

CHAPTER 62-346
ENVIRONMENTAL RESOURCE PERMITTING IN NORTHWEST FLORIDA

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62-346.010 Policy and Purpose.

This rule provides the requirements for processing environmental resource permits, under Section 373.4145, F.S., and for obtaining formal determinations of the landward extent of wetlands and surface waters under Chapter 62-340, F.A.C., within the geographical jurisdiction of the Northwest Florida Water Management District (NFWFMD or District). This rule does not preclude the application of any other permit requirements or procedures in other chapters of Title 62, F.A.C. The requirements of this chapter are in addition to and not in lieu of the requirements specified in the “Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant’s Volume I (General and Environmental),” including Appendices A, C, and E through G, but excluding Appendices B and D, effective November 1, 2010, which is hereby incorporated by reference, the “Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant’s Handbook – Volume II (Design Requirements for Stormwater Treatment and Management Systems – Water Quality and Water Quantity),” including Appendices A and B, effective November 1, 2010, which is hereby incorporated by reference and in Chapter 62-341, F.A.C. Unless otherwise specified in this chapter, “Department” means the Department of Environmental Protection. However, when implemented by the NFWFMD, the term “Department” means “Northwest Florida Water Management District.”

Rulemaking Authority 373.026(7), 373.043, 373.118, 373.418, 373.4145, 403.805(1) FS. Law Implemented 373.409, 373.413, 373.414(9), 373.4141, 373.4142, 373.4145, 373.416, 373.423, 373.426, 373.428, 373.429 FS. History—New 10-1-07, Amended 11-1-10.

62-346.020 General Provisions.

(1) This chapter applies to activities within the geographical jurisdiction of the NFWFMD and shall be implemented by both the Department of Environmental Protection (“Department”) and the NFWFMD pursuant to Section 373.4145, F.S. The Department and NFWFMD have entered into an Operating Agreement (see definition in Rule 62-346.030, F.A.C.), determining which agency is responsible for reviewing and taking agency action on specified types of activities and otherwise implementing the provisions of Part IV of Chapter 373, F.S., within the geographical jurisdiction of the NFWFMD.

(2) Except for those activities that continue to be governed by Chapter 62-25 or 62-312, F.A.C., pursuant to Section 373.4145(6), F.S., all Department actions concerning environmental resource permit applications, suspensions, revocations, modifications, extensions, and transfers, including emergency actions, associated with activities regulated under Part IV of Chapter 373, F.S., within the geographical jurisdiction of the NFWFMD are governed by this chapter, the Applicant’s Handbook Volumes I and II, Chapter 62-341, F.A.C., and the Operating Agreement.

(3) The responsibilities for the review and agency action on notices, petitions, permits, compliance, and enforcement activities that cross the geographical boundary of the NFWFMD will be governed by interagency agreement as provided in Section 373.046(6), F.S. Applications for activities requiring a permit under this chapter that

extend into the geographical area of the Suwannee River Water Management District shall be submitted to and processed by the district office of the Department or water management district covering the location 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 in subsection (1) above, or in Chapter 62-113, F.A.C.

(4) Issuance of an environmental resource permit by the Department does not convey to the permittee, or create in the permittee, any property right or any interest in the real property that is the subject of the application, nor does it authorize any entrance upon or activities on property that is not owned or controlled by the permittee.

(5) Applicants are advised that Section 253.77, F.S., states that a person may not commence any excavation, construction, or other activity involving the use of sovereign 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 lease, easement, or other form of consent authorizing the proposed use. Therefore, an applicant is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on state-owned submerged lands or other state-owned lands. For activities that are located on state-owned submerged lands, Sections 253.77 and 373.427, F.S., and Rules 18-21.00401 (October 12, 1995) and 62-346.075, F.A.C., require that neither the authorization to use sovereign submerged lands nor an individual (including conceptual approval) environmental resource permit may be issued unless the activity qualifies for both.

Rulemaking Authority 373.026(7), 373.043, 373.118, 373.414, 373.4145, 373.418, 373.421, 403.805(1) FS. Law Implemented 373.413, 373.414, 373.4145, 373.416, 373.421, 373.426 FS. History—New 10-1-07, Amended 11-1-10.

62-346.030 Definitions.

Except as otherwise defined in this chapter or in the Applicant's Handbook, the definitions in Rules 62-4.020, 62-340.200 and 62-341.021, F.A.C., and the following definitions apply to this chapter and to Applicant's Handbook Volumes I and II.

(1) "Abandon" or "Abandonment" means cessation of use and maintenance activities or responsibility for a system, or part of a system.

(2) "Activity" or "Activities," means construction, alteration, operation, maintenance, abandonment, or removal of any surface water management system, including dredging or filling, as those terms are defined in Sections 373.403(13) and (14), F.S.

(3) "As-Built Drawings" means plans certified by a registered professional that accurately represent the constructed condition of a system.

(4) "Borrow pit" means a location where the soil or other natural deposits on or in the earth are removed from their location so as to make them suitable for use to build up land. No processing is involved, except for the use of a scalping screen to remove large rocks, wood, and other debris. The materials are used more for their bulk than their intrinsic qualities.

(5) "Common plan of development or sale" means:

(a) Any activity initiated by the surveying, planning, or platting of contiguous real property, where such activity facilitates the advancement of a common type of land use

(such as multiple residences, a residential subdivision, or phased site development) on the subject property, or

(b) Any activity on contiguous real property that comprises a total land area divided into three or more lots, parcels, tracts, tiers, blocks, sites, or units, and is served by a common road or road network or common surface water management system within that land area. Areas of land that are divided by public or private roads are considered contiguous if such areas are under one ownership or control.

(6) "Compensating treatment" means treatment for water quality in an offsite location when physical conditions do not allow for treatment on-site equivalent to that otherwise required by this chapter and the Applicant's Handbook.

(7) "Completion of Construction" means the time when all components of the surface water management system are installed and fully functional.

(8) "Conceptual Approval Permit" means a type of individual permit issued by the Department, approving the concept of a master plan for a surface water management system, which is binding upon the Department and the permittee.

(9) "Construction" means any activity including land clearing, earth-moving or the erection of structures that will result in the creation or alteration of a system.

(10) "Control elevation" means the lowest elevation at which water can be released through a control device.

(11) "Creation" means the establishment of new wetlands or surface waters by conversion of other landforms.

(12) "Detention" means the collection and temporary storage of stormwater with subsequent gradual release.

(13) "Direct discharge" means a discharge without prior opportunity for mixing and dilution sufficient to prevent a lowering of the existing ambient water quality.

(14) "Discharge" means to allow or cause water to flow.

(15) "Embedded" means the placement of transmission or distribution lines, pipes or cables into the bottoms of waters of the state by minimal displacement of bottom material and without the creation of a trench, or trough, through the use of techniques such as plowing-in, weighing-in, or non-trenching jets.

(16) "Endangered species" means those animal species that are listed in Rule 68A-27.003 (as amended December 16, 2003), F.A.C., and those plant species that are listed as endangered in 50 Code of Federal Regulations 17.12 (as amended April 8, 2004), when such plants are found to be located in a wetland or other surface water.

(17) "Engineered Stormwater Management System" means 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.

(18) "Enhancement" means improving the ecological value of wetlands, other surface waters, or uplands that have been degraded in comparison to their native condition.

(19) "Entrenchment" means the placement of transmission or distribution lines, pipes or cables into the bottoms of waters of the state by the creation of a defined trench, or trough, through the use of such devices as clamshells, dredges, trenching jets, or other devices that produce similar results.

(20) "Environmental resource permit" means a noticed general or individual permit for a surface water management system issued pursuant to Part IV of Chapter 373, F.S.

(21) "Existing nesting or denning" refers to an upland site that is currently being used for nesting or denning, or is expected, based on reasonable scientific judgment, to be used for such purposes based on past nesting or denning at the site.

(22) "Impervious" means land surfaces that do not allow, or minimally allow, the penetration of water; such as building roofs, normal concrete and asphalt pavements, and some fine grained soils such as clays. For purposes of implementing stormwater treatment quality and quantity requirements, the calculation of the amount of impervious surface does not include wetlands or other surface waters.

(23) "Insect control impoundment dikes" means artificial structures, including earthen berms, constructed and used to impound wetlands or other surface waters for the purpose of insect control.

(24) "Isolated wetland" means any area that is determined to be a wetland in accordance with Chapter 62-340, F.A.C., but that does not have any connection via wetlands or other surface waters, including excavated waterbodies or a series of excavated waterbodies, to the landward extent of any of the following waters:

(a) Atlantic Ocean out to the seaward limit of the state's territorial boundaries;
(b) Gulf of Mexico out to the seaward limit of the state's territorial boundaries;
(c) Bays, bayous, sounds, estuaries, lagoons and natural channels and natural tributaries thereto;

(d) Rivers, streams and natural tributaries thereto;

(e) Natural lakes;

(f) The waters as defined in Section 403.031(13), excluding paragraphs (a) and (b), F.S.;

(g) Waters within mosquito control impoundments constructed as part of a governmental mosquito control program, excluding those portions which have become wetlands or other surface waters based on a change to vegetative dominance as defined in Chapter 62-340, F.A.C., solely because of construction of the impoundment. Specifically included as wetlands and other surface waters are those areas which were naturally occurring wetlands or other surface waters before construction of the impoundment but which have had their connection to other wetlands or other surface waters severed as a result of the construction of dikes. Also included as wetlands and other surface waters are areas where vegetative dominance of obligate, facultative wet, and facultative species, as defined in Rule 62-340.450, F.A.C., has been lost solely because of construction of the impoundment.

(25) "Listed species" means those animal species that are endangered, threatened or of special concern and are listed in Rules 68A-27.003 (as amended December 16, 2003), 68A-27.004 (as amended May 15, 2008), and 68A-27.005 (as amended November 8, 2007), F.A.C., and those plant species listed in 50 Code of Federal Regulation 17.12, (as amended April 8, 2004), when such plants are located in a wetland or other surface water.

(26) "Littoral zone" means that portion of a stormwater management system that is designed to contain rooted emergent plants.

(27) "Materials," when used in the context of "filling," means matter of any kind, such as, sand, clay, silt, rock, dredged material, construction debris, solid waste, pilings

or other structures, ash, and residue from industrial and domestic processes. The term does not include the temporary use and placement of lobster pots, crab traps, or similar devices or the placement of oyster cultch pursuant to Section 597.010, F.S., and Chapter 5L-3, F.A.C. (April 9, 2007).

(28) "Mine" means an area of land that is related to the removal from its location of solid substances of commercial value found in natural deposits on or in the earth, so as to make the substances suitable for commercial, industrial, or construction use, but does not include excavation solely in aid of on-site farming or on-site construction, nor the process of prospecting. As used in this chapter, this does not include mining operations conducted in conjunction with land development activities that will result in residential, industrial, commercial, or land fill uses at the end of construction. Borrow pits that use extracted material in on-site locations are not mines. For the purposes of this definition, "on-site" means, "within the contiguous limits of an area of land under one ownership or control, and upon which agricultural or construction activities are taking place. Areas of land that are divided by public or private roads are considered contiguous if such areas are under one ownership or control."

(29) "Mitigation" means an action or series of actions to offset the adverse impacts that would otherwise cause an activity regulated under Part IV of Chapter 373, F.S., to fail to meet the criteria set forth in Section 373.414(1), F.S. Mitigation usually consists of restoration, enhancement, creation, preservation, or a combination thereof.

(30) "Mitigation bank," "Mitigation bank permit," "Mitigation banker" or "banker," "Mitigation credit," and "Mitigation service area" shall have the same meanings as provided in Chapter 62-342, F.A.C.

(31) "Off-line" means the storage of a specified portion of the stormwater in such a manner so that subsequent runoff in excess of the specified volume of stormwater does not flow into the area storing the treatment volume.

(32) "Operate" or "operation" means to cause or to allow a system to function. This 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.

(33) "Operating Agreement" refers to the "Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., Between Northwest Florida Water Management District and Department of Environmental Protection," which is hereby incorporated by reference. A copy of the Operating Agreement is contained in Appendix A of Applicant's Handbook Volume I.

