

**DREDGE AND FILL ACTIVITIES 62-312**

CHAPTER 62-312 **DREDGE AND FILL  
ACTIVITIES**

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**PART I  
GENERAL**

62-312.010 Scope of Part I. This part provides the requirements and procedures for obtaining permits and jurisdictional declaratory statements from the Department pursuant to Sections 403.91 through 403.929, F.S. Dredging or filling which is grandfathered by Subsections 403.913(6), (8) and (9), F.S., is governed by Sections 62-312.150 and 62-312.160, F.A.C. The requirements of this part are in addition to and not in lieu of the water quality standards which are required by other portions of these rules. Specific Authority: 403.061, 403.912, F.S.  
 Law Implemented: 403.061, 403.813, 403.815, 403.817, 403.911, 403.912, 403.913, 403.914, 403.918, 403.919, 403.927,F.S.

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History: New 12-10-84. Amended: 8-7-85. Previously numbered as 17-12.010, F.A.C, Formerly 17-312.010.

62-312.015 Intent.

(1) The legislature has provided the foundation on which it based the "Warren S. Henderson Wetlands Protection Act of 1984"; the Department shall be guided by these background statements contained in the preamble to the Act in the development of rules and in implementing the Act but shall not apply these provisions as permitting criteria. That foundation as recognized by the Department is:

(a) Florida's wetlands are a major component of the essential characteristics that make this state an attractive place to live. Wetlands perform economic and recreational functions that would be costly to replace should their vital character be lost; and

(b) the economic, urban, and agricultural development of this state has required the alteration, drainage, and development of wetlands. While state policy permitting the uncontrolled development of wetlands may have been appropriate in the past, continued uncontrolled elimination or disturbance of wetlands will cause extensive damage to the economic and recreational values which Florida's wetlands provide; and

(c) it is the policy of this state to establish reasonable regulatory programs which provide for the preservation and protection of Florida's wetlands to the greatest extent practicable, consistent with private property rights and the balancing of other vital interests of the state; and

(d) it is the policy of this state to consider the extent to which particular disturbances of wetlands are related to uses or projects which must be located within or in close proximity to the wetland and aquatic environment in order to succeed; and the extent to which particular disturbances of wetlands benefit essential economic development.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, F.S.; Chapter 84-79, Laws of Florida.

Law Implemented: 403.91-403.929, F.S.

History: New 12-10-84. Amended: 3-26-89. Previoulsy numbered 17-12.015, F.A.C., Formerly 17-312.015.

this chapter:

(1) "Agricultural activities" includes all necessary farming and forestry operations which are normal and customary for the area, such as site preparation, clearing, fencing, contouring to prevent soil erosion, soil preparation, plowing, planting, harvesting, construction of **access** roads, and placement of bridges and culverts, provided such operations do not impede or divert the flow of surface waters.

(2) "Agricultural water management systems" means farming and forestry water management or irrigation systems and farm ponds which are permitted pursuant to Chapter 373, F.S. or which are exempt from the permitting provisions of that Chapter.

(3) "Canal" is a trench, the bottom of which is normally covered by water, with the upper edges of its two sides normally above water.

(4) "Channel" is a trench, the bottom of which is normally covered entirely by water, with the upper edges of its sides normally below water.

(5) "Department" is the Florida Department of Environmental Protection or its delegatee as provided in the Operating Agreements Concerning **Management** And Storage of Surface **Waters** Regulation, And Wetland Resource Regulation adopted by the reference in Rule 62-101.040, F.A.C.

(6) "Drainage ditch" or "irrigation ditch" is a **man-made** trench dug for the purpose of draining **water** from the land or for transporting water for **use on** the land and is not built for navigational **purposes**.

(7) "Dredging" is the excavation, by any means, in waters of the state. It is also the excavation (or creation) of a water body which is, or is to be, connected to any of the waters listed in Section 62-312.030(2) FAC, directly or via an excavated water body or series of excavated water bodies.

(8) "Embedment" is 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.

(9) "Entrenchment" is 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 which produce similar results.

(10) "Estuary" means a semi-enclosed, naturally existing coastal body of water which has a free connection with the open sea and within which seawater is measurably diluted with fresh water derived from riverine systems.

(11) "Filling" is the deposition, by any means, of materials in water of the state.

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

(13) "Lagoon" means a naturally existing coastal zone depression which is below mean high water and which has permanent or ephemeral communications with the sea, but which is protected from the sea by some type of naturally existing barrier.

(14) "Materials" is matter of any kind, including but not limited to sand, clay, silt, rock, dredged material, construction debris, solid waste, pilings or other structures, ash, and residue from industrial and domestic processes. The term shall not include the temporary use and placement of lobster pots, crab traps, or similar devices or the placement of oyster cultch pursuant to Section 370.16, F.S. or 62B-5, F.A.C.

(15) "Original Design Specifications" shall consist of drawings of record prepared and sealed by a registered professional engineer or a professional land surveyor following completion of a project constructed in compliance with a valid Department permit. For projects constructed where prior departmental authorization was not required or where original design specifications were not a requirement of the permit, original design specifications may instead include other competent and substantial evidence or pre-existing conditions, including but not limited to evidence adduced from soil borings, on-site conditions, prior surveys, aerial photographs, or other exhibits acceptable to the Department.

(16) "Riprap" is a sustaining wall made to reduce the force of waves and to protect the shore from erosion and consists of unconsolidated boulders, rocks, or clean concrete rubble with no exposed reinforcing rods or similar protrusions.

(17) "Seawall" means a man-made wall or encroachment, except riprap, made to break the force of the waves and to protect the shore from erosion.

(18) "Swale" means a manmade trench which:

(a) Has a top width-to-depth ratio of the cross-section equal to or greater than 6:1, or side slopes equal to or greater than 3 feet horizontal to 1 foot vertical;

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(b) Contains contiguous areas of standing of flowing water only following a rainfall event;

(c) is planted with or has stabilized vegetation suitable for soil stabilization, stormwater treatment, and nutrient uptake; and

(d) is designed to take into account the soil erodibility soil percolation, slope, slope length, and drainage area so as to prevent erosion and reduce pollutant concentration of any discharge.

(19) "Vertical seawall" is a seawall the waterward face of which is at a slope greater than 75 degrees to the horizontal. A seawall with sloping riprap on the waterward face shall not be considered a vertical seawall.

Specific Authority: 403.061, 403.912, F.S.

Law Implemented: 403.031, 403.061, 403.803, 403.911, 403.912, F.S.

History: New 12-10-84. Amended: 8-30-88, 3-26-89. Previously numbered 17-12.020 F.A.C. Amended 11-16-92, Formerly 17-312.020.

## 62-312.030 Jurisdiction.

(1) Pursuant to Sections 403.031(12) and 403.913, F.S., dredging and filling conducted in, on, or over those surface waters of the state as provided in this rule require a permit from the Department **unless** Specifically exempted in Sections 403.813, 403.913, 403.927, F.S., or Section 62-312.050, F.A.C.

(2) For the purposes of this rule surface waters of the state are those waters listed below and excavated water bodies, except for waters exempted by Section 62-312.050(4), F.A.C., which connect directly or via an excavated water body or series of excavated water bodies to those waters listed below:

(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, excluding those intermittent **streams**, tributaries or portions thereof defined in Subsection 403.913(5), F.S. Standard hydrological methods shall be used to determine which streams constitute intermittent streams and intermittent tributaries. An intermittent stream or intermittent tributary **means** a stream that flows only at certain times of the year, flows in direct response to rainfall, and is normally an influent stream except when the

ground water table rises above the normal wet season level. Those portions of a stream or tributary which are intermittent and are located upstream of all nonintermittent portions of the stream or tributary are not subject to dredge and fill permitting unless there is a continuation of jurisdiction as determined pursuant to F.A.C. Rule 62-3.022.

