehicles generating minimum ground pressure to minimize rutting and other environmental impacts. Within forested wetlands, the permittee shall choose alignments that minimize the destruction of mature wetland trees to the greatest extent practicable. When needed to prevent rutting or soil compaction, access vehicles shall be operated on wooden, composite, metal, or other non-earthen construction mats. In all cases, access in wetlands shall comply with the following:

(a) Access within forested wetlands shall not include the cutting or clearing of any native wetland tree having a diameter four inches or greater at breast height;

(b) The maximum width of the construction access area shall be limited to 15 feet;

(c) All mats shall be removed as soon as practicable after equipment has completed passage through, or work has been completed, at any location along the alignment of the project, but in no case longer than seven days after equipment has completed work or passage through that location; and

(d) Areas disturbed for access shall be restored to natural grades immediately after the maintenance or repair is completed.

(13) Barges or other work vessels used to conduct in-water activities shall be operated in a manner that prevents unauthorized dredging, water quality violations, and damage to submerged aquatic communities.

(14) The construction, alteration, or use of the authorized project shall not adversely impede navigation or create a navigational hazard in the water body.

(15) Except where specifically authorized in the general permit, activities must not:

(a) Impound or obstruct existing water flow, cause adverse impacts to existing surface water storage and conveyance capabilities, or otherwise cause adverse water quantity or flooding impacts to receiving water and adjacent lands; or

(b) Cause an adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to section 373.042, F.S., or a Works of the District established pursuant to section 373.086, F.S.

(16) If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, stone tools, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the vicinity of the discovery. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section (DHR), at (850)245-6333, as well as the appropriate permitting agency office. Project activities shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and the proper authorities notified in accordance with section 872.05, F.S.

(17) The activity must be capable, based on generally accepted engineering and scientific principles, of being performed and of functioning as proposed, and must comply with any applicable District special basin and geographic area criteria.

(18) The permittee shall comply with the following when performing work within waters accessible to federally- or state-listed aquatic species, such as manatees, marine turtles, smalltooth sawfish, and Gulf sturgeon:

(a) All vessels associated with the project shall operate at “Idle Speed/No Wake” at all times while in the work area and where the draft of the vessels provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.

(b) All deployed siltation or turbidity barriers shall be properly secured, monitored, and maintained to prevent entanglement or entrapment of listed species.

(c) All in-water activities, including vessel operation, must be shut down if a listed species comes within 50 feet of the work area. Activities shall not resume until the animal(s) has moved beyond a 50-foot radius of the in-water work, or until 30 minutes elapses since the last sighting within 50 feet. Animals must not be herded away or harassed into leaving. All onsite project personnel are responsible for observing water-related activities for the presence of listed species.

(d) Any listed species that is killed or injured by work associated with activities performed shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1(888)404-3922 and ImperiledSpecies@myFWC.com.

(e) Whenever there is a spill or frac-out of drilling fluid into waters accessible to the above species during a directional drilling operation, the FWC shall be notified at ImperiledSpecies@myfwc.com with details of the event within 24 hours following detection of the spill or frac-out.

(19) The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any activity authorized by the general permit.

(20) The permittee shall immediately notify the Agency in writing of any submitted information that is discovered to be inaccurate.

*Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.4131, 373.414(9), 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.044, 373.118(1), 373.129, 373.136, 373.406(5), 373.413, 373.4131, 373.414(9), 373.4145, 373.416, 373.422, 373.423, 373.429, 403.814(1) FS. History–New 10-3-95, Amended 10-1-07, Formerly 62-341.215, Amended 10-1-13, 6-1-18, ------23.*