(34) "Other surface waters" means surface waters as described and delineated pursuant to Rule 62-340.600, F.A.C., as ratified by Section 373.4211, F.S., other than wetlands.

(35) "Permanent pool" means that portion of a wet detention pond that normally holds water (e.g., between the normal water level and the pond bottom), excluding any water volume claimed as wet detention treatment volume pursuant to section 8.5 of the Applicant's Handbook Volume II.

(36) "Preservation" means the protection of wetlands, other surface waters or uplands from adverse impacts by placing a conservation easement or other comparable land use restriction over the property or by donation of fee simple interest in the property.

(37) "Project area" means the area being modified or altered in conjunction with a proposed activity requiring a permit under this chapter.

(38) "Prospecting" means activities considered normal and reasonably necessary to retrieve samples of subsurface geologic sediments for the specific purpose of locating, mapping, and determining the quality and quantity of sedimentary strata or natural deposits.

(39) "Regional stormwater management system" means a system designed, constructed, operated, and maintained to collect convey, store, absorb, inhibit, treat, use or reuse stormwater to prevent or reduce flooding, overdrainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges from multiple parcels and projects within the drainage area served by the regional system, where the term "drainage area" refers to the land or development that is served by or contributes stormwater to the regional system.

(40) "Regional watershed" means a watershed as delineated in Rule 62-342.200, F.A.C.

(41) "Registered Professional" means a professional registered or licensed by and in the State of Florida and who possesses the expertise and experience necessary for the competent preparation, submittal and certification of documents and materials, and performing other services required in support of permitting, constructing, altering, inspecting, and operating a proposed or existing activity regulated under Part IV of Chapter 373, F.S. Examples of registered professionals, authorized pursuant to Chapter 455, F.S., and the respective practice acts by which they are regulated, are professional engineers licensed under Chapter 471, F.S., professional landscape architects licensed under Chapter 481, F.S., professional surveyors and mappers licensed under Chapter 472, F.S., and professional geologists licensed under Chapter 492, F.S.

(42) "Remove" or "removal" means elimination of all or part of the system.

(43) "Restoration" means converting back to a historic condition those wetlands, surface waters, or uplands that currently exist as a land form that differs from the historic condition.

(44) "Retention" means a system designed to prevent the discharge of a given volume of stormwater runoff into surface waters in the state by complete on-site storage. Examples include systems such as excavated or natural depression storage areas, pervious pavement with subgrade, or above ground storage areas.

(45) "Routine custodial maintenance" means those activities described in section 3.4.3.4(b) in Applicant's Handbook Volume I.

(46) "Seasonal high ground water table elevation" means the highest level of the saturated zone in the soil in a year with normal rainfall.

(47) "Seasonal high water level" means the elevation to which the ground or surface water can be expected to rise due to a normal wet season.

(48) "Semi-impervious" means land surfaces that partially restrict the penetration of water; such as porous concrete and asphalt pavements, limerock, and certain compacted soils.

(49) "Sensitive Karst Areas" means those areas described in section 17 and Appendix A of Applicant's Handbook Volume II, where the Floridan aquifer is at or near the land surface.

(50) "Stormwater" means the flow of water that results from, and that occurs immediately following, a rainfall event.

(51) "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.

(52) "Surface water management system" or "System" means a stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, or any combination thereof. The terms "surface water management system" or "system" include areas of dredging or filling, as those terms are defined in Sections 373.403(13) and (14), F.S.

(53) "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.

(54) "System" – see "Surface Water Management System."

(55) "Threatened species" means those animal species listed in Rule 68A-27.004 (as amended May 15, 2008), F.A.C., and those plant species listed as "threatened" in 50 Code of Federal Regulations 17.12 (as amended April 8, 2004) when such plants are located in a wetland or other surface water.

(56) "Total land area" means land holdings under common ownership that are contiguous, or land holdings that are served by common surface water management facilities.

(57) "Traversing work" means any artificial structure or construction that is placed in or across a stream or other flowing watercourse.

(58) "Underdrain" means a drainage system installed beneath a stormwater holding area to improve the infiltration and percolation characteristics of the natural soil when permeability is restricted due to periodic high water table conditions or the presence of layers of fine textured soil below the bottom of the holding area. These systems usually consist of a system of interconnected below-ground conduits such as perforated pipe, which simultaneously limit the water table elevation and intercept, collect, and convey stormwater that has percolated through the soil.

(59) "Underground exfiltration trench" or "exfiltration trench" means a below-ground system consisting of a conduit such as perforated pipe surrounded by natural or artificial aggregate that is utilized to percolate stormwater into the ground.

(60) "Wet detention" means the collection and temporary storage of stormwater in a permanently wet impoundment in such a manner as to provide for treatment through physical, chemical, and biological processes with subsequent gradual release of the stormwater.

(61) "Wetlands stormwater management system" means a stormwater management system that incorporates those wetlands described in section 10.3 of Applicant's Handbook Volume II into the stormwater management system to provide stormwater treatment.

Rulemaking Authority 373.026(7), 373.043, 373.118, 373.414, 373.4145, 373.418, 373.421, 403.805(1) FS. Law Implemented 373.019, 373.117, 373.403, 373.413,

373.414, 373.4145, 373.416, 373.418, 373.421, 373.4211, 373.426, 403.0877, 403.813(1) FS. History—New 10-1-07, Amended 11-1-10.

62-346.040 Formal Determinations of the Landward Extent of Wetlands and Surface Waters.

Formal determinations of the landward extent of wetlands and other surface waters shall be performed in accordance with the procedures in Rule 62-343.040, F.A.C. Rulemaking Authority 373.026(7), 373.043, 373.4145, 373.421(2), 403.0877 FS. Law Implemented 373.4145, 373.421(2) FS. History—New 10-1-07, Repromulgated 11-1-10.

62-346.050 Permits Required.

(1) An individual permit under this chapter must be obtained from the Department prior to the construction, alteration, operation, maintenance or repair (excluding routine custodial maintenance), abandonment, or removal of any surface water management system, unless the activity:

(a) Qualifies for an exemption under Section 373.406, 373.4145(3), or 403.813(1), F.S., or Rule 62-346.051, F.A.C., or a noticed general permit under Chapter 62-341, F.A.C. This includes all applications for conceptual approval permits. However, the establishment of a mitigation bank under Chapter 62-342, F.A.C., shall not require a permit under this chapter;

(b) Meets the following thresholds and criteria and is not part of a larger common plan of development or ownership:

1. The system is not located in whole or in part in, on, or over wetlands or other surface waters;

2. 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;

3. 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;

4. The system has less than or equal to one acre total project area;

5. The system does not have a direct discharge into an Outstanding Florida Water, as listed in Rule 62-302.700, F.A.C.;

6. The system does not cause any of the following:

a. Adverse water quantity impacts to receiving waters and adjacent lands;

b. Adverse flooding to on-site or off-site property;

c. Adverse impacts to existing surface water storage and conveyance capabilities;

d. 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.;

e. Adverse secondary or cumulative impacts to the water resources;

7. The new work, by itself, or in combination with a system that has come into existence since the effective date of this chapter, cannot cumulatively exceed any of the

thresholds in subparagraphs 62-346.050(1)(b)1. through 5., F.A.C., or violate the criteria of subparagraph 62-346.050(1)(b)6., F.A.C.

(c) Is an agricultural or forestry surface water management system regulated under Rule 40A-44.041, 40A-44.051, or 40A-44.052, F.A.C., which will continue to be regulated under Chapter 40A-44, F.A.C.; or

(d) Meets the provisions of Section 373.4145(6), F.S.

(2) Notwithstanding the provisions of this section, an individual permit under this chapter is 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 or other surface waters.

(3) Applications for individual permits will be reviewed and acted upon in accordance with subsection 62-346.090(2), F.A.C. Noticed general permits will be reviewed and acted upon in accordance with subsection 62-346.090(1), F.A.C.

(4) Permits for construction or alteration of activities regulated under this chapter must be converted to an operation and maintenance phase in accordance with Rule 62-346.095, F.A.C.

Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.117, 373.118, 373.409, 373.413, 373.4132, 373.4145, 373.416, 373.426, 403.0877 FS. History—New 10-1-07, Amended 11-1-10.

62-346.051 Exemptions from Permitting.

(1) The activities set forth in this section do not require an environmental resource permit under this chapter or Chapter 62-341, F.A.C., as applicable, and may be conducted without notice to the Department, unless otherwise specifically provided herein or in Sections 373.406, 373.4145(3), or 403.813, F.S. The performance of activities in accordance with the provisions of the exemptions set forth in this section does not relieve the person or persons who are using the exemption or who are constructing or otherwise implementing the activity from meeting the permitting, authorization, or performance requirements of other rules of the Department, the Board of Trustees, the water management district, or other federal, state, or local governmental agencies. Any person proposing an activity under this section is also advised that such activity is subject to obtaining 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.

(2) Activities that are governed by Section 373.4145(6), F.S., which are regulated in accordance with the statutory and rule provisions applicable under Section 373.4145, F.S. (1994).

(3) Activities exempt under Section 373.406, F.S.

(4) Bridges, Driveways, and Roadways.

(a) The replacement or repair of existing open-trestle foot bridges and vehicular bridges in accordance with Section 403.813(1)(l), F.S.

(b) The construction or maintenance of culverted driveway or roadway crossings and bridges of wholly artificial, non-navigable drainage conveyances, provided that:

1. The construction project area does not exceed one acre and the construction is for a discrete project that is not part of a larger plan of development that requires permitting under this chapter;
2. The artificial drainage conveyance in its existing condition is not more than 4 feet deep, measured from the top of bank to the bottom of the artificial drainage conveyance;
3. The person performing the activity shall ensure that the size and capacity of the culvert will be adequate to pass normal high water stages of the artificial drainage conveyance without causing adverse impacts to upstream or downstream property, but the culvert shall not be larger than one 24-inch diameter pipe, or its equivalent; and in no instance shall the culvert provide a smaller cross-sectional area or discharge capacity than any upstream culvert;
4. The elevation of the culvert invert shall be at the existing bottom grade of the artificial drainage conveyance;
5. The length of the driveway or roadway crossing the artificial drainage conveyance shall not exceed 30 feet from top of bank to top of bank;
6. The top width of the driveway or roadway shall not exceed 20 feet, the toe-to-toe width shall not exceed 40 feet, and side slopes shall be no steeper than 3 feet horizontal to 1 foot vertical;
7. Clean fill used for the crossing shall be obtained from an upland borrow pit or from a dredge site that is in compliance with the requirements of Part IV of Chapter 373, F.S.
8. There shall be no additional dredging, filling, or construction activities within the artificial waterway or project area, except those directly involved in the construction or operation and maintenance of the culverted crossing and those exempted from regulation under Part IV, Chapter 373, F.S.;
9. All temporary fill in construction areas must be removed and regraded to original elevations and revegetated;
10. The person performing the exempt activity must implement measures for erosion and pollution control using best management practices, including turbidity curtains or similar devices and other site specific practices, in strict adherence to "*The Florida Stormwater, Erosion, and Sediment Control Inspector's Manual*" (Florida Department of Environmental Protection and Florida Department of Transportation, Sixth Impression, April 2006), which is hereby adopted and incorporated by reference, 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), which is hereby adopted and incorporated by reference, and the Florida Department of Transportation's "*Standard Specifications for Road and Bridge Construction, (2007)*," which is hereby adopted and incorporated by reference, to prevent violations of state water quality standards. Temporary erosion control measures must be implemented prior to and during construction, and permanent erosion control measures for all exposed soils must be completed within seven calendar days of the most recent construction activity. Information on how a copy of how these materials may be obtained is contained in subsection 62-346.091(2), F.A.C.;

11. Any spoil material from construction or maintenance must be used or disposed of on an upland portion of the property or must be transported off site and deposited on a self-contained upland spoil site that is in compliance with the permitting requirements of this chapter, as applicable;

12. If dewatering is performed, all temporary fill dikes and dewatering discharges shall be installed and constructed so that no upstream flooding or impoundment occurs and to prevent siltation, erosion or turbid discharges in violation of state water quality standards. Any temporary works shall be completely removed, and all areas upstream and downstream from the crossing shall be restored to grades, elevations and conditions that existed before the construction;

13. This exemption shall apply only to a maximum of two crossings on any total land area with a minimum distance of 500 feet between crossings; and

14. This exemption shall not apply to activities involving relocation or other alteration of all or part of the artificial drainage conveyance, or construction for other than the proposed culvert or bridge crossing.