## (e) natural lakes, except:

1. those where one person, other than the state, owns the entire lake to its landward extent as delineated by applicable Department rule; or

2. those that become dry each year and are without standing water; or

3. those of no more than 10 acres in landward extent with a maximum average depth of 2 feet or less existing throughout the year;

(f) The waters as defined in Section 403.031(12)(a) and Section 403.031(12)(b), F.S.

(g) Waters within mosquito control impoundments constructed as part of a governmental mosquito control program, excluding those portions which have become jurisdictional based on a change to vegetative dominance as defined in Rule 62-301.400, F.A.C., solely because of construction of the impoundment. Specifically included as jurisdictional are those areas which were naturally occurring waters of the state before construction of the impoundment but which have had their connection to other waters of the state severed as a result of the construction of dikes. Also included as jurisdictional are areas where vegetative dominance of jurisdictional species as defined in Rule 62-301.400, F.A.C., has been lost solely because of construction of the impoundment.

(3) The landward extent of surface waters of the state, for the purpose of this chapter, shall be determined in accordance with Section 62-3.022, F.A.C. and Sections 403.817, 403.8171 and 403.913, F.S.

Specific Authority: 403.061, F.S.

Law Implemented: 403.031, 403.061, 403.813, 403.817, 373.414, F.S.

History: New 12-10-84. Amended: 3-26-89. Previously numbered 17-12.030, F.A.C.C., Amended 12-07-93, Formerly 17-312.030, Amended 8-7-95.

62-312.040 Jurisdictional Declaratory Statements. (1) Pursuant to Section 403.914(1), F.S., a property owner, a person who has power of eminent domain, or any other person with a legal or equitable interest in a property may petition the Department for a formal jurisdictional determination. The petition shall contain:

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(a) A vicinity map showing the location including Section, Township and Range, and areal extent of the property in question;

(b) Written authorization to enter the property signed by the property owner;

(c) Four copies of blue line prints of recent aerial photographs which accurately reflect the current conditions on the site with the property boundaries to be inspected clearly delineated, along with identification of all major roads and the north bearing;

(d) A statement indicating whether the petitioner wants the line between the upland and the area of Department jurisdiction be staked.

(2) The petition for a jurisdictional declaratory statement shall be processed by the Department in accordance with Section 403.914 (1) and (3), F.S. If additional information is necessary to determine jurisdiction, the Department shall request and the petitioner shall furnish any or all of these items:

(a) An original U.S.G.S. 7.5 minute **series or a more** detailed A topographic **map of** the site with the contours at intervals specified by the Department which are appropriate to the specific site. Specific **areas** may have to be surveyed by the petitioner.

(b) Hydrological data **needed** to determine connections between water bodies or to determine the presence of intermittent **streams, including** rainfall data, data on duration and volume of water flow, ground water level data, data on the location of natural **or man-made watercourses on** or abutting the site, including locations of culverts and sizes and similar information.

(c) Recent aerial photographs of sufficient detail to determine the dominant vegetation on a site by photointerpretation. Black and white or color glossy photographs, blue line prints of aerial photographs, or false color infrared photographs may be required, depending upon the site.

(d) If the line is to be staked, the services of a registered surveyor or representative thereof shall be available to accompany the Department representative to survey the staked line. The Department shall be provided a

copy of the survey properly certified in accordance with Chapter 472, F.S.

(3) If the line is not to be staked and surveyed, it shall be drawn by the Department on the blue line prints of aerial photographs. However, the line so drawn may represent only an approximation of the actual jurisdiction because of inherent characteristics in drafting or

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cartography. The accuracy of the determination will be dependent upon the level of detail and accuracy of the information provided.

(4) Each person who receives a proposed jurisdictional declaratory statement may publish, or may be required to publish, and provide proof of publication to the Department, at his **own expense**, a notice of the proposed declaratory statement in a newspaper of general circulation in the area affected, using the format prescribed in Subsection 62-103.150(3), F.A.C. Publication of a Notice of Proposed Jurisdictional Declaratory Statement shall be required for: **areas** where the environmental sensitivity of the area is reasonably expected to result in heightened public concern or a request for administrative proceedings. Failure of the petitioner to publish a required notice within 30 days of the Department's request shall constitute withdrawal of the petition. The Department shall also publish a notice of the proposed jurisdictional declaratory statement in the Florida Administrative Weekly.

(5) Petitions for jurisdictional declaratory statements shall be accompanied by the following **fees** which shall be based on the entire property for which the petition is

filed: (a) For property 0 - 50 acres in size

(b) For property 50+ - 100 acres in size \$500

\$250

(c) For property 100+ - 500 acres in size \$1,000 (d) For property 500+ - 750 acres in size \$2,000 (e) For property 750+ - 1000 acres in size \$2,500 (f) For property greater than 1000 acres in size \$2,500 (plus \$500 for each 500 acres over 1000 acres, up to a maximum of \$10,000)

(g) If the environmental complexity of the area requires extensive evaluation the Department may charge additional fees based on the actual salary rate of the staff who provide the service plus the actual expenses of the Department. However, the total may not exceed \$10,000.

(h) The fee for a later petition for a jurisdictional declaratory statement on property for which a jurisdictional declaratory statement exists and which requires minimal field investigation by the Department is \$250.

(6)(a) Within 30 days of the receipt of a petition for a jurisdictional declaratory statement, the Department shall notify the applicant of any additional information which may be necessary. The Department shall complete the assessment and issue notice of the proposed agency action within 60 days of receipt of a complete petition. The notice shall be published by the petitioner in a newspaper of general

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circulation in the area affected. The provisions of ss. 120.57 and 120.59, F.S. are applicable to declaratory statements under this section. Any person whose substantial interests will be affected may petition for a hearing within 14 days after the publication of notice. If no petition for a hearing is filed, the Department shall issue the jurisdictional declaratory statement within 10 days after termination of the 14-day waiting period.

(b) A jurisdictional declaratory statement is binding for 5 years, if physical conditions on the site do not change to alter jurisdiction.

(c) A petitioner who disputes the proposed agency action may withdraw the petition without prejudice at any point before final agency action.

(d) The department may revoke a jurisdictional declaratory statement if it finds that the petitioner has submitted inaccurate information in the petition.

(e) A jurisdictional declaratory statement obtained pursuant to this section is final agency action and is in lieu of a declaratory statement of jurisdiction obtainable pursuant to s. 120.565, F.S.

(7) The department also may issue informal preapplication jurisdictional determinations or otherwise institute jurisdictional determination on its own initiative as provided by law.  
Specific Authority: 403.061, 403.912, F.S.  
Law Implemented: 403.061, 403.817, 403.912, 403.913, 403.914, F.S.  
History: New 10-16-84. Amended: 3-26-89. Previously numbered 17-12.040, F.A.C., Amended 3-12-90, 9-8-92, Formerly 17-312.040.

17-312.045 Jurisdictional Intent. The Department recognizes that the natural border of certain water bodies listed in Section 62-312.030, F.A.C., may be difficult to establish because of seasonal fluctuations in water levels and other characteristics unique to a given terrain. The intent of the vegetation indices in Sections 62-3.022 and 62-3.021(15), F.A.C., is to guide in the establishment of the border of the water bodies listed in Section 62-312.030, F.A.C. It is the intent of this rule to include, in the boundaries of such water bodies, areas which are customarily submerged and which are contiguous to a recognizable water body (i.e., areas within the landward extent of waters of the state as defined in Sections 62-3.021(15) and (16), F.A.C.). Isolated areas that, infrequently flow into or otherwise exchange water with a described water body, are not intended to be included within the dredge and fill jurisdiction of the department. The vegetation indices in

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Sections 62-3.021(15) and 62-3.022, F.A.C., are presumed to accurately delineate the landward extent of such water bodies.  
Specific Authority: 403.031, 403.061, 403.062, 403.087, F.S. Law Implemented: 403.031, 403.061, 403.062, 403.087, 403.912, F.S.; Section 9, Chapter 84-79, Laws of Florida. History: New 12-10-84. Amended: 3-26-89. Previously numbered 17-12.030, F.A.C., Formerly 17-12.045, 17-312.045. 62-312.050 Exemptions.

(1) No permit shall be required under this chapter for dredging or filling specified in Section 403.813(2), F.S., except for those projects which are subject to one or more of the general permits in Part V of Chapter 62-312, F.A.C. No permit under this chapter shall be required for dredging or filling authorized by Rules 62-4.040(1)(a) or (b), FAC., or for dredging or filling which has been approved pursuant to Chapters 62-17, 62-23, or 62-45, F.A.C., or for the projects listed below.

(a) The installation of overhead transmission lines where the support structures are not constructed in waters of the state and which do not create a navigational hazard.

(b) The installation of aids to navigation, including bridge fender piles, "No Wake" and similar regulatory signs, and buoys associated with such aids, provided that the devices are marked pursuant to Section 327.40, F.S.

(c) The installation and repair of mooring pilings and dolphins associated with private docking facilities.

(d) The installation of private docks of 500 square feet or less of surface area over the landward extent of waters of the State or 1000 square feet or less of surface area over the landward extent of waters of the State for docks which are not located in Outstanding Florida Waters and any of which:

1. is used for recreational, non-commercial activities, associated with the mooring or storage of boats and boat paraphernalia; and

2. is constructed or held in place by pilings, including floating docks, so as not to involve filling or dredging other than that necessary to install the pilings; and

3. does not substantially impede the flow of water or create a navigational hazard; and

4. is 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

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 allowed per parcel or lot. For the purposes of this rule, 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. Construction of a private dock under this exemption does not require the Department to issue a subsequent permit to construct a channel to provide navigational access to the dock. Activities associated with a private dock shall include the construction of structures attached to the pier which are only suitable for the mooring or storage of boats (i.e., boatlifts).

(e) The performance of maintenance dredging of existing manmade canals, channels, and intake and discharge structures, where the spoil material is to be removed and deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material and return water from the spoil site into surface waters of the state, provided no more dredging is performed than is necessary to restore the canal, channels, and intake and discharge structures to original design specifications, and provided that control devices are used at the dredge site to prevent turbidity and toxic or deleterious substances from discharging into adjacent waters during maintenance dredging. This exemption shall apply to all canals constructed before April 3, 1970, and to those canals constructed on or after April 3, 1970, pursuant to all necessary state permits. This exemption shall not apply to the removal of a natural or manmade barrier separating a canal or canal system from adjacent waters of the state. Where no previous permit has been issued by the Board of Trustees of the Internal Improvement Trust Fund or the United States Army Corps of Engineers for construction or maintenance dredging of the existing manmade canal or intake or discharge structure, such maintenance dredging shall be limited to a depth of no more than 5 feet below mean low water.

(f) The installation and maintenance to design specifications of boat ramps on artificial bodies of water where navigational access to the proposed ramp exists, or the installation and maintenance to design specifications of boat ramps open to the public in any waters of the state where navigational access to the proposed ramp exists and where construction of the proposed ramp will be less than 30 feet wide and will involve the removal of less than 25 cubic yards of material from the waters of the state. All material removed shall be placed upon a self-contained upland site so as to prevent the escape of the spoil material and return

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water from the spoil site into the waters of the state. For the purpose of this exemption artificial bodies of water shall include, but not be limited to, 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.

(g) Construction of seawalls or riprap, including only that backfilling needed to level the land behind seawalls or riprap, in artificially created waterways where such construction will not violate existing water quality standards, impede navigation or adversely affect flood control. An artificially created waterway shall be defined as a body of water that has been totally dredged or excavated and which does not overlap natural surface waters of the state. For the purpose of this exemption, artificially created waterways shall also include existing residential canal systems. This exemption does not apply to the construction of vertical seawalls in estuaries or lagoons unless the proposed construction is within an existing man-made canal where the shoreline is currently occupied in whole or in part by vertical seawalls.

(h) Construction of private docks in artificially created waterways (as defined in Section 62-312.050(1)(g) where construction will not violate water quality standards, impede navigation, or adversely affect flood control.

(i) The replacement or repair of private or commercial docks provided that no fill material other than the dock pilings is to be used, and provided that the replacement or the repaired dock is in the same location and of the same configuration and dimensions as the dock being replaced or repaired. A dock must be functional and able to provide access to a boat or boats moored at the dock before this exemption may be used.

(j) The restoration of a seawall or riprap at its previous location or upland of or within one foot waterward of its previous location. No filling can be performed except in the actual restoration of the seawall or riprap. No construction shall be undertaken without necessary title or leasehold interest, especially where private and public ownership boundaries have changed as a result of natural occurrences such as accretion, reliction and natural erosion. Restoration and repair shall be performed using the criteria set forth in Section 403.918(5), F.S. This exemption shall be limited to functioning seawalls or riprap where there is no exchange of waters through or around the seawall or riprap of sufficient quantity, duration or frequency so that the restoration of the seawall or riprap could cause or contribute to a violation of state water

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quality standards or other criteria listed in Section 403.918, F.S. This exemption does not constitute an exception from the permitting requirements of Chapter 161, F.S.

(k) The maintenance of functioning insect control structures, dikes and irrigation and drainage ditches, provided that spoil material is deposited on a self-contained upland spoil site which will prevent the escape of the spoil material and return water into surface waters of the state. In the case of insect control structures, if the cost of using a self-contained upland spoil site is so excessive as determined by the Department of Health and Rehabilitative Services, pursuant to Subsection 403.088(1), F.S., that it will inhibit the proposed insect control, existing spoil sites or dikes may be used, upon notification to the Department. In the case of insect control where upland spoil sites are not used pursuant to this exemption, turbidity control devices shall be used to confine the spoil material discharge to that area previously disturbed when the receiving body of water is used as a potable water supply, is designated as approved waters for shellfish harvesting by the Department of ENVIRONMENTAL Protection, or functions as a habitat for commercially or recreationally important shellfish or finfish. In all cases, no more dredging is to be performed than is necessary to restore the dike or irrigation or drainage ditch to its original design specifications. This exemption shall apply to man-made trenches dug for the purpose of draining water from the land or for transporting water for use on the land and which are not built for navigational purposes. This exemption does not include navigable residential canal systems.

(l) Repair or replacement of existing functional pipes or culverts which discharge or convey stormwater, run-off, or drainage; including the repair or replacement of existing functional pipes or culverts which directly discharge or convey stormwater from stormwater treatment and management systems. In all cases, the pipes or culverts shall be repaired or replaced to their previous invert elevations, cross sectional area, and length, however the material used for the pipe or culvert may be different from the original composition. This exemption does not authorize construction activities or procedures that cause violations of water quality standards as listed in Chapter 62-302, F.A.C., and Rule 62-4.242, F.A.C. Examples of some activities where water quality standards can be expected to be violated include: repair or replacement activities that cause

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impoundment of water flow; increased flow in downstream waters; increased scour of the waterbody; alterations of the waterbody upstream or downstream of the culvert; dredging to re-align the channel or other channel modifications; work performed without properly installed or maintained turbidity screens or erosion and siltation controls; deposition of spoil materials in jurisdictional waters; or the cleaning, filling, or construction of structures in natural, previously undisturbed jurisdictional waters.