(c) The construction of the following minor roadway safety projects, provided that the capacity of existing swales, ditches or other stormwater management systems is not reduced, the projects are not located in wetlands or other surface waters, and the projects include best management practices during construction to prevent secondary impacts in adjacent wetlands or other surface waters due to erosion and sedimentation:

1. Sidewalks that have a width of six feet or less;
2. Turn lanes less than 0.25 mile in length, and other intersection improvements;
3. Road widening and shoulder paving projects which do not result in the creation of additional traffic lanes.
4. Road grading that involves no change in existing road surface elevations, and pavement resurfacing of existing roads, provided the activities do not result in the paving of travel lanes that are not already paved, except as otherwise provided in paragraph 62-346.051(4)(d), F.A.C.

(d) The repair, stabilization, or paving of existing county maintained roads and the repair or replacement of bridges that are part of the roadway, in accordance with Section 373.4145(3)(e), F.S., 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. Such practices are outlined in Part IV, Applicant's Handbook, Volume I;

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 waters 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 must be provided to the Department 30 days prior to performing any work under the exemption.

In accordance with Section 373.4145(3)(e), F.S., the adoption of the noticed general permit in Rule 62-341.448, F.A.C., does not supersede this exemption.

(5) Docking, Pier, and Boat Ramp Facilities – Construction, Replacement or Repair.

(a) The construction, replacement or repair of pilings and dolphins associated with private docking facilities or piers, and the installation and repair of private docks, piers, and recreational docking facilities, or piers and recreational docking facilities of local governmental entities in accordance with Section 403.813(1)(b), F.S. This exemption shall include the construction and repair of structures on the dock, such as gazebos, or adjacent to the dock, such as boat shelters, provided such structures are not enclosed with walls and doors, are not used for residential or commercial purposes, or storage of materials other than those associated with water dependent recreational use, and provided the structures, including any roof area extending outside the footprint of the dock, does not exceed, together with the docking facility, the limitations specified in Section 403.813(1)(b), F.S. Any dock and associated structure shall be the sole dock constructed pursuant to this exemption as measured along the shoreline for a minimum 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. For the purposes of this exemption, multi-family living complexes and other types of complexes or facilities associated with the proposed private dock shall be treated as one parcel of property regardless of the legal division of ownership or control of the associated property.

(b) Construction of private docks of 1,000 square feet or less of over-water surface area in artificially created waterways in accordance with Section 403.813(1)(i), F.S.

(c) The replacement or repair of existing docks and piers, including mooring piles, in accordance with Section 403.813(1)(d), F.S., provided that the structure to be repaired or replaced must be functional for its intended or designed purpose before this exemption may be used, unless such structure has been rendered non-functional by a discrete event, such as a storm, flood, accident, or fire.

(d) The construction and maintenance to design specifications of boat ramps on artificial bodies of water where navigational access to the proposed ramp exists, or the construction and maintenance to design specifications of boat ramps open to the public in any wetlands or other surface waters where navigational access to the proposed ramp exists in accordance with Section 403.813(1)(c), F.S. Except as otherwise

provided in this subsection, the installation of docks that are associated with and adjoining boat ramps constructed pursuant to this exemption shall be limited to an area of 500 square feet or less over wetlands and other surface waters. For the purpose of this exemption, artificial bodies of water shall include residential canal systems, canals permitted by a water management district created under Section 373.069, F.S., and artificially created portions of the Florida Intracoastal Waterway.

(e) The construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts in accordance with Section 403.813(1)(s), F.S.

(6) Fish Attractors, Freshwater – Construction, alteration, maintenance, operation, and removal of freshwater fish attractors by the Florida Fish and Wildlife Conservation Commission, U.S. Forest Service, and county and municipal governments, provided that the material to be used shall be clean concrete, rock, brush, logs, or trees, and shall be free of soils, preservatives, oil, grease, debris, litter, putrescible substances, used appliances, asphalt material, tires, or other pollutants, and shall be firmly anchored to the bottom of the waterbody. The size of an individual fish attractor shall not exceed one quarter of an acre in area. The material shall be placed so that the top of the fish attractor is at least three feet below the surface of the water at ordinary low water and shall be outside any posted navigational channels. No fish attractor material shall be placed on or in areas vegetated by native aquatic vegetation. The site shall be marked with a buoy or buoys to ensure that no material is deposited outside of the site.

(7) Maintenance and Restoration of Systems.

(a) Maintenance activities in accordance with Sections 403.813(1)(f) and (g), F.S., including the notification requirements of Section 403.813(1)(f), F.S. The Department's interpretation and implementation of these exemptions is explained in section 3.4.3.5 of the Applicant's Handbook Volume I.

(b) The restoration of less than 100 feet in length of existing insect control impoundment dikes and the connection of such impoundments to tidally influenced waters in accordance with Section 403.813(1)(p), F.S. The connection shall be of sufficient cross-sectional area to allow beneficial tidal influence. Restoration shall involve no more dredging than needed to restore the dike to original design specifications, and the final elevation of the dredge area shall be within two feet of immediately adjacent bottom elevations.

(c) Alteration and maintenance of treatment or disposal systems, as provided in Rule 62-340.700, F.A.C.

(d) Operation and routine custodial maintenance of activities legally in existence, 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. However, this exemption shall not apply to any activity that is altered, modified, expanded, abandoned, or removed.

(e) Construction and maintenance of swales in accordance with Section 403.813(1)(j), F.S.

(8) Mosquito Control Activities, Surface Waters or Wetlands Created by – Construction, alteration, operation, maintenance, removal, and abandonment of surface water management systems, dams, impoundments, reservoirs, appurtenant works, or

works in, on, or over lands that have become surface waters or wetlands solely because of mosquito control activities, in accordance with the provisions in Rule 62-340.750, F.A.C.

(9) Navigation, Aids to – The installation of aids to navigation, including bridge fender piles, “No Wake” and similar regulatory signs, and buoys associated with such aids, in accordance with Section 403.813(1)(k), F.S.

(10) Organic Detrital Material Removal in accordance with Sections 403.813(1)(r) and (u), F.S., including the notification provisions of Sections 403.813(1)(u)9. and 10., F.S.

(11) Piling Support Structures Associated With Water Testing or Monitoring Equipment by the Department or the NFWFMD – Installation of piling support structures associated with water testing or monitoring equipment by the Department or NFWFMD, provided that flow and navigation are not impeded.

(12) Pipes or Culverts, Repair or Replacement – The repair or replacement of existing functional pipes or culverts, the purpose of which is the discharge or conveyance of stormwater, in accordance with Section 403.813(1)(h), F.S. This exemption does not authorize the repair, replacement, or alteration of dam, spillways or appurtenant works, nor construction activities or procedures that cause violation of water quality standards as set forth in Chapter 62-302, F.A.C., and Rules 62-4.242, and 62-4.244, F.A.C.

(13) The construction, alteration, maintenance, removal or abandonment of recreational paths that:

(a) Are not located within wetlands or other surface waters;

(b) Include best management practices during construction to prevent secondary impacts in adjacent wetlands and other surface waters due to erosion and sedimentation;

(c) Have a width of eight feet or less for unidirectional paths, and 12 feet or less for bidirectional paths; and

(d) Do not allow motorized vehicles powered by internal combustion engines, except for maintenance and emergency vehicles.

(14) Seawall, Riprap, and Other Shore Stabilization – Construction, Restoration, Enhancement, and Repair.

(a) Construction of seawalls or riprap in artificially created waterways in accordance with Section 403.813(1)(i), F.S. An artificially created waterway is defined as a body of water that has been totally dredged or excavated and that does not overlap natural wetlands or other surface waters, including only that backfilling needed to level the land behind seawalls or riprap. For the purpose of this exemption, artificially created waterways shall also include existing residential canal systems.

(b) The restoration of a functional seawall or riprap in accordance with Section 403.813(1)(e), F.S., and the restoration of a seawall or rip rap that has been rendered non-functional by a discrete event, such as a storm, flood, accident, or fire. Such restoration shall be at or upland of its previous location, or within 18 inches waterward of its previous location, as measured from the face of the existing seawall slab to the face of the restored seawall slab, or from the front slope of the existing riprap to the front slope of the restored riprap. No filling can be performed except in the actual restoration of the seawall or riprap. This shall not be construed to authorize reclamation of land where private and public ownership boundaries have changed as a result of

natural occurrences such as accretion, reliction and natural erosion. This exemption shall not affect the permitting requirements of Chapter 161, F.S.

(c) The construction of seawalls or riprap in wetlands or other surface waters, where such construction is between and adjoins at both ends existing seawalls or riprap, in accordance with Section 403.813(1)(o), F.S. In estuaries and lagoons, construction of vertical seawalls is limited to the circumstances and purposes stated in Sections 373.414(5)(b)1. through 4., F.S. This exemption shall not constitute an exception from the permitting requirements of Chapter 161, F.S.

(d) Installation of batter piles used exclusively to stabilize and repair seawalls and that do not impede navigation.

(e) The restoration of an eroding shoreline of 150 feet or less by planting with native wetland vegetation no more than 10 feet waterward of the approximate mean high water line (MHWL), in accordance with the following:

1. Plantings shall consist of native vegetative species such as salt meadow hay (*Spartina patens*), black needle rush (*Juncus roemarianus*), and smooth cordgrass (*Spartina alterniflora*), obtained from commercially-grown stock that is endemic to the geographic area of the Northwest Florida Water Management District.

2. Any invasive/exotic vegetative species that may occur along the shoreline, such as common reed (*Phragmites australis*), shall be removed in conjunction with the planting.

3. If wave attenuation is needed to protect and ensure survivability of the plantings, turbidity curtains shall be installed immediately waterward of and parallel to the planting area, but must be removed within three months after completion of vegetation planting.

4. No filling by anything other than vegetative planting is authorized, except that if permanent wave attenuation is required to maintain shoreline vegetation, an oyster reef "breakwater" is authorized to be established concurrent with the planting, provided that:

a. The outer edge of the "breakwater" shall extend no more than 10 feet waterward of the approximate MHWL.

b. The "breakwater" shall be composed predominantly of natural oyster shell cultch such as clean oyster shell and fossilized oyster shell, although unconsolidated boulders, rocks, and clean concrete rubble can be associated with the oyster material. Oyster shell may be packaged in biodegradable bags (i.e. coir fiber) prior to placement in the water.

c. The "breakwater" shall not be placed over, or within 3 feet (in any direction) of any submerged grassbed or existing emergent marsh vegetation.

d. The "breakwater" shall be placed in units so that there is a minimum of three feet of tidal channel within every 20 feet of structure, so as to not substantially impede the flow of water, and shall not create a navigational hazard.

e. All equipment used during construction shall be operated from, and be stored in uplands.

(15) Single-Family Residences and Associated Residential Improvements.

(a) The construction or private use of a single-family dwelling unit, duplex, triplex, or quadruplex that is not part of a larger common plan of development or sale proposed by the applicant and does not involve wetlands and other surface waters in accordance with Section 373.4145(3)(c), F.S.;

(b) Stormwater management systems designed to serve single-family residential projects conducted in conformance with Section 403.813(1)(q), F.S.

(16) Utilities.

(a) The installation of overhead transmission lines in accordance with Section 403.813(1)(a), F.S.

(b) The installation of subaqueous transmission and distribution lines in accordance with Section 403.813(1)(m), F.S.

(c) The replacement or repair of subaqueous transmission and distribution lines in accordance with Section 403.813(1)(n), F.S.

(d) Activities necessary to preserve, restore, repair, remove, or replace an existing communication or power pole or line, provided that the work does not involve dredge and fill activities other than the removal of the existing structure and the installation of the new structure, and, in the case of a power pole or line, the activity does not increase the voltage of existing power lines. An activity does not qualify to use this exemption if it results in relocation of an existing structure or facility more than 10 feet in any direction from its original location, or if it involves construction of new power or telephone lines or the repair and replacement of existing structures that require dredge and fill activities in order to provide access to the site.

(e) The installation, removal, and replacement of utility poles that support telephone or communication cable lines, or electric distribution lines of 35kV or less, together with the bases and anchoring devices to support those poles, as specified below. For the purpose of this exemption, "anchoring device" shall mean steel guy wires fastened to the ground, without the need for dredging, and "base" shall mean a concrete or steel foundation not exceeding four feet in radius, used to support a utility pole. This exemption shall be subject to the following conditions:

1. No more than 15 utility poles may be installed, removed, or replaced in wetlands;

2. This exemption shall not apply in surface waters other than wetlands;

3. The temporary disturbance to wetlands shall be limited to a length of 0.5 mile, an areal extent of 0.5 acre, and a width of 30 feet to access the site to actually install, remove, or replace the utility poles; thereafter, maintenance of the utility right-of-way in wetlands shall be limited to a cleared corridor that does not exceed a total width of 15 feet and a total area of 0.25 acre;

4. This exemption shall not apply in forested wetlands located within 550 feet from the mean or ordinary high water line of an Aquatic Preserve or a named waterbody that is designated as an Outstanding Florida Water or an Outstanding National Resource Water;

5. There shall be no permanent placement of fill other than utility poles and anchoring devices;

6. There shall be no dredging or filling to create fill pads or access roads, except for temporary mats, which may be used to access pole installation sites, and all temporary mats shall be removed within 30 days after the installation, removal or replacement of the utility poles, associated bases, and anchoring devices;

7. The installation of the utility poles and associated bases and anchoring devices shall not interfere with navigation or impede water flow in wetlands;

8. Turbidity, sedimentation, and erosion shall be controlled during and after construction to prevent violations of state water quality standards due to construction related activities;

9. Except for the permitted structures, pre-construction ground elevations and the contours of all soils that are disturbed by construction activities, including vehicle ruts in wetlands, shall be restored within 30 days of completion of the installation of the utility line or cable, and restored grades shall be stabilized within 72 hours following completion of elevation and contour restoration to minimize erosion;

10. Vehicle usage in wetlands shall be conducted so as to minimize tire rutting and erosion impacts;

11. Water jets shall not be used except for those that are a pre-engineered part of the pole, and provided that the water for the jets is either recirculated on site or is discharged in a self-contained upland disposal site;

12. Vehicular access in wetlands shall be limited to existing roads, trails, rights-of-way or easements, and to other previously disturbed corridors where they exist; and

13. Persons using this exemption shall provide an annual report to the Department that summarizes the activities conducted under this exemption for the period from January 1 to December 31 of each year, including: the acreage of temporary impacts in wetlands resulting from the use of temporary mats and the clearing of wetland vegetation; the extent of permanent impacts to wetlands, including the number of poles and structures in wetlands and the acreage of clearing in wetlands; the voltage of all electric lines that are installed; the number of times this exemption is used; the specific location of each line that is installed (including the county, the section, township, and range, and the identity of permanent landmarks such as roads and named wetlands and other surface waters within or adjacent to the work location), and the number of times and locations where water jets are used. This report shall be due on March 1 of each year.

(f) Construction, alteration, maintenance, removal, or abandonment of communication tower sites with one-half acre or less of impervious or semi-impervious surface such as access roads, buildings, and equipment pads. The design of above-grade access roads shall not adversely affect the conveyance of surface water flows. No activities associated with the tower site, including access to the site, shall be located in wetlands or other surface waters or within a 100-year floodplain.

(g) Construction, alteration, maintenance, removal, or abandonment of electrical distribution substation sites with one acre or less of impervious or semi-impervious surface such as access roads, buildings, and equipment pads. The design of above-grade access roads shall not adversely affect the conveyance of surface water flows. The site must be surrounded by swales, as defined in Section 403.803(14), F.S., or other type of equivalent treatment, and must not have a direct discharge to an Outstanding Florida Water. No activities associated with the substation, including access to the site, may be located in wetlands or other surface waters, or within a 100-year floodplain.

(h) Temporary trenches dug by hand or with equipment that create a trench less than two feet wide to install utilities such as communication cables, water lines, and electrical lines, provided such activities:

1. Are not located within wetlands or other surface waters;

2. Do not impede or divert the flow of surface waters;
3. Are backfilled within 24 hours of disturbance to restore all grades and contours that existed prior to construction and installation;
4. Utilize and maintain erosion and soil stabilization controls in accordance with Part IV of Applicant's Handbook Volume I; and
5. Do not result in violations of water quality standards.

(17) Alteration of a wholly owned, artificial surface water created entirely from uplands that does not connect to wetlands or other surface waters, except for those created for the purpose of providing mitigation under Part IV of Chapter 373, F.S., and except where permitted under Chapter 62-25, F.A.C., or this chapter.

(18) Modification or reconstruction by a city, county, state agency, or water management district, of an existing conveyance system that has not been previously permitted, provided that it is not intended to serve new development, does not have a direct discharge to an Outstanding Florida Water, will not increase pollution loading or change points of discharge in a manner that would adversely affect the designated uses of wetlands or other surface waters, or will not result in new adverse water quantity impacts to receiving waters and adjacent lands. This exemption shall not apply to activities that:

(a) Propose to pipe and fill wetlands and other surface waters, including irrigation or drainage ditches;

(b) Propose to replace a functional treatment swale that was authorized under Chapter 62-25 or 62-346, F.A.C., or

(c) Propose construction exceeding the thresholds and criteria of paragraph 62-346.050(1)(b), F.A.C.

Rulemaking Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS. Law Implemented 373.406, 373.4145, 403.813(1) FS. History—New 10-1-07, Amended 11-1-10.

62-346.060 Conceptual Approval Permits.

(1) A conceptual approval permit is a type of individual permit that is binding to the extent of the activity specified in the permit and subject to the limitations in this section. 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 (in concept, and 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 or Basin Management Action Plan adopted for the waterbody into which the system discharges or is located pursuant to Section 403.067(7), F.S., and Chapter 62-304, F.A.C.; 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.

(2) Except as otherwise provided in paragraph (1)(b) above, 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 paragraph (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 shall be tolled until the date of final action resolving such administrative appeal or review, including any judicial review.

(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 this chapter. The conceptual approval permit shall 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.

(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 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 individual permit, and the terms and conditions of the issued conceptual approval permit. 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.

Requests for an extension of duration of a conceptual approval permit shall be reviewed as provided in Rule 62-346.120, F.A.C.

Rulemaking Authority 373.026, 373.043, 373.044, 373.4145, 373.418, 380.06, 403.805(1) FS. Law Implemented 373.026, 373.409, 373.413, 373.4141, 373.4142, 373.4145, 373.416, 380.06 FS. History—New 10-1-07, Amended 11-1-10.

62-346.070 Procedures to Prepare Applications and Notices for Permits and to Request Verification of Qualification for an Exemption.

(1) The Operating Agreement delineates a division of responsibilities between the agencies for receiving, reviewing, and taking agency action on activities under the environmental resource permit program. All notices and applications under this chapter for environmental resource permits, modifications, extensions, transfers, or verification of qualification for an exemption must be submitted to the correct agency set forth in Rule 62-346.080, F.A.C., in accordance with the Operating Agreement.

(2) Applications and notices shall be prepared as follows:

(a) Applications for individual permits shall be made on 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," November 1, 2010, incorporated by reference herein. Information on how a copy of this form may be obtained is contained in Rule 62-346.900, F.A.C.

1. Applications to the Department for individual permits 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; plans and drawings, calculations, environmental information, and other details requested in the application that depict and describe the design, nature, scope, limits, intent, and functioning of the proposed activities; one paper copy of all the above; and the fee as required by Rule 62-346.071, F.A.C.

2. Applications to the NFWFMD for individual permits can be submitted through the NFWFMD Internet site using the NFWFMD e-permitting on-line portal. 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; plans and drawings, calculations, environmental information, and other details requested in Section B that depict and describe the design, nature, scope, limits, intent, and functioning of 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 NFWFMD. If a paper application is submitted, it must include all requirements of subparagraph (a)1., F.A.C., above, as for the Department.

(b) A notice of intent to use a noticed general permit under Chapter 62-341, F.A.C., shall be made at least 30 days prior to initiating the activities, or by such other time as specified in the noticed general permit by submitting a completed Form 62-346.900(2), "Notice of Intent to Use an Environmental Resource Noticed General Permit in Northwest Florida," incorporated by reference herein.

1. The notice to the Department 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 plans and drawings, calculations, environmental information, and other details required in the noticed general permit that depict and describe the design, nature, scope, limits, intent, and functioning of the proposed activities; and the notice fee required by Rule 62-346.071, F.A.C.

2. The notice to the NFWFMD can be submitted through the NFWFMD Internet site using the NFWFMD e-permitting on-line portal. 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; plans and drawings, calculations, environmental information, and other details required in the noticed general permit that depict and describe the design, nature, scope, limits, intent, and functioning of 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 NFWFMD. If a paper application is submitted, it must include all requirements of subparagraph (b)1., F.A.C., above, as for the Department.

(c) Requests for verification of an exemption under this chapter must be made either by submitting Form 62-346.900(11) – “Request for Verification of an Exemption,” November 1, 2010, which is hereby adopted and incorporated by reference, or by submitting an alternative written request such as by letter or e-mail. Information on how a copy of this form may be obtained is contained in Rule 62-346.900, F.A.C. Exemption verification requests to the NFWFMD can be submitted through their Internet site. All requests 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; the fee required by paragraph 62-346.071(1)(l), 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. 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. In the case of e-mail requests, the fee required above must also be received by the Department within 10 days of submittal of the request. Self-certification of a private, single-family dock to the Department is available through the Department’s Internet site at: <http://portal.dep.state.fl.us>.

(3)(a) An application for a permit must include a certification by the applicant that they have a sufficient real property interest in or control over the land upon which the activities subject to the application will be conducted. Interests in real property are typically evidenced by an instrument such as a warranty deed, lease [subject to the provisions of paragraph (3)(b), below], easement, option agreement, judgment of the court, certificate of title issued by a clerk of the court, or condominium/homeowner’s association documents that show that the person or entity has sufficient interest in or control over the property to authorize the 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, subject to the provisions of paragraph (3)(c),

below. Entities with the power of eminent domain and condemnation authority shall be considered capable of demonstrating that they will have sufficient real property interest or control prior to construction, and do not have to provide the information required in subparagraph (3)(d)2., below, but must comply with subparagraph (3)(d)1., below, and shall be required to make provisions to enable staff of the Department to enter onto, inspect, and conduct sampling on the lands that are subject to the application. 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.

(b) When the real property interest is a lease, applicants must provide reasonable assurance that the system to be constructed or altered, will be operated and maintained in accordance with the permit for the expected life of the system through such means as:

1. Having the fee simple owner included as a co-applicant to the application;
2. Including a written agreement with a governmental entity that provides for the governmental entity to accept transfer and conversion of the permit to the operation and maintenance phase, including completing construction as authorized by the permit, if needed;
3. Having the lease-hold interest over the land and system extending for the expected life of the system; or
4. Having the lease provide that operation and maintenance of the system is to be transferred to a new lessee or the landowner upon revocation, termination, or expiration of the lease.

In all cases, the lease must provide a contingency designating an entity responsible for completing construction of the system in the event construction is not or cannot be completed by the lessee, and an entity responsible for operation and maintenance of the system. If the lease does not so provide, a separate binding document will be required that establishes the landowner or other entity with sufficient financial capability and legal authority and capability to be responsible for completing construction or alteration of the system and for operating and maintaining the system in accordance with the permit.

(c) Where control is demonstrated by a sale and purchase agreement, the permit will be conditioned to prohibit construction and operation until ownership is transferred to the permittee, and to expire if ownership of the property that is subject to the application is not transferred to permittee, unless the permit is transferred to the owner or another entity with sufficient real property interest or control in the land that is subject to the application.