(m) Construction and maintenance of swales.

(n) The construction at electrical power plant sites, including power lines on the power plant sites, which have been approved pursuant to the Florida Electrical Power Plant Siting Act, Chapter 403, Part II, Florida Statutes, where dredging and filling activities have been reviewed and approved as part of the site certification.

(o) For activities grandfathered pursuant to Rules 62-312.150 and 62-312.160, F.A.C., the deposition of up to and including 25 cubic yards of material in areas of waters of the state where transitional vegetation species, as described in Rule 62-301.200(3) F.A.C., are the dominant species, except in Class II waters. No person shall be entitled to more than one exemption under this provision every six months. If at any time the Department determines that the cumulative effect of successive filling by a person either under this provision or under some other provision of this rule may have a significant effect on water quality, it may suspend the application of this exemption provision to that person by notifying him in writing.

(p) The construction of, or dredging or filling in, artificial waterways, except in Class II waters, behind control structures permitted by a water management district created under Section 373.069, Florida Statutes, except those:

1. to be used for residential purposes; or
2. which directly connect to works of said water management district; or
3. to be constructed in waters of the state.

(q) The construction of, or dredging or filling in, highway drainage ditches and artificial waterways, except in Class II waters, which are not used for residential purposes, and which serve as artificial tributaries only following the occurrence of rainfall and which normally do not contain contiguous areas of standing water.

(r) The installation of subaqueous transmission and distribution lines laid on, or embedded in, the bottoms of waters of the State, except in Class I and Class II waters and aquatic preserves provided that no dredging or filling is necessary.



(s) The replacement or repair of subaqueous transmission and distribution lines laid on, or embedded in, the bottoms of waters of the State.

(t) The construction of vertical seawalls in waters of the State, other than in an estuary or lagoon, and the construction of riprap revetments, where such construction is between and adjoins at both ends existing seawalls or riprap, follows a continuous and uniform construction line with the existing seawalls or riprap, is no more than 150 feet in length, and does not violate existing water quality standards, impede navigation, adversely affect flood control. However, this shall not affect the permitting requirements of Chapter 161, F.S. Construction shall be in accordance with Section 403.918(5), F.S.

(u) The replacement or repair of open-trestle foot bridges and vehicular bridges that are 100 feet or less in length and two lanes or less in width, provided that no more dredging or filling is performed than that necessary to replace or repair pilings and that the structure to be replaced or repaired is the same length, the same configuration, and in the same location as the original bridge. No debris from the original bridge shall be allowed to remain in waters of the State.

(v) The restoration of less than 100 feet in length of insect control impoundment dikes and the connection of such impoundments to tidally influenced waters. Such impoundments shall be connected to tidally influenced waters for at least 6 months each year, beginning September 1 and ending February 28 if feasible, or operated in accordance with an impoundment management plan approved by the department. 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 such that the final elevation of the dredge area shall be within 2 feet of immediately adjacent bottom elevations.

For the purposes of this paragraph, restoration shall not include maintenance of impoundment dikes of insect control impoundments.

(2) Where a water management district has been delegated stormwater permitting by the department, no dredge or fill permit is required for the construction of, and dredging and filling in, irrigation or drainage ditches constructed in the uplands, including those connecting otherwise isolated areas owned entirely by one person and dominated by the plant indicator species in 62-3.022, FAC. This section only applies to a ditch for which the point of connection to other waters of the state is no more than 35 square feet in

total cross-sectional area and which normally has a water depth of no more than 3 feet. The total cross-sectional area at the point of connection to other waters of the state shall be maintained by the landowner so as not to exceed the design limitations of this exemption. This exemption does not authorize dredging in waters of the state other than in ditches as described in this subsection. All applicable permits except dredge and fill permits are required for discharges to these ditches or connected area. This exemption does not apply to ditches in or connected to the waters described in s. 403.031(12)(a) and (b), F.S., Outstanding Florida Waters, Class I waters, or Class II waters.

(3) No permit under this chapter shall be required for agricultural activities or agricultural water management systems regulated by Water Management Districts. The Department may require a stormwater permit or appropriate discharge permit at the ultimate point of discharge from an agricultural water management system or a group of connected agricultural water management systems. If land served by a water management system is converted to a use other than agricultural use, the water management system, or the portion of the system which serves that land, will be subject to the provisions of this chapter.

(4) No permit under this chapter shall be required for dredging or filling in waters which are contained in those artificially constructed stormwater treatment and conveyance systems designed solely for the purpose of stormwater treatment and that are regulated by the Department or the water management district.

(5) Where stormwater permitting is delegated to a water management district, no permit under this Chapter shall be required for dredging or filling which is required to connect stormwater management facilities to waters and which is incidental to the construction of such stormwater management facilities. Incidental dredging or filling shall include:

- (a) Headwalls and discharge structures;
- (b) Erosion control devices or structures to dissipate energy which are associated with discharge structures;
- (c) Outfall pipes less than 20 feet in length in waters provided the pipe does not interfere with navigation;
- (d) The connection of ditches dug through the uplands where the dredging or filling for the connection to waters extends less than 20 feet in length in waters; and
- (e) Other dredging or filling which the department determines will have a similar effect as those activities listed above.

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applicant from meeting the permitting or performance requirements of other Department rules. Nothing in this section shall prohibit the department from taking appropriate enforcement action to abate or prohibit any activity otherwise exempt from permitting pursuant to this section if the department can demonstrate that the exempted activity has caused water pollution in violation of Chapter 403, F.S. All works pursuant to the exemptions in this section shall be constructed so as to not violate water quality standards.

Specific Authority: 403.061, 403.912, F.S.

Law Implemented: 403.031, 403.061, 403.161, 403.812, 403.813, 403.912,

403.913, 403.918, F.S.

History: New 12-10-84. Amended: 11-11-85, 8-30-88, 3-26-89, 3-12-90, 7-11-90, 4-12-92. Formerly 17-12.050, F.A.C., Formerly 17-312.050.

#### 62-312.060 Procedures to Obtain a Permit.

(1) Unless specifically exempt, permits shall be required for dredging or filling, including but not limited to construction; of artificial reefs, groins, jetties, breakwaters, riprap or seawalls, revetments and similar type structures; marinas, docks, wharfs, piers, marine railroads, walkways, mooring pilings, dolphins and similar structures; boat ramps, lifts or similar launching facilities; ski ramps, or other similar structures; utility installations, navigational aids, commercial signs or similar obstructions; canals, canal locks, bridges or similar crossing structures; as well as dredging or excavating by any means and filling or placing of material in, on or over waters of the state listed in Section 62-312.030, F.A.C.

(2) Application for a permit shall be made on forms prescribed by the Department and listed in subsection 17-312.900(1) F.A.C., and shall be accompanied by the appropriate processing fee as listed in Section 17-4.050, F.A.C. Any application for a permit to dredge or fill shall constitute an application for certification of compliance with state water quality standards where necessary. Similarly, an application for certification shall constitute an application for permit.

(3) Applications for short-form dredge or fill permits pursuant to Section 62-312.090, F.A.C., shall be filed with the appropriate Department district office, and shall be processed and issued by that office. Applications for other permits to dredge or fill shall be filed with the Bureau of Wetland Resource Management in Tallahassee. See Chapter 62-101, F.A.C. for location and addresses of Department

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offices. All applications and supporting documents shall be filed in quadruplicate.