(d) When the applicant does not have sufficient real property interest in or control over the land as provided in paragraph (3)(a), above, the application must include:

1. Written documentation that the fee simple owner, easement holder, governmental entity, or other entity as provided for in section 12.3 of Applicant's Handbook Volume I agrees to operate and maintain the system after completion of authorized construction, and will complete any construction and perform other

measures as required by the permit in the event the work is not completed by the permittee or the permittee fails to bring the system into conformance with the terms and conditions of the permit; and

2. Written authorization from the owner or easement holder for staff of the Department or NFWFMD to enter onto, inspect, and conduct sampling or monitoring of the site that is subject to the application. If this is not possible, the applicant shall secure other means for staff to enter onto, inspect, and conduct sampling of the site in a manner that prevents trespass.

(4) When application fees are submitted in the form of a check, the check shall be made payable to the processing agency as determined in accordance with subsection (1) above. The fee required for applications submitted to the NFWFMD may be tendered electronically made payable to the "Northwest Florida Water Management District." All fees submitted are non-refundable except as provided in Section 120.60, F.S., and in this chapter.

(5) For individual permits issued pursuant to this chapter, a completed application shall also constitute an application for certification of compliance with state water quality standards where necessary pursuant to Section 401, Public Law 92-500, 33 U.S.C. Section 1341. Similarly, an application for water quality certification shall constitute an application for a noticed general or individual (including conceptual approval) environmental resource permit. Issuance of the permit shall constitute certification of compliance with state water quality standards, unless the permit specifically states otherwise. A noticed general permit under Chapter 62-341, F.A.C., also constitutes water quality certification for the activity described in the general permit when the activity is performed according to all applicable rules of the Department and all general and specific conditions of the general permit. Water quality certification is waived for applications that qualify as an exemption under Chapter 373 or 403, F.S., or this chapter.

(6) For activities regulated under Part IV of Chapter 373, F.S., that are located in or seaward of coastal counties, and that include work in, on or over wetlands or other surface waters, as delineated by the methodology ratified pursuant to Section 373.4211, F.S., a complete application for an individual (including conceptual approval) environmental resource permit, or submittal of a notice to use a general permit under Chapter 62-341, F.A.C., shall also constitute a request for the State's concurrence that the project is consistent with the Florida Coastal Management Program (FCMP). Issuance of an individual or noticed general environmental resource permit shall constitute the state's concurrence that the activity is consistent with the FCMP in accordance with the requirements of Section 380.23, F.S. Denial of an individual permit, or final agency action that the activity does not qualify for a noticed general environmental resource permit shall constitute the state's determination that the activity is inconsistent with the FCMP. Activities that are exempt under Part IV of Chapter 373, F.S., or Chapter 403, F.S., are not subject to review by the Department for consistency with the FCMP; however, a request to verify qualification to use an exemption may be subject to consistency review by other agencies with statutory authorities in the FCMP.

(7) For paper applications submitted to the Department or NFWFMD, all copies of the plans and drawings, together with supporting calculations and documentation submitted to the Department must be signed, sealed, and dated by a registered

professional, as required by Chapter 471, 472, 481 or 492, F.S., as applicable, when the design of the system requires the services of a registered professional. Materials submitted in support of electronic applications submitted to the NFWFMD by registered professionals must be electronically certified as allowed by their rules.

(8) Paper copies of applications or notices received by the Department or NFWFMD after 5:00 p.m. (local time) of the office to which the submittal is made shall be deemed as filed as of 8:00 a.m. on the next regular business day. Electronic applications or notices to the NFWFMD are considered to be received at the District Headquarters, which is in the Eastern time zone.

(9) A separate mangrove alteration or trimming permit under Sections 403.9321 through .9333, F.S., shall not be required where the mangrove trimming or alteration is authorized and conducted as part of and in conformance with a noticed general or individual environmental resource permit, or when necessary to construct activities conducted in conformance with an exemption authorized under Part IV of Chapter 373, F.S., or under Rule 62-346.051, F.A.C.

Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.0877, 403.805(1) FS. Law Implemented 373.026(7), 373.109, 373.117, 373.118, 373.413, 373.4141, 373.4145, 373.416, 373.426, 373.428, 403.0877 FS. History—New 10-1-07, Amended 11-1-10.

62-346.071 Fees.

(1) The fee required for the type of permit as provided in this chapter is as follows. The highest fee shall apply whenever an activity meets the criteria for more than one fee category. 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.

(a) Individual (including conceptual approval) permit, other than for a mitigation bank, that involves the following amount of dredging, filling, construction, or alteration in, on or over wetlands and other surface waters – the highest fee shall apply whenever an activity meets the criteria for more than one fee category in subparagraph (1)(a)1. through paragraph (1)(l), below:

1. Greater than or equal to 10 acres	\$11,220
2. Less than 10 acres and greater than or equal to 5 acres	\$7,510
3. Less than 5 acres and greater than or equal to 2 acres	\$4,340
4. Less than 2 acres and greater than or equal to 1 acre	\$1,140
5. Less than 1 acre	\$710
6. 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
7. Deadhead logging	\$500

(b) Individual (including conceptual approval) permits for stormwater management systems (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 a 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 a project area of less than 100 acres but greater than or equal to 40	\$1,340

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

3. Serving a project that does not exceed any of the thresholds in subparagraph 1. or 2., above \$310

(c) Retrofits of existing surface water management systems, in accordance with section 2.10, Applicant's Handbook Volume II. \$310

(d) Individual (including conceptual approval) permits solely for environmental restoration or enhancement activities, 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

(e) For a system involving Class I solid waste disposal facilities, as defined in subsection 62-701.340(3), F.A.C.:

1. New Class I solid waste disposal facility \$10,520

2. Major modification of an existing Class I solid waste disposal facility \$11,920

(f) Mitigation Banks

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

(g) Major modifications (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 sub-subparagraph 62-4.050(4)(h)3.e., F.A.C., 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 for the activity

(h) Minor modifications 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 Rule 62-346.100, F.A.C.:

1. To correct minor errors or typographical mistakes 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

2. To convert an individual permit from the construction phase to the operation phase	\$0
3. That consist of a transfer of an individual permit, or a time extension to a new permittee for a permit in the construction phase, in accordance with subsection 62-346.130(1), F.A.C., or a time extension to any permit	\$80
4. That consist of a transfer of an individual permit in the operation and maintenance phase due to a change of ownership or control of the land subject to a permit, in accordance with subsection 62-346.130(2), F.A.C.	\$0
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 less than or equal to \$310	\$250
6. 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 \$310	\$420
7. For minor modifications of Individual or Conceptual Approval Permits for Class I solid waste disposal facilities	\$2,110
(i) Individual permits to construct and operate systems for which a conceptual approval permit has been obtained:	
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 as established in subsection 62-346.071 (1)
(j) Verification of qualification to use a Noticed General Permit, except:	\$250
a. Paving of existing municipally-owned roads under Rule 62-312.824 or 62-341.448, F.A.C.	\$0
b. Environmental enhancement and restoration activities conducted by the U.S. Army Corps of Engineers under Rule 62-341.486, F.A.C.	\$0
(k) Variances and waivers:	
1. Under Section 120.542, F.S.	0
2. Under Section 373.414(17), F.S.:	
a. Of the prohibition of work in waters approved for shellfish harvesting.	170
b. Of all other types of variances.	830
(l) Verification that an activity is exempt from regulation under Section 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.	100
(2) All fees shall be allocated pursuant to Section 373.109(1), F.S.	
(3) The fee schedule above will supersede all other references to fees in Department rules or forms, where in conflict.	
(4) This fee schedule does not apply to applications submitted by the U.S. Army Corps of Engineers for permits under Part IV of Chapter 373, F.S., or for certification pursuant to Sections 403.501 through 403.519, F.S. (the Florida Electrical Power Plant	

Siting Act); or to Sections 403.52 through 403.539, F.S. (the Florida Electric Transmission Line Siting Act).

(5) In accordance with Section 218.075, F.S., permit application fees shall be reduced for qualifying counties, municipalities, or third parties under contract with such counties or municipalities, to apply for a permit on the county or municipality's behalf. A county, municipality, or third party as described above, shall apply to reduce the permit application fees by submitting Form 62-346.900(10) "County or Municipality Request to Reduce Permit Application Fees Pursuant to Section 218.075, F.S.," incorporated by reference herein, for each fiscal year, certifying qualification with the requirements of Section 218.075, F.S. For such qualifying entities, any fee enumerated above that is in excess of \$100.00 shall be reduced to \$100.00.

(6) The fees in subsection (1) shall be increased on March 1, 2013, and at subsequent 5-year intervals, to adjust the fees for inflation using the percentage change in the Consumer Price Index for the "CPI-U, U.S. City Average, All Items" established by the Bureau of Labor Statistics (BLS) (www.bls.gov/cpi/), computed as provided in the BLS publication "Handbook of Methods," Chapter 17 (www.bls.gov/opub/hom/pdf/homch17.pdf). The Department shall use the percentage change in the Consumer Price Index from March 2008 to December 2012 for the 2013 fee calculations and the percentage change in the rates from March to December for subsequent five-year periods. The Department shall round any increased fees to the next highest whole ten dollar increment. In the event of deflation during the 5-year interval, the Department shall consult with the Executive Office of the Governor and the Legislature to determine whether downward fee adjustments are appropriate based on the current budget and appropriation considerations.

Rulemaking Authority 373.026(7), 373.043, 373.109, 373.4145, 373.418, 403.805(1) FS. Law Implemented 218.075, 373.109, 373.4145, 373.418, 373.421 FS. History—New 10-1-07, Amended 4-21-09, 11-1-10.

62-346.075 Additional Requirements and Procedures for Concurrent Review of Related Applications.

(1) A single application shall be submitted to the Department and reviewed for activities that require an individual environmental resource permit under Part IV of Chapter 373, F.S., and a proprietary authorization under Chapters 253 or 258, F.S., to use sovereign submerged lands. In such cases, the application shall not be deemed complete, and the timeframes for approval or denial shall not commence, until all information required by applicable provisions of Part IV of Chapter 373, F.S., and proprietary authorization under Chapter 253 or 258, F.S., and rules adopted thereunder for both the environmental resource permit and the proprietary authorization is received.

(2) No application under this section shall be approved until all the requirements of applicable provisions of Part IV of Chapter 373, F.S., and proprietary authorization under Chapter 253 or 258, F.S., and rules adopted thereunder for both the individual environmental resource permit and the proprietary authorization are met. The approval shall be subject to all conditions of the regulatory permit and proprietary authorization, and any additional conditions imposed by such statutes or rules.

(3) For an application reviewed under this section for which a request for proprietary authorization to use sovereign submerged lands has been delegated to the

Department to take final action without action by the Board of Trustees of the Internal Improvement Trust Fund, the Department or water management district shall issue a consolidated notice of intent to issue or deny the environmental resource permit and the proprietary authorization within 90 days of receiving a complete application under this section. Waiving or tolling the timeframes for final action on the application under this section shall constitute a waiver or tolling of the timeframes for final action on the environmental resource permit application.

(4) For an application reviewed under this section for which the request for proprietary authorization to use sovereign submerged lands has not been delegated to the Department to take final action without action by the Board of Trustees of the Internal Improvement Trust Fund, the application shall be reviewed and final agency action taken in accordance with the procedures in Sections 373.427(2)(a) through (c), F.S. The recommended consolidated intent, as required in Section 373.427(2)(a), F.S., shall be considered issued when the Department submits it for publication on the Board of Trustees' agenda, and releases it to the applicant and to any person to whom notice is required under Rule 62-346.090, F.A.C.

(5) The issuance of the consolidated notice of intent to issue or deny, or upon issuance of the recommended consolidated notice of intent to issue or deny pursuant to subsection (4), the Department shall be deemed to be in compliance with the timeframes for approval or denial in Section 120.60(1), F.S. Failure to satisfy these timeframes shall not result in approval by default of the application to use sovereign submerged lands. Also, if an administrative proceeding under Section 120.57, F.S., is properly requested on both the environmental resource permit and the proprietary authorization under this section, the review shall be conducted as a single consolidated administrative proceeding. If an administrative proceeding under Section 120.57, F.S., is properly requested on either the environmental resource permit or the proprietary authorization under this section, final agency action shall not be taken on either authorization until the administrative proceeding is concluded.