(4) To ensure protection of public health, safety and welfare, all engineering drawings and related materials, as defined by Chapter 471, F.S., provided with the application shall be signed and sealed by a professional engineer in accordance with Chapter 471, F.S. and Subsection 62-4.050(3), F.A.C. Any land survey associated with an application shall be certified by a registered land surveyor in accordance with Chapter 472, F.S.

(5) Within 30 days after receipt of an application for permit or receipt of additional information, the department shall examine the application or information, notify the applicant of any apparent errors or omissions, and request any additional information needed to clarify the information on the application or in a subsequent submittal. Requests for additional information shall be governed by Section 403.0876, F.S. Additional information which may be required to evaluate an application includes but is not limited to:

(a) a hydrographic study or hydrologic evaluation, prepared under the supervision of the Department, which will demonstrate the flow of water, predict the effect of the proposed dredging or filling on the flow of water, predict areas of erosion or shoaling, predict the effect of the proposed dredging or filling on water quality and water resources; and

(b) sampling and test analyses of ambient water or sediments, core borings, surveys of existing resources such as grassbeds and other habitat's, or any other information necessary to evaluate the proposed dredging or filling in accordance with Sections 403.918 and 403.919, F.S.

(6) The department shall notify the applicant if the dredging or filling for which a permit is sought is exempt from permitting. The notice shall be given within 30 days of receipt of the original application or within 10 days of receipt of additional information which demonstrates to the department that the proposed dredging or filling is exempt. Upon determination that a dredging or filling activity is exempt from permitting, the department shall refund the application processing fee.

(7) Upon receipt of an application for a permit, the Department shall forward a copy of the application:

(a) within 24 hours, to the appropriate office of the U.S. Army Corps of Engineers unless specifically authorized by the Corps to do otherwise, and;

(b) within 10 days by certified mail, to the chief executive officer of each county and municipality which has jurisdiction over the area for which a permit is requested.

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(8) If at any time during processing of the application it appears that the dredging or filling may take place on state-owned lands, the department shall send a copy of the application to the Division of State Lands, Department of ENVIRONMENTAL Protection.

(9) Upon receipt of a complete application, including any timely requested additional information, the department shall forward a copy of the application to and request comments from:

(a) the Florida Game and Fresh Water Fish Commission for all standard form applications; and

(b) any other persons who have asked for a copy of the application.

(10) During the processing of the permit application, the Department shall determine whether or not the application, as submitted, meets the criteria contained in Sections 403.918(1) and (2) (a) 1.-7. and 403.919, F.S. If the project, as designed, fails to meet the permitting criteria, the Department shall discuss with the applicant any modifications to the project that may bring the project into compliance with the permitting criteria. The applicant shall respond to the Department, in writing, as to whether or not the identified modification to the proposed project is practicable and whether the applicant will make the identified modification. The term "modification" shall not be construed as including the alternative of not implementing the project in some form. When the Department determines that the project, as submitted or modified, fails to meet the criteria contained in Sections 403.918(1) and (2) (a) 1.-7. and 403.919, F.S., the applicant may propose mitigation measures to the Department as provided in Chapter 62-312, Part III, F.A.C. Nothing herein shall imply that the Department may not deny an application for a permit, as submitted or modified, if it fails to meet the criteria in Section 403.918(2)(a), F.S., or that mitigation must be accepted by the Department.

(11) If a certification or permit application is made for a dredging or filling activity in Class I waters which are the source of water for a potable water system, the person or legal entity using the waters for such system shall be notified by the Department and shall be given an opportunity to comment on the proposed dredging or filling activity.

(12) The Department shall forward a copy of the application to and request comments from the adjacent waterfront property owners unless the number of adjacent waterfront property owners is so extensive that personal notice is impractical. In those cases, the Department shall

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require the applicant to publish either the Notice of Application or the Notice of Proposed Agency Action on Permit Application pursuant to Section 62-103.150, Florida Administrative Code. The notice of application shall be published within 14 days after a complete application is filed with the Department, unless the names of the adjacent owners are not properly provided by the applicant, in which case the Department may require publication within 14 days after such timely requested information is received.

(13) Applications for permits processed pursuant to Sections 62-312.010 through 62-312.110, F.A.C., shall be approved or denied within 90 days after receipt of the original application, or receipt of the timely requested additional information, or corrections of errors or omissions. The 90-day period shall be tolled by initiation of a proceeding pursuant to Section 120.57, F.S., or by request for publication of public notice pursuant to Section 403.815, F.S., and Section 62-103.150, F.A.C., or by request for a soils assessment pursuant to Section 403.913(3), F.S. Any application for a permit that is not approved or denied within the time prescribed by Sections 120.60 and 403.815, and 403.0876, F.S., shall be deemed approved in accordance with Subsection 120.60(2), F.S.

(14) Applicants shall publish a Notice of Application or a Notice of Proposed Agency Action on a Permit Application if required by Section 62-103.150, F.A.C., and Section 403.815, F.S.

(15) An applicant may request a zone of mixing in accordance with Section 62-4.244, F.A.C.

(16) Each application for a permit shall be accompanied by a processing fee, except for applications filed by departments of the executive branch established pursuant to Chapter 20, F.S., and water management districts established pursuant to Chapter 373, F.S. The check shall be made payable to the Department of Environmental Protection. The processing fee is non-refundable except as provided for in Section 120.60, F.S., and in this section. Processing fees are as set forth in Section 62-4.050, FA.C.

Specific Authority: 403.061, 403.912, F.S.  
Law Implemented: 403.061, 403.813, 403.912, 403.913, 403.919, 403.921, 403.922, 403.923, 403.927, F.S. History: New 10-16-84. Amended: 8-28-85, 1/3/89, 3-26-89. Formerly 17-12.060, Formerly 17-312.060.

62-312.070 Short Form Applications for Certain Dredging or Filling.

(1) Applicants for the types of dredging or filling listed in Paragraph (2) below shall make application on Form 62-312.900(1), F.A.C., to the district office serving the

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 area in which the dredging or filling is proposed. One or more of the types of dredging or filling listed below may be combined in one application. If any portion of the proposed dredging or filling exceeds any of the following criteria for a short form application, and the application shall be processed as a standard form application by the Bureau of Wetland Resource Management and the appropriate standard form (Bureau Review) fee shall be applied. The filing of successive short form (District Review) applications within three years which results in the total scope of the dredging and filling exceeding any of the following short form criteria, shall result in the succeeding applications being processed as a standard form application. Once processing of a standard form application has begun by the Bureau of Wetland Resource Management, the Bureau shall continue to process the application whether or not subsequent changes or modifications to the project would otherwise reduce the project to meet the short form criteria, unless the project is subsequently delegated to the Districts for review by the Secretary or his designee pursuant to agreement by the Department and the applicant. If at any time during the review of a short form application the Department determines that the project exceeds the short form criteria listed in Paragraph (2), the application shall be transferred to the Bureau and processed as a standard form application unless continued processing of the application is delegated to the Districts by the Secretary or by his Designee, and the appropriate processing fee shall be required.

(2) Dredging or Filling in, on or over waters of the state, including construction over waters of the state which is associated with the dredging or filling for which a short form application shall be used:

(a) Except for dredging or filling associated with mosquito control activities, projects which affect a total of less than 10 acres of jurisdictional waters of the state. For the purposes of subsection (2), "affect" shall be defined as directly dredging or filling in jurisdictional areas, severing jurisdictional waters from other waters of the state, or creating new jurisdictional waters of the state, and shall not include mitigation activities determined to be appropriate by the Department.

(b) New docking facilities which:

1. total less than 10 wet slips, and are not associated with facilities which are commercial or provide supplies or services required for boating activities; or
2. consist of the addition of not more than 20 docking slips to existing functional docking facilities where the total facility will not exceed 50 slips and the existing and proposed slips are not associated with commercial facilities

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or facilities which provide supplies or services required for boating activities; or

3. consist of modifications to a maximum of 10 existing functional slips, regardless of the size of the existing facility, providing that the modifications do not result in the addition of new commercial slips or new slips which provide supplies or services required for boating activities.

For the purposes of paragraph (b), commercial dockage facilities shall not include those associated with non water-related facilities such as restaurants, office parks, or other similar establishments which do not provide supplies or services required for boating activities.

(c) New riprap of any length and new vertical seawalls, bulkheads, or similar shoreline protection structures which do not exceeding 500 linear feet of shoreline.

(d) The installation of buoys, aids to navigation, signs, fences, and ski ramps, and the installation of fish attractors by the Florida Game and Fresh Water Fish Commission.

(e) Dredging or filling associated with salvage operations, including treasure salvage, regardless of the area affected.

(f) Dredging or filling associated with bridge demolition activities not previously authorized by a currently valid Department permit.

(g) The installation of subaqueous transmission and distribution lines laid on or embedded (as defined in Section 62-312.020(7)) in the bottoms of waters of the state, carrying water, wastewater, electricity, communication cables, oil or gas, except as exempted by F.A.C Rule 62-312.050(r) or (s).

(h) The construction of artificial reefs regardless of the amount of filling involved.

(i) Any other project or category of project delegated by the Secretary or his designee for short form review which could be reviewed more appropriately by the District office, due to reasons such as: extensive consultations or preapplication meetings between the district and the applicant prior to submittal of an application; extensive knowledge of a site or history of a project by district staff; or prior involvement with the district on previous, related phases of a multi-phase project; and the project does not consist of unique or unusual circumstances which may affect other properties or types of projects outside of the district. In such cases where the project is delegated by the Secretary for processing by the district, the fee

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shall remain unchanged from the fee otherwise appropriate for the project.

(3) Notwithstanding the provisions of Paragraph (2) above, any project which may be more appropriately processed by the Bureau of Wetlands Resource Management, for reasons such as: the project has the potential to affect other projects or properties outside of the district; the project has the potential for large scale environmental affects that transcend county, district, or state boundaries; the project involves extensive multi-agency coordination which could best be accomplished by processing at the Bureau level; the project involves unproven technology or experimental procedures that will require statewide oversight or extensive multi-agency coordination; or the project has been the subject of extensive prior consultations or preapplication meetings between Bureau staff and the applicant prior to submittal of the application; then the project shall be assigned by the Secretary or his designee, to be processed by the Bureau provided that the fee shall remain unchanged from the fee otherwise appropriate for the project.

Specific Authority: 403.061, 403.912, F.S.

Law implemented: 403.061, 403.813, 403.911, 403.912, F.S. History: New 10-16-84. Amended: 3-26-89, 3-12-90, 4-12-92. Previously numbered 17-12.090, F.A.C., Formerly 17-312.070

62-312.080 Standards for Issuance or Denial of a Permit. (1) In accordance with Section 403.918(1), F.S., no permit shall be issued unless the applicant has provided the department with reasonable assurance based on plans, test results or other information that the proposed dredging or filling will not violate water quality standards.

(2) No permit shall be issued unless the applicant provides the Department with reasonable assurance based on plans, test results or other information that the project is not contrary to the public interest in accordance with Section 403.918(2), F.S.

(3) No permit shall be issued for dredging or filling which significantly degrades or is within an Outstanding Florida Water unless the applicant complies with Section 403.918(2), F.S., and Section 62-4.242, F.A.C.

(4) A permit may contain specific conditions reasonably necessary to assure compliance with Section 403.918, F.S. (5) The Department may deny a permit in accordance with Section 120.60, F.S., if the applicant fails to correct errors or omissions, or to supply additional information requested by the Department, or to publish a required public notice within the time set forth in a notice of intent to deny the permit.

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 (6) The department recognized the

special value and

importance of Class II waters to Florida's economy as existing or potential sites of commercial and recreational shellfish harvesting and as a nursery area for fish and shellfish.

(a) Accordingly, the Department shall deny a permit for dredging or filling in Class II waters which are not approved for shellfish harvesting unless the applicant submits a plan or proposes a procedure to protect those waters and waters in the vicinity. The plan or procedure shall detail the measures to be taken to prevent significant damage to the immediate project areas and to adjacent area and shall provide reasonable assurance that the standards for Class II waters will not be violated.

(b) The Department also shall deny a permit for dredging or filling in any class of waters where the location of the project is adjacent or in close proximity to Class II waters, unless the applicant submits a plan or proposes a procedure which demonstrates that the dredging or filling will not have a negative effect on the Class II waters and will not result in violations of water quality standards in the Class II waters.

(7) Permits for dredging or filling directly in Class II or Class III waters which are approved for shellfish harvesting by the Department of ENVIRONMENTAL Protection shall not be issued. However, the Department may issue permits or certifications for maintenance dredging of navigational channels, the construction of shoreline protection structures, the installation of transmission and distribution lines for carrying potable water, electricity or communication cables in rights-of-way previously used for such lines, for clam and oyster culture, and for private, single family boatdocks that meet the following Department of ENVIRONMENTAL Protection criteria for installation in Class II and Class III waters approved for shellfish harvesting:

(a) There shall be no more than two boats moored at the dock;

(b) No overboard discharges of trash, human or animal waste, or fuel shall occur at the dock;

(c) Any non-water dependent structures, such as gazebos or fish cleaning stations, shall be located on the uplands; (d) Prior to the mooring of any boat at the dock, there shall be existing structures with toilet facilities located on the uplands;

(e) Any proposed shelter shall not have enclosed sides;



(f) The mooring area shall be located in waters sufficiently deep to prevent bottom scour by boat propellers; and

(g) Any structures located over grassbeds shall be designed so as to allow for the maximum light penetration practicable.

(8) (a) For phosphate mining which occurs within the Southwest Florida Water Management District and which is exempt from its permitting requirements pursuant to Subsection 40D-4.051(9), F.A.C., no permit shall be issued unless the applicant provides reasonable assurance that the activity will be in compliance with the substantive requirements of Chapter 373, Part IV, F.S., as implemented by Rule Paragraphs 40D-4.031 (1) (a), (b), (d), (1), (2) (a), (b), (d), (g), (h), (j), (m) and, (n), F.A.C., except that paragraphs (1) (d) and (2) (d) apply within the mine only after the completion of mining and reclamation of the permitted dredge and fill project site.

(h) Applicants for a permit covered by Paragraph (a) above, shall submit, in addition to the information required by DEP form 62-312.900(1) F.A.C., information which is applicable to the paragraphs cited in Paragraph (a) above. The Applicant shall submit seven copies of the application and all supporting information.