(6) Appellate review of any consolidated order under this section is governed by the provisions of Section 373.4275, F.S.

(7) For an activity requiring an individual permit under Section 161.041, F.S., and an individual environmental resource permit under Part IV of Chapter 373, F.S., a joint coastal permit shall be required, as provided in Chapter 62B-49, F.A.C., in place of the above noted permits.

(8) This section shall be applicable to all applications for individual environmental resource permits under Part IV of Chapter 373, F.S., and proprietary authorizations under Chapter 253 or 258, F.S., to use sovereign submerged lands, that are received by the Department after November 1, 2010. If an applicant requests that its applications for individual environmental resource permit under Part IV of Chapter 373, F.S., and proprietary authorizations under Chapter 253 or 258, F.S., to use sovereign submerged lands, received prior to November 1, 2010, be processed under this rule section, such request shall be granted if the applications for both are incomplete as of November 1, 2010.

(9) Nothing in this section shall be construed to limit an applicant's ability to make separate applications for stages, phases, or portions of a project separate from an

activity requiring both a proprietary authorization under Chapter 253 or 258, F.S., and an individual environmental resource permit under Part IV of Chapter 373, F.S. Rulemaking Authority 161.055, 253.03(7), 253.77, 258.43, 373.026, 373.043, 373.044, 373.418, 373.427, 403.805(1), FS. Law Implemented 120.60, 161.041, 161.055, 253.03, 253.77, 258.42, 258.43, 373.026, 373.413, 373.416, 373.427, 373.4275 FS. History—New 11-1-10.

62-346.080 Submittal of Applications and Notices for Permits and Petitions for Formal Determinations to Department and NFWFMD Offices.

(1) Petitions for formal determinations of the landward extent of wetlands and other surface waters shall be submitted as specified in Rule 62-343.040, F.A.C.

(2) All applications and notices for environmental resource permits, variances, and other authorizations required under this chapter that are the responsibility of the Department under the Operating Agreement, except for activities as specified in paragraphs (a) through (d) and subsection (5) below, 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 Applicant's Handbook Volume I. For purposes of this subsection, the term "Department" does not include the NFWFMD. At this time, the Department does not accept applications for permits submitted electronically, although such electronically-prepared applications may accompany the paper copies required in Rule 62-346.070, F.A.C. The following activities shall be submitted to the Department office specified below:

(a) Mines, which shall be submitted to the Bureau of Mining and Minerals Regulation at the address in section 1.3 of Applicant's Handbook Volume I;

(b) Coastal construction, as defined in Section 161.021(6), F.S., involving projects, as defined in Section 161.041, F.S., shall be submitted to the Bureau of Beaches and Coastal Systems (BBCS) at the address in section 1.3 of Applicant's Handbook Volume I, as a Joint Coastal Permit application. Projects located waterward of the Coastal Construction Control Line (CCCL) but landward of mean high water shall be processed by the district office of the Department. Any concurrently-required CCCL permit under Chapter 161, F.S., for such project shall be processed by the BBCS;

(c) Federal dredging projects in marine waters, which shall be submitted to the BBCS at the address in section 1.3 of Applicant's Handbook Volume I;

(d) Dredging of channels, turning basins, or berths within a deepwater port listed in Section 403.021(9)(b), F.S., which shall be submitted to the BBCS at the address in section 1.3 of Applicant's Handbook Volume I. Other port activities, such as bulkheads, docks, or upland development, shall be submitted to the district office of the Department having geographical jurisdiction over the location where the activity is to occur.

(3) All applications and notices for environmental resource permits, petitions for variances, and other authorizations required under this chapter that are the responsibility of the NFWFMD under the Operating Agreement can be submitted to the NFWFMD Internet site at <http://www.nfwfmd.state.fl.us/permits/permits-ERP.html>. If submitting paper copies, submit to the office of the NFWFMD, as described in Figure 1B of Form 62-346.900(1). Additional details for submitting applications and notices to the NFWFMD are contained in Rule 62-346.070, F.A.C.

(4) Activities that are within the geographical limits of a local government delegated responsibility for the environmental resource permit program of the Department or NFWFMD under Chapter 62-344, F.A.C., shall be submitted to that local government, or to the Department or NFWFMD in accordance with the terms of the Delegation Agreement with that local government as incorporated by reference in Chapter 62-113, F.A.C.

(5) Unless otherwise provided by law, a proposed activity subject to the permit requirements of this chapter, Chapter 62-330, or 62-341, F.A.C., a portion of which extends beyond the boundary of the Suwannee River Water Management District (SRWMD), will be analyzed based on criteria such as the amount and geography of the activity's land area, the location of the activity's discharge or discharges, the type of activity, prior agency history, and operating agreement in effect between the agencies to determine whether the application for the activity would be most appropriately be reviewed and acted on by the NFWFMD, the SRWMD, or the Department. In the case of activities that extend into the area of the SRWMD that are the responsibility of the Department, the Director of District Management of the Department 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 where the activity is located. In such case, the applications shall be individually reviewed and processed separately by the applicable Department district or branch office.

Rulemaking Authority 373.026, 373.043, 373.044, 373.118, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.026, 373.118, 373.413, 373.4145, 373.416, 373.426 FS. History—New 10-1-07, Amended 11-1-10.

62-346.090 Processing of Notices and Applications.

(1) Noticed General Permits.

(a) The Department shall review a notice of intent to use a noticed general permit under Chapter 62-341, F.A.C., within 30 days of receipt.

(b) If, within 30 days of receipt, the Department notifies the applicant that the notice of intent to use a noticed general permit under Chapter 62-341, F.A.C., does not qualify due to any errors or omissions, the applicant shall have a one time 60 day period, from the date of notification, to submit additional information to correct such errors or omissions. If the applicant submits additional information that demonstrates compliance with the noticed general permit within the 60-day period, no additional application fee will be required.

(c) The Department shall notify the applicant whether or not the system qualifies for the noticed general permit within 30 days of receiving notice of intent or amended notice of intent to use a noticed general permit under Chapter 62-341, F.A.C.

(d) Unless otherwise provided in Chapter 62-341, F.A.C., if the Department does not notify the applicant within 30 days, then the applicant may conduct the activity authorized by the noticed general permit.

(e) The Department shall notify the applicant if the activity is determined to be exempt from permitting. Such notice shall be given within 30 days of receipt of the notice or receipt of clarifying information that demonstrates that the proposed activity is

exempt from permitting requirements. If the Department notifies an applicant within 30 days that the activity does not qualify for the noticed general permit, the application fee for the noticed general permit shall be applied to the application fee for an individual permit, provided that the applicant makes an application for such a permit within 30 days of notification by the Department.

(f) All construction, operation, maintenance, alteration, abandonment, or removal of any system pursuant to a noticed general permit shall comply with the provisions of that permit, including all general and specific conditions.

(g) Within three business days of receipt of an application for a noticed general permit, the Department shall send a copy of Form 62-346.900(2) to the appropriate office of the U.S. Army Corps of Engineers (unless specifically authorized by the Corps to do otherwise), and, for noticed general permits under Rule 62-341.475, F.A.C., to the Florida Fish and Wildlife Conservation Commission.

(2) Individual (including Conceptual Approval) Permit Procedures.

(a) Within 30 days after receipt of an application, the Department shall determine whether the application is complete. In order to be considered complete, the submittal must contain the fee required in Rule 62-346.071, F.A.C., a completed application Form 62-346.900(1), including the applicable information requested in Sections A through F, and any additional information or exhibits needed to clearly and legibly depict and describe the activity proposed.

(b) If the Department determines that the application does not contain the information in paragraph (2)(a), above, the Department will request the necessary information, including, as applicable, payment of the correct application fee, within 30 days after receipt of the application. 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.

(c) The applicant shall have 90 days from the date the Department makes a timely request for additional information to submit that information to the Department. If an applicant requires more than 90 days in which to respond to a request for additional information, the applicant shall notify the Department in writing of the circumstances, at which time the application shall remain in active status for one additional period of up to 90 days. Additional extensions shall be granted for good cause shown by the applicant. A showing that the applicant is making a diligent effort to obtain the requested additional information and that the additional time period requested is both reasonable and necessary to supply the information shall constitute good cause. In such case, a specified amount of additional time shall be granted at the mutual consent of the Department and the applicant. If the applicant chooses not to or is unable to respond to the request for additional information, the application shall be denied. However, an 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.

(d) The Department shall notify the applicant if the activity is exempt from permitting. Such notice shall be given within 30 days of receipt of the application or receipt of additional information that demonstrates to the Department that the proposed activity is exempt from permitting requirements.

(e) Applications for individual permits shall be evaluated for compliance with the criteria in Rules 62-346.301 and 62-346.302, F.A.C., as applicable, the Applicant's Handbook Volumes I and II, and the other rules incorporated by reference in this chapter.

(f) A notice of receipt of an application shall be provided to any persons who have filed a written request for notification of any pending applications affecting the particular area where the proposed activity is to occur. When requested, the Department will provide notice of intended agency action for a specific application.

(g) The Department shall take agency action to issue or deny an individual permit within 90 days of receipt of a complete application, in accordance with Section 120.60, F.S., and Rule 62-110.106, F.A.C., unless a written request to waive this time period is received from the applicant.

(h) If the application is determined to qualify for issuance of a permit, the Department shall either issue the permit, or a notice of intent to grant such permit.

(i) If the Department determines that the application does not qualify for issuance of an individual permit, or if the applicant does not respond to timely requests for additional information, the Department shall issue a notice of denial. If the Department informs the applicant that the application does not qualify for issuance of an individual permit, such notice must explain the reasons, and what changes in the permit application, if any, would address the reasons for denial.

(j) 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 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. In addition, 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 intended agency action to issue a permit for those 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. An application shall be denied if the applicant fails to publish either notice, or to provide proof of publication, as required in this chapter.

(k) Except as otherwise provided by law, pending complete applications shall be exempt from changes in the rules adopted after an application has been deemed to be complete.

(l) If an individual permit application involves activities located in, on, or over wetlands or other surface waters, as determined by the methodology ratified by Section 373.4211, F.S., and codified in Chapter 62-340, F.A.C., or as otherwise indicated in application Form 62-343.900(1), the Department shall, at a minimum, forward a copy of Sections A and C of the form, including any drawings required in Section C, to the appropriate office of the U.S. Army Corps of Engineers, the Florida Fish and Wildlife Conservation Commission, and the Florida Department of State, Division of Historical Resources within three business days of receipt of the application, unless specifically authorized by the Corps to do otherwise.

(3) If an applicant submits an application fee in excess of the required fee, the Department shall begin processing the application and shall refund to the applicant the amount received in excess of the required fee.

(4) Unless otherwise provided for in this rule, processing fees for applications under one fee category shall not be refunded in whole or in part where an applicant modifies a project to qualify for a lesser fee category when the project did not qualify for that fee category when processing commenced. However, refunds shall be given for those incomplete applications that qualify for the lesser fee category solely as a result of a change in Department rules while the application is being processed.

(5) If the Department determines that a substantial revision to a complete application has been received, the Department shall notify the applicant of such determination and that the revised application is considered to be a major modification. The revised application shall be subject to the major modification fee under paragraph 62-346.071(1)(b), F.A.C., and processed as a new application subject to the provisions of subsection 62-346.090(2), F.A.C. For purposes of this subsection, the term "substantial revision" shall mean a revision that is reasonably expected to lead to significantly different environmental impacts and that will require a detailed review by the Department.

Rulemaking Authority 373.026(7), 373.043, 373.118, 373.413, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.109, 373.118, 373.4141, 373.4145 FS. History—New 10-1-07, Amended 11-1-10.

62-346.091 Documents Incorporated by Reference. (Repealed)

Rulemaking Authority 373.026, 373.043, 373.044, 373.046, 373.113, 373.4145, 373.416, 373.418, 373.421, 403.805(1) FS. Law Implemented 373.026, 373.042, 373.409, 373.0421, 373.043, 373.046, 373.413, 373.4132, 373.141(9), 373.4142, 373.4145, 373.416, 373.418, 373.423, 373.426, 373.428, 373.433, 373.436, 373.439, 380.06(9), 403.813(1) FS. History—New 10-1-07, Amended 11-1-10, Repealed 2-16-12.