(c) This Subsection (62-312.070(8)) does not apply to activities for which a complete application was filed with the Department before October 1, 1986. Specific Authority: 373.026, 373.042, 373.044, 373.149, 373.171, 403.061, 403.805, 403.912, E.S. Law Implemented: 373.042, 373.403, 373.413, 373.416, 373.426, 403.031, 403.061, 403.815, 403.912, 403.913, 403.918, and 403.919, F.S. History: New 12-10-84. Amended: 10-15-86, 3-26-89, 10-13-92. Previously numbered 17-12.070, F.A.C., Formerly 17-312.080

#### 62-312.082 Duration of Permits.

(1) Permits for dredging or filling under Rules 62-312.010 through 62-312.110, F.A.C., shall not be valid for more than 10 years. The Department may issue a permit for less than 10 years if the proposed dredging or filling will require less than 10 years to complete or if the applicant **does** not provide sufficient information to accurately **assess the** effects of the dredging or filling for a ten year period. All Department wetland resource permits issued under Rules 62-312.010 through 62-312.110, F.A.C., shall be effective on the date of execution by the Department.

including

snagging operations, or river channels which are not part of a deepwater port as defined in Rule 62-45, F.A.C., shall not be valid for more than five years. Specific Authority: 403.061, 403.912, F.S. Law Implemented: 403.061, 403.816, 403.912, 403.921, F.S. History: New 10-16-84. Amended: 3-26-89, 12-17-90. Previously numbered as 17-12, 072, F.A.C., Formerly 17-312.082

#### 62-312.085 Periodic Review of Permits.

(1) Pursuant to subsection 403.921(1), F.S., the Department shall review each permit that is issued for more than 5 years at the end of the first 5-year period and each subsequent 5-year period thereafter, if applicable. The Department review shall begin 90 days before the end of the 5-year period, and shall include a notice to the permittee. The Department shall review the file and inspect the project site for compliance with the terms of the permit including the General and Specific Conditions and Monitoring Requirements.

(2) If the Department determines that the permittee is not in compliance with the terms of the permit, revocation or suspension of the permit may be initiated pursuant to Section 62-4.100, F.A.C.

(3) As an element of the five-year periodic review, the Department shall notify the permittee of any additional permit conditions to be added to the original permit based on rules adopted during the preceding five-year period. Specific Authority: 403.061, 403.912, F.S. Law Implemented: 403.061, 403.912, 403.921, F.S. History: New 10-16-84. Amended: 3-26-89. Formerly 17-12.075, F.A.C., Formerly 17-312.085

62-312.090 Emergency Classification and Procedures. (1) Special consideration shall be given to the following emergency situations:

(a) Class A

1. Those emergencies which involve the loss of human life, limb, or property due to calamitous occurrences such as but not limited to hurricanes, tornadoes, fires, floods, high winds, or the breaks of dams or levees.

2. No permit shall be required for temporary measures taken to correct or give relief from Class A emergencies. Immediately after the occurrence of a Class A emergency, the appropriate district office of the Department shall be notified of the emergency. Within 14 calendar days after the correction of the emergency, a report to the district

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 office of the Department shall be made outlining the details of the emergency and the steps taken for its temporary relief. The report shall be a written description of all of the work performed involving dredge and fill activities and shall set forth any pollution control measures which were used or are being used to prevent pollution of waters of the state. A permit shall be required in connection with dredge and fill activities for permanent measures in relief of Class A emergencies.

(b) Class B

1. Other disasters such as but not limited to bridge collapses, sudden and unpredictable structural collapses, and sudden and unpredictable hazards to navigation which do not threaten the immediate loss of life or property but will require immediate action for relief.

2. No permit shall be required for temporary measures needed to correct or give relief from Class B emergencies. Temporary **measures** shall be limited to only those minimum works required to protect against the potential loss of life, limb, health or property or which immediately threaten plant and animal life. The appropriate district office of the Department shall be notified within 24 hours after occurrence of a Class B emergency, and a written report shall be given within 14 calendar days after the temporary **measures** are completed. The report shall be a written description of all **works** which have been performed as well as the pollution control measures which were **used**. A permit shall be required in connection with dredge and fill activities for **permanent measures** taken for the relief of Class **B emergencies**.

Specific Authority: 403.061, 403.912, F.S. Law

Implemented: 403.061, 403.912, F.S.

History: New 10-16-84. Amended: 3-26-89. Formerly 17-12.080, F.A.C., Formerly 17-312.090

62-312.100 Modification of Permits. In accordance with Rule 62-4.080(2) modifications to an existing, currently valid permit may be requested by the permittee. The Department will determine whether the requested modification is minor or major based on the magnitude and nature of the proposed change and the potential for environmental effects different from those previously determined for the project. Minor modifications shall be requested by letter, with revised drawings attached, as appropriate. Minor modifications may include time extensions where the total time of the original permit plus the extension remains within the range of time allowed for the fee established in Section 62-4.050, F.A.C., for the original permit issued.

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 Requests for time extensions which would cause the total time of the original permit plus the extension to exceed the appropriate range of time shall be considered major modifications. Major modifications shall be requested by submittal of a completed application form and the appropriate fee and shall be processed by the Department according to Sections 62-312.060 and 62-312.080, F.A.C. Specific Authority: 403.061, 403.912, F.S.

Law Implemented: 403.061, 403.912, 403.919, 403.921, 403.922, 403.923, 403.924, 403.925, 403.927, 403.929, F.S. History: New 10-16-84. Amended: 3-26-89. Formerly 17-12.100, F.A.C., Formerly 17-312.100

62-312.110 Other Procedures. Transfer of permits, suspension or revocation of permits, and all other procedures not specified in Sections 62-312.010 through 62-312.100, F.A.C., shall be in accordance with Chapter 62-4, F.A.C.

Specific Authority: 403.061, 403.912, F.S. Law

Implemented: 403.061, 403.912, F.S.

History: New 10-16-84. Previously numbered 17-12.110, F.A.C., Formerly 17-312.110

62-312.120 Departmental Review of Grandfathered Activities.

(1) Dredging or filling associated with those developments, activities, and mining operations set forth in Subsections 403.913(6), and (8), F.S., shall be regulated in accordance with the provisions of Section 62-312.150 and 62-312.160, as those provisions existed before January 24, 1984, as follows:

(a) Department jurisdiction shall be determined using the vegetative index and other jurisdictional criteria as they existed on January 24, 1984, and as set forth in Sections 62-3.021(15), 62-312.150 and 62-312.160, F.A.C., except that for those mining operations set forth in Subsection 403.913(8), F.S., the jurisdiction after October 1, 1994, shall be determined as provided in Part VIII of

,Chapter 403 and Section 62-3.022, F.A.C.

(b) Department review of permit applications filed before October 16, 1985, shall be in accordance with the criteria set forth in Section 62-312.150 and 62-312.160, F.A.C.

(2) The Department's dredge and fill permitting jurisdiction for projects which have received jurisdictional determinations in accordance with Section 62-3.022(8), F.A.C., shall be the area previously determined to be within the landward extent of waters of the state and identified in



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(3) Developments, activities, or mining operations which are grandfathered pursuant to Section 62-312.120, F.A.C., may be evaluated under this Chapter if the applicant notifies the department in writing that he wishes his application to be so evaluated.

Specific Authority: 403.061, 403.912, F.S.

Law Implemented: 403.061, 403.817, 403.912, 403.913, F.S. History: New 10-16-84, Amended: 8-28-85, 5-15-86, 3-26-89. Formerly 17-12.120, F.A.C., Formerly 17-312.120

62-312.130 Applications Pending on October 1, 1984. (1) Applications for permit filed with the Department before October 1, 1984, and which were complete before that date may be evaluated under this chapter if the applicant notifies the Department in writing that he wishes his application to be considered in this manner. If the Department is not notified, these applications shall be processed in accordance with Sections 62-312.150 and 62-312.160, F.A.C.

(2) Applications filed with the department before October 1, 1984, which were not complete on that date, shall be processed in accordance with this chapter.

Specific Authority: 403.061, 403.912, F.S.