62-346.095 Operation and Maintenance.

(1) Upon completion of a system constructed in conformance with an individual permit issued under this chapter, the permit must be converted from the construction phase to an operation and maintenance phase. The responsibility for operation and maintenance of systems permitted under this chapter or Chapter 62-341, F.A.C., shall be an obligation for the life of the system by 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 the fiscal, legal, and logistical capability to perform operation and maintenance in accordance with Department rules and permit conditions. The conversion shall follow the procedures specified below, except that:

(a) Once the activities are completed in full compliance with the terms and conditions of the noticed general permit in Chapter 62-341, F.A.C., the system shall automatically be authorized to be operated for the life of the system by the permittee or by subsequent owners of the system.

(b) The operation phase of mining activities subject to the land reclamation requirements of Chapter 378, F.S., shall be allowed to terminate, without the need to

apply for abandonment of the permit, after the mine, or its subunits as applicable, if they:

1. Have 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. Have 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. Do not contain components that require long-term operation or maintenance, such as stormwater management systems, conservation easements, state-owned submerged lands authorizations, dams, above-grade impoundments, works, water control structures, erosion and sedimentation controls, or dewatering pits.

In addition, if the mine already is 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 in accordance with the rules adopted pursuant to Chapter 378, F.S.

(2)(a) For systems that do not serve an individual, private single-family dwelling unit, duplex, triplex, or quadruplex, within 30 days after completion of construction of a whole system, or independent portion of a system, constructed in conformance with an individual permit issued under this chapter, the permittee shall submit Form 62-346.900(4), "As-Built Certification by a Registered Professional," November 1, 2010, incorporated by reference herein. Information on how a copy of this form may be obtained is contained in Rule 62-346.900, F.A.C. The certification shall include as-built drawings in the form of the permitted drawings that clearly show any substantial deviations made during construction. The plans must be clearly labeled as "as-built" or "record" drawings. The submittal of the above 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. If the registered professional has certified that the system has been built substantially in compliance with the plans and specifications in the permit, and that such system is ready for inspection, the permittee shall also submit Form 62-346.900(6), "Request for Conversion of Environmental Resource Individual Permit Construction Phase to Operation and Maintenance Phase," November 1, 2010, incorporated by reference herein. Information on how a copy of this form may be obtained is contained in Rule 62-346.900, F.A.C. Upon receipt and review of both forms, the Department will determine compliance with the terms and conditions of the permit and notify the permittee whether the conversion to the operation and maintenance phase will become effective. The operation and maintenance phase of an individual permit will not become effective if the Department determines that the activity subject to the permit is not in substantial compliance with all the plans, specifications, terms, and conditions of the permit. In such case, the permittee will be responsible for any necessary permit modifications, alterations, maintenance or repairs to bring the system into such compliance. Any required modification to the permit will be processed in accordance with Rule 62-346.100, F.A.C.

(b) For activities associated with 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, 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," November 1, 2010, incorporated by reference herein, certifying that the system was constructed in conformance with all the terms, specifications, and conditions of the permit. Information on how a copy of this form may be obtained is contained in Rule 62-346.900, F.A.C. 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.

(3) 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 for any phase or independent portion of the permitted system shall occur after construction of the roads, stormwater conveyance systems, treatment and attenuation systems, and for that particular phase or independent portion of the system that has been completed.

(4) The permittee shall remain liable for compliance with the operation and maintenance of the system in accordance with the terms and conditions of the permit for the life of the system, unless such permit is transferred to an acceptable responsible entity in accordance with Rule 62-346.130, F.A.C. Entities who are acceptable to the Department to assume operation and maintenance responsibilities are described in Part V of the Applicant's Handbook Volume I. Once transfer of the permit with its operation and maintenance responsibilities has been approved by the Department, the transferee shall be liable for compliance with all the terms and conditions of the operation and maintenance phase of the permit for the life of the system.

(5) 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 in conformance with the permit, such easement or deed restriction, together with any other final operation and maintenance documents required by Part V of Applicant's Handbook Volume I, must be submitted to the Department for approval prior to conversion to the operation and maintenance phase. 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.

(6) The operation and maintenance entity of a surface water management system, except those serving an individual, private single-family dwelling unit, duplex, triplex, or quadruplex that is not part of a larger plan of common development, shall provide for the inspection of the system at least once every third year after conversion of a permit to the operation phase, unless otherwise specified in the permit. Systems that include vegetated natural buffers and all systems located in karst sensitive areas shall be inspected at least annually. A report describing the results of the inspection and certifying that the system is operating as designed and permitted must be filed with the Department within 30 days after the third-year inspection, including those systems using a vegetated natural buffer or located in a karst sensitive area. A report shall also be submitted within 30 days of a system failure or deviation from the permit. The results of all such inspections shall be filed with the Department using Form 62-346.900(8), "Operation and Maintenance Inspection Certification," incorporated by reference herein. The permittee of all other surface water management systems shall be subject, through special permit conditions, to routine inspecting and reporting on the permitted system when such monitoring and reporting is needed to ensure that the construction and operation of the system will not cause harm to public health, safety, or welfare, or harm to water resources.

(7) The operation and maintenance entity of a regional stormwater management facility must notify the Department on an annual basis, using Form 62-346.900(9), "Regional Stormwater Management System Annual Report," 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 certifying that the maximum allowable treatment volume of stormwater authorized to be accepted by the regional stormwater management facility has not been exceeded.

(8) For activities that are the responsibility of the NFWFMD, all required forms identified in this rule can be submitted to the NFWFMD through their Internet site. If the applicant does not utilize the electronic form, paper copies shall be submitted by mail or other delivery service to the appropriate office of the NFWFMD. Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4145, 373.416, 373.418, 403.805(1) FS. Law Implemented 373.118, 373.4141, 373.4145, 373.416 FS. History—New 10-1-07, Amended 11-1-10.

62-346.100 Modification of Permits.

(1) Modifications to an existing, currently valid individual permit under this chapter may be requested by the permittee as follows:

(a) Applications for major modifications shall be made in accordance with the procedures for applying for a new permit applicable to the type of permit originally obtained. Applications for minor modifications, other than to modify the permit to reflect a change in ownership or control of the land subject to the permit, shall be made in accordance with the same provisions, or by letter that describes the proposed modification, along with drawings reflecting changes in the design of the system. The modification request shall include payment of the fee required by Rule 62-346.071, F.A.C. A request to modify the construction phase of a permit to reflect a change in

ownership or control of the land subject to the permit shall be made in accordance with subsection 62-346.100(3), F.A.C. A change in ownership or control of the land subject to the operation and maintenance phase of a permit shall be made in accordance with subsection 62-346.130(2), F.A.C.

(b) All modification requests must be sent to the agency that issued the permit.

(c) All modification requests shall be reviewed, and will be issued or denied in accordance with the procedures in subsection 62-346.090(2), F.A.C., applicable to the type of permit being modified.

(d) Minor modifications include 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. For the purpose of this chapter, minor modifications do not:

1. Require a new site inspection or detailed technical analysis by the Department to evaluate the request;

2. Lead to substantially different environmental impacts, unless they lessen the impacts of the original permit; or

3. 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 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 financial responsibility mechanisms.

(e) A modification that does not meet all the requirements in paragraph (d) above is a major modification.

(2) Modifications to individual permits also shall be required by the Department when conditions warrant, based on the following:

(a) For good cause and after notice and an administrative hearing, if requested, the Department shall require the permittee to conform to new or additional conditions. Upon a showing by the permittee that a specific reasonable period of time is required to comply with the new or additional conditions, the Department shall allow the permittee

such time to conform to the new or additional conditions. For the purpose of this section, 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 exercise its authority set forth in Section 373.429, F.S.

(3) Where a modification during the construction phase of a permit is requested to reflect a new permittee due to a change in ownership or control of the lands subject to a permit, or due to the transfer of ownership or control of the surface water management system, or the addition of a co-permittee, the permittee and the new entity(ies) shall submit an executed Form 62-346.900(7), "Request to Modify Permit Due to Transfer of Ownership or Control of the Land For a Permit in the Construction Phase," incorporated herein by reference, to the Department, with the permit modification fee required in Rule 62-346.071, F.A.C. This form must contain original signatures of both the permittee and the proposed new permittee(s). Information on how a copy of this form may be obtained is contained in Rule 62-346.900, F.A.C. Any such new proposed permittee must demonstrate that they have sufficient real property interest in or control over the land upon which the activities subject to the permit will be conducted, in accordance with subsection 62-346.070(3), F.A.C., and will be subject to demonstrating that they can operate and maintain the system for its expected life in accordance with subsection 62-346.095(4), F.A.C. The transferee also must agree, upon transfer of the permit, to be bound to comply with all the terms and conditions of the permit.

Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.026(7), 373.043, 373.109, 373.118, 373.409, 373.413, 373.4141, 373.4142, 373.4145, 373.416, 373.418, 373.429 FS. History—New 10-1-07, Amended 11-1-10.

62-346.110 Duration of Permits.

Unless revoked, extended or otherwise modified, the duration of a permit under this chapter and Chapter 62-341, F.A.C., is:

(1) Five years to conduct activities under a noticed general permit in Chapter 62-341, F.A.C., commencing from the date notice is provided to the Department, or the date the Department verifies compliance with the terms and conditions of the noticed general permit in accordance with the procedures in subsection 62-346.090(1), F.A.C., whichever is later.

(2) Five years from the date of issuance for the construction phase, which is that period necessary to construct, alter, abandon, or remove a system in accordance with the terms and conditions of an individual permit, except where the permit expressly

authorizes a longer duration. Applications requesting a longer duration must provide reasonable assurance that the activity for which the permit is to be granted cannot reasonably be expected to be completed within five years after commencement of construction.

(3) Life of the system for the operation and maintenance phase of a noticed general or individual permit.

(4) As provided in Rule 62-346.060, F.A.C., for conceptual permits. Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.118, 373.409, 373.413, 373.4142, 373.4145, 373.416, 373.426 FS. History—New 10-1-07, Amended 11-1-10.

62-346.120 Permit Extensions.

(1) An application to extend the duration of an individual permit under this chapter may be applied for and will be evaluated in accordance with the provisions of this chapter applicable to permit modifications, and the provisions of subsections (2) and (3) below.

(2) A modification to extend a valid individual permit shall be granted if the application for extension is received by Department before expiration of the permit construction phase, and the activity:

(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 action on the request for extension; and

(c) Will not be harmful to the water resources of the District and not inconsistent with the objectives of the District.

(3) If a timely and complete request is received for an extension of a permit to construct, alter, abandon, or remove a system, then 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 or the terms limited, 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.

Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.805(1), FS. Law Implemented 373.118, 373.409, 373.413, 373.4145, 373.416, 373.426, 373.429 FS. History—New 10-1-07, Amended 11-1-10.

62-346.130 Transfer of Ownership or Permit.

(1) Construction Phase – Transfers of land during the construction phase of the permit shall require a modification of the permit in accordance with Rule 62-346.100, F.A.C., to reflect the new permittee.

(2) Operation and Maintenance Phase – Within 30 days of any transfer of ownership or control of a permitted surface water management system or of the real property where any permitted activity is located, if the permittee wishes the permit to automatically transfer to the new owner, the permittee shall provide notice to the Department of the transfer, including the name and contact information of the new owner. This notification shall not require a fee. Upon transfer of the real property or permitted surface water management system and submittal of the notice, the permit

shall automatically transfer to the new entity who owns or controls the real property or permitted system. In the event the permittee fails to provide notice of the transfer to the Department within 30 days of the transfer of ownership or control as provided above, the permit shall not automatically transfer, and such transfer must be requested as a modification of the permit in accordance with Rule 62-346.100, F.A.C.

Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.805(1), FS. Law Implemented 373.118, 373.109, 373.409, 373.413, 373.4142, 373.4145, 373.416, 373.426 FS. History—New 10-1-07, Amended 11-1-10.

62-346.140 Suspension and Revocation. (Repealed)

Rulemaking Authority 373.026, 373.043, 373.044, 373.118, 373.4145, 373.418, 373.439, 403.805(1) FS. Law Implemented 373.026, 373.118, 373.413, 373.414, 373.4145, 373.416, 373.426, 373.429, 373.439 FS. History—New 10-1-07, Repealed 11-1-10.

62-346.301 Conditions for Issuance of Individual Permits.

(1) In order to obtain an individual permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of a surface water 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) 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.;

(f) Will not cause adverse secondary impacts to the water resources and not otherwise adversely impact the maintenance of surface or ground water levels or surface water flows established pursuant to Section 373.042, F.S.

(g) Will be capable, based on generally accepted engineering and scientific principles, of being performed and of functioning as proposed;

(h) 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) Will comply with any applicable special basin or geographic area criteria rules incorporated by reference in this chapter. When karst features exist on the site of a proposed stormwater management system, in addition to paragraphs (a) through (h) 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.

(2) 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.

(3) In addition to the criteria in subsections 62-346.301(1) and (2), F.A.C., 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 provide reasonable assurance 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.

(4) The standards and criteria, including the provisions for elimination or reduction of impacts, and the mitigation provisions contained in sections 10.2.1 through 10.2.1.3 and sections 10.3 through 10.3.8, respectively, of Applicant's Handbook Volume I adopted by reference in Rule 62-346.091, F.A.C., shall determine whether the reasonable assurances required by subsection 62-346.301(1) and Rule 62-346.302, F.A.C., have been provided, as applicable. Forms for demonstrating that an applicant has met the financial responsibility requirements of sections 10.3.7 through 10.3.7.9 of Applicant's Handbook Volume I are hereby adopted and incorporated by reference as:

(a) Form 62-346.900(12), "State of Florida Performance Bond To Demonstrate Financial Assurance for Mitigation" November 1, 2010;

(b) Form 62-346.900(13), "State of Florida Irrevocable Letter of Credit To Demonstrate Financial Assurance for Mitigation" November 1, 2010;

(c) Form 62-346.900(14), "Certificate I To _____ (Name of Issuing Bank) Irrevocable Letter of Credit No. _____" November 1, 2010;

(d) Form 62-346.900(15), "Certificate II To _____ (Name of Issuing Bank) Irrevocable Nontransferable Standby Letter of Credit No. _____" November 1, 2010;

(e) Form 62-346.900(16), "State of Florida Standby Trust Fund Agreement to Demonstrate Financial Assurance for Mitigation Activities" November 1, 2010;

(f) Form 62-346.900(17), "State of Florida Trust Fund Agreement to Demonstrate Financial Assurance for Mitigation Activities" November 1, 2010.

These forms are contained in Appendix C of the "Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant's Handbook—Volume I (General and Environmental)," and may be obtained from the locations provided in Rule 62-346.900, F.A.C.

Rulemaking Authority 373.026(7), 373.043, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.042, 373.409, 373.413, 373.4142, 373.4145, 373.416, 373.4132, 373.426, 373.429 FS. History—New 10-1-07, Amended 11-1-10.

62-346.302 Additional Conditions for Issuance of Individual and Conceptual Approval Permits.

(1) In addition to the conditions set forth in Rule 62-346.301, F.A.C., in order to obtain an individual (including conceptual approval) permit under this chapter, 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 of Applicant's Handbook Volume I adopted by reference in Rule 62-346.091, F.A.C.:

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 of Applicant's Handbook Volume I.

(c) Located in, adjacent to or in close proximity to Class II waters or located in Class II waters or Class III waters classified by the Department of Agriculture and Consumer Services as approved, restricted, conditionally approved, or conditionally restricted for shellfish harvesting as set forth or incorporated by reference in Chapter 5L-1, F.A.C. (July 29, 2008), will comply with the additional criteria in section 10.2.5 of Applicant's Handbook Volume I.

(d) Which constitute vertical seawalls in estuaries or lagoons, will comply with the additional criteria provided in section 10.2.6 of Applicant's Handbook Volume I.

(2) When determining whether a permit applicant has provided reasonable assurances that the Department's permitting standards 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 pursuant to Part IV, Chapter 373, F.S., relating to any other project or activity and efforts taken by the applicant to resolve these violations.

Rulemaking Authority 373.026(7), 373.043, 373.414(9), 403.805(1) FS. Law Implemented 373.042, 373.413, 373.414, 373.416, 373.426, 380.23 FS. History—New 11-1-10.

62-346.381 General and Special Limiting Conditions.

(1) The following general conditions shall be applicable to and binding on all individual permits issued pursuant to this chapter, unless the conditions are not

applicable to the activity authorized by the permit, or where the conditions must be modified to accommodate unique, project-specific conditions.

(a) All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity may constitute grounds for revocation or enforcement action by the Department, unless a modification has been applied for and approved in accordance with Rule 62-346.100, F.A.C.

(b) This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications, shall be kept at the work site of the permitted activity during the construction phase. The complete permit shall be available for review at the work site upon request by the Department staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit. A weather-resistant sign, measuring at least 8 1/2 inches by 11 inches, and including the permit number (in lettering that is easily visible from the access road) shall be placed on the property facing the road.

(c) Activities approved by this permit shall be conducted in a manner that does not cause violations of state water quality standards.

(d) Immediately prior to, during construction, and for the period of time after construction to allow for stabilization of all disturbed areas, the permittee shall implement and maintain erosion and sediment control best management practices, such as silt fences, erosion control blankets, mulch, sediment traps, polyacrylamide (PAM), temporary grass seed, permanent sod, and floating turbidity screens to retain sediment on-site and to prevent violations of state water quality standards. These devices shall be installed, used, and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work, and shall remain in place at all locations until construction is completed and soils are permanently stabilized. All best management practices shall be 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 Florida Department of Environmental Protection, 2007), unless a project-specific erosion and sediment control plan is approved as part of the permit. If project-specific conditions require additional measures during any phase of construction or operation to prevent erosion or control sediments beyond those specified in the approved erosion and sediment control plan, the permittee shall implement additional best management practices as necessary, in accordance with the guidelines and specifications in 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. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources as soon as practicable. Once project construction has been deemed complete, including the re-stabilization of all side slopes, embankments, and other disturbed areas, and before conversion of the permit to the operation and maintenance phase, all silt screens and fences, temporary baffles, and other materials that are no longer required for erosion and sediment control shall be removed.

(e) Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven days after the construction activity in that portion of the site has temporarily or permanently ceased.

(f) At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the Department a fully executed Form 62-346.900(3), "Construction Commencement Notice," incorporated by reference herein, indicating the expected start and completion dates. Information on how a copy of this form may be obtained is contained in Rule 62-346.900, F.A.C.

(g) Within 30 days after completion of construction of the whole system, or independent portion of the system, the permittee shall notify the Department that construction has been completed and the system is ready for inspection by submitting one of the following forms to the Department office that issued the permit:

1. For systems other than those that serve an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex, Form 62-346.900(4), "As-Built Certification by a Registered Professional." If the registered professional has certified that the system has been built substantially in compliance with the plans and specifications in the permit, and that such system is ready for inspection, the permittee shall also submit Form 62-346.900(6), "Request for Conversion of Environmental Resource Individual Permit Construction Phase to Operation and Maintenance Phase." The system shall not be used and operated for its permitted purpose until the Department has approved the request to authorize the operation phase, in accordance with Rule 62-346.095, F.A.C. The "As-Built Certification" shall be for the purpose of determining if the work was completed in substantial compliance with permitted plans and specifications. The certification shall include as-built drawings in the form of the permitted drawings that clearly show any substantial deviations made during construction. The plans must be clearly labeled as "as-built" or "record" drawings.

2. For systems that serve an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex, Form 62-346.900(5), "Construction Completion and Inspection Certification for a System Serving an Individual, Private Single-Family Dwelling Unit."

(h) Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of the facility, or the site infrastructure located within the area served by that portion or phase of the system.

(i) The permittee shall remain liable for compliance with the operation and maintenance of the system in accordance with the terms and conditions of the permit for the life of the system, unless such permit is transferred to an acceptable responsible entity in accordance with Rules 62-346.095 and 62-346.130, F.A.C. Once transfer of the permit has been approved by the Department, the transferee shall be liable for compliance with all the terms and conditions of the operation and maintenance phase of the permit for the life of the system.

(j) Should any other regulatory agency require changes to the permitted system, the permittee shall notify the Department in writing of the changes prior to

implementation so that the Department can determine whether a permit modification is appropriate.

(k) This 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 that is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in this permit or Chapter 62-346, F.A.C. Permittees having the right to exercise the power of eminent domain or who had a contract to purchase the property subject to this permit shall not commence any work under this permit until the permittee has provided the Department with proof of transfer of ownership of the property in the name of the permittee. If such transfer of ownership does not occur, the permittee shall surrender this permit, and the permit shall be null and void.

(l) Pursuant to Section 373.422, F.S., prior to conducting any activities on sovereign submerged lands, 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.

(m) The permittee shall hold and save the Department 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 system authorized by the permit.

(n) The permittee shall notify the Department in writing at least 30 days prior to any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. Where ownership of the land subject to the permit was demonstrated through a long-term lease, the lessee must have transferred ownership and control of the permitted system to the current landowner or new lessee, effective prior to or on the date of expiration of the lease. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 62-346.095 and 62-346.130, F.A.C.

(o) Upon reasonable notice to the permittee, Department staff with proper identification shall have permission to enter, inspect, sample and test the system to ensure conformity with the plans and specifications authorized in the permit.

(p) If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the Department.

(q) The permittee shall immediately notify the Department in writing of any previously submitted information that is later discovered to be inaccurate.

(r) The issuance of this permit does not relieve the permittee from the responsibility to obtain any other required federal, state, and local authorizations.

(s) The permittee is advised that, pursuant to Section 556.105, F.S., excavating contractors are required to provide certain information concerning the excavation that may affect underground facilities through the one-call notification system not less than two, nor more than five, business days before beginning any excavation.

(2) In addition to those general conditions set forth in subsection (1) above, the Department shall impose on any individual permit granted under this chapter such reasonable project-specific special conditions as are necessary to assure that the permitted system will not be harmful to the water resources, as set forth in Rules 62-

346.301 and 62-346.302, as applicable, F.A.C., and the Applicant's Handbook Volumes I and II.

Rulemaking Authority 373.026(7), 373.043, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.117, 373.409, 373.413, 373.4142, 373.4145, 373.416, 373.418, 373.419, 373.422, 373.423, 373.426, 373.428, 403.0877 FS. History—New 10-1-07, Amended 11-1-10.

62-346.451 Emergency Authorizations and Actions.

When the Department has determined that immediate action is necessary to abate an imminent or currently existing serious threat to the public health, safety, welfare, or the environment, the Department shall issue an emergency order authorizing or directing activities necessary to abate the emergency. When such an order is issued in whole or part under the authority of Section 373.119(2), F.S., it may also be based on a serious threat to reasonable recreational, commercial, industrial, or agricultural uses. The order shall recite the factual basis for it in accordance with Section 120.569(2)(n), F.S., and include all conditions (including a limitation on the duration of the emergency authorization) required to ensure that the activity authorized or directed does not exceed that necessary to abate the threat. When the activity conducted under the order has an operational or maintenance aspect that continues beyond the emergency, any required permits shall be applied for as soon as practicable.

Rulemaking Authority 373.026(7), 373.043, 373.4145, 373.418, 403.805(1) FS. Law Implemented 120.569(2), 373.026(7), 373.119, 373.409, 373.413, 373.4145, 373.416, 373.418, 373.426, 373.439 FS. History—New 10-1-07.

62-346.900 Environmental Resource Permit Forms. (Repealed)

Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 373.421, 403.805(1) FS. Law Implemented 373.019, 373.026, 373.109, 373.117, 373.118, 373.403, 373.409, 373.413, 373.4132, 373.414, 373.4141, 373.4142, 373.4145, 373.416, 373.418, 373.419, 373.421, 373.4211, 373.423, 373.426, 373.428, 373.429, 380.06, 403.0877, 403.813(2) FS. History—New 10-1-07, Amended 11-1-10, Repealed 2-16-12.