Law Implemented: 403.061, 403.912, 403.913, F.S. History: New 10-16-84. Amended: 3-26-89. Formerly 17-12.130, F.A.C., Formerly 17-312.130

62-312.140 Extension and Renewal of Permits. No permit issued before October 1, 1984, shall be renewed after October 1, 1984. However, time extensions for permits issued before October 1, 1984, may be granted for up to a total of five years for the permit and all extensions. Requests for such extensions shall be reviewed pursuant to Sections 62-312.150 and 62-312.160, F.A.C. No permit issued after October 1, 1984, shall be renewed. Subsequent permits for the same project or incomplete portions of the project may be issued upon filing of a complete application, payment of the appropriate fee for the remaining work, and review by the Department pursuant to Chapter 62-312, F.A.C. The application for a subsequent permit shall be reviewed by the **sane** office which reviewed as the original application. An applicant may request to extend a permit issued after October 1, 1984, to the time limit specific to the application fee remitted with the original permit, if such

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request is made in writing to the appropriate District office or Bureau of Wetlands Resource Management prior to the permit expiration date.

Specific Authority: 403.061, 403.912, F.S.

Law Implemented: 403.061, 403.912, 403.913, F.S.

History: New 10-16-84. Amended 3-26-89. Formerly 17-12.140, F.A.C., Formerly 17-312.140

62-312.150 Dredging or Filling; Permits and Certifications. Filed before October 1, 1984 or which are Grandfathered. This section applies only to dredging or filling for which a complete application was received before October 1, 1984, or for dredging or filling which is grandfathered by Subsections 403.913(6) and (8), F.S. and Sections 62-312.120, 62-312.130, and 62-312.140, F.A.C. All other dredging or filling is subject to the remaining provisions of Chapter 62-312, F.A.C.

(1) Regardless of whether a permit is required, all dredging or filling activities conducted in or connecting to waters of the state shall comply with Chapter 62-3, F.A.C. Compliance shall be in regard to the long-term, as well as the short-term effects of the projects.

(2) Pursuant to Sections 403.061, 403.087, or 403.088, F.S., those dredging or filling activities which are to be conducted in, or connected directly or via an excavated water body or series of excavated water bodies to, the following categories of waters of the state to their landward extent as defined by Subsection 62-3.021(15), F.A.C. require a permit from the Department.

(a) rivers and natural tributaries thereto; (b) streams and natural tributaries thereto; (c) bays, bayous, sounds, estuaries, and natural tributaries thereto;

(d) natural lakes, except those owned entirely by one person and except for lakes that become dry each year and are without standing water together with lakes of no more than ten (10) acres of water area at a maximum average depth of two (2) feet existing throughout the year;

(e) Atlantic Ocean out to the seaward limit of the State's territorial boundaries;

(f) Gulf of Mexico out to the seaward limit of the State's territorial boundaries;

(g) natural tributaries do not include intermittent natural water courses which act as tributaries only following the occurrence of rainfall and which normally do not contain contiguous areas of standing water. The department recognizes that the natural border of certain water bodies listed in this section may be difficult

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**DEP 1995 DREDGE AND FILL ACTIVITIES 62-312** to establish because of seasonal fluctuations in water levels and other characteristics unique to a given terrain. The intent of the vegetation indices in Section 62-3.021(15), F.A.C., is to guide in the establishment of the border of the water bodies listed in the section. It is the intent of this rule to include in the boundaries of such water bodies areas which are customarily submerged and exchange waters with a recognizable water body (i.e., areas within the landward extent of waters of the state as defined in Section 62-3.021(15)). Isolated areas which infrequently exchange water with a described water body or provide only insignificant benefit to the water quality of a water body are intended to be designated as uplands. The vegetation indices in Section 62-3.021(15), F.A.C., are presumed to accurately delineate the landward extent of such water bodies.

(3) The applicant for a dredge and/or fill permit or a federal certification for a dredging and/or filling activity shall affirmatively provide reasonable assurance to the department that the short-term and long-term effects of the activity will not result in violations of the water quality criteria, standards, requirements and provisions of Chapter 62-3, Florida Administrative Code. The Department shall, upon denying any application, furnish the applicant an official statement specifying with particularity the reasons for denial, including a **precise** statement of those violations of water quality criteria, standards, requirements and provisions it expects to be caused by such activity and the manner in which such effects are expected to be caused. •

(4) With regard to the review of the following types of dredging or filling activities, the Department will provide a statement on the need for obtaining a permit. The statement will be provided by the Department within 30 calendar days of receipt of a short-form application. The types of projects described below may be combined in one short-form application. If any portion of the proposed project exceeds the criteria for short-form applications, the application shall be processed as a standard-form application and the appropriate standard form fee shall be applied. Successive short-form applications shall not be processed for portions of a project whose total scope exceeds the criteria established. Applications shall be made on the application form **as set** forth in Subsection 62-312.900(1), F.A.C.

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(a) Projects not exceeding 10,000 cubic yards material placed in or removed from the waters of the state. The 10,000 cubic yardage limit shall be separately applied to proposed dredging and/or filling (i.e., a short form application may be processed for a single project **encompassing** both 10,000 cubic yards of filling and an additional 10,000 cubic yards of dredging). In addition, the limitations shall include the total yardage of material involved in the creation or elimination of waters of the State. This short form category is not intended to apply to portions of a project whose total scope exceeds the above maximum cubic yard limitation.

(b) Dockage or marina facilities not exceeding 30,000 square feet **of waters** of the state to their landward extent, or dockage or marina facilities, regardless of area occupied, designed primarily for the mooring or storage of watercraft used exclusively for sport or pleasure and containing less than one hundred (100) slips which number is the sum of existing and proposed boatslips. The square footage limitation shall include all areas excluded from public use by the facility or enclosed by a line surrounding all components of the facility located in waters of the **state**.

(c) New riprap revetments of any length and new vertical bulkheads, **seawalls** or similar structures not exceeding 500 linear feet of shoreline, except those exempted under F.A.C. Rule 62-312.050(1)(g). This linear footage limitation shall include total shoreline distance existing on the body of water prior to the commencement of work. Applications will not be approved under this section on a cumulative basis.

(d) The installation of buoys, aids to navigation except those described in Section 62-312.050(1)(b), F.A.C., the installation of signs, fences, and ski ramps, and the installation of fish attractors by the Florida Game and Fresh Water Fish Commission.

(e) The performance of maintenance dredging (except for those projects described in Section 62-312.150(4)(f), F.A.C.) providing there is not more than 10,000 cubic yards of material removed from the waters of the State.

(f) The performance for ten years from the date of **issuance** of the original permit of the maintenance dredging of permitted navigation channels, port harbors, turning **basins, and** harbor berths. The phrase "original permit" **used** in this subsection **means the** original permit issued by **the state** pursuant to Chapter 253, Florida Statutes. **Maintenance** dredging permits of up to ten years may also be obtained pursuant to Section 62-312.150(8) (f) , F.A.C.

(g) The installation of subaqueous transmission and distribution lines entrenched in (not exceeding 10,000 cubic yards of dredging), laid on or embedded (as defined in 62-312.020(7), F.A.C.) in the bottoms of waters of the state carrying water, wastewater, electricity, communication cables, oil and gas, except those exempted in Section 62-312.050(1)(r), F.A.C.

(h) The construction, replacement or widening, in or on the waters of the State, of footbridges and vehicular bridges supported by pilings or trestles where the effects of pollutants discharged into open waters can be minimized.

(i) The construction of artificial reefs.

(5)(a) In recognition of the substantial economic commitments heretofore made by developers in this state and by persons who have entered into contracts with such developers for the purchase of property prior to April 3, 1970, the effective date of Public Law 91-224, which created the federal water quality certification program for dredging and/or filling projects administered by the Department, the special consideration provisions in subparagraphs (b), (c), and (d) below are hereby established.

(b) The Department shall give special consideration to applications for the construction of residential canals and their connection to the categories of waters listed in Section 62-312.150(2) where such canals and connections were shown on a plat recorded prior to April 3, 1970, and where such canals and connections constitute a part of the contractual obligations of the applicant incurred pursuant to land sales contracts executed prior to, April 3, 1970, and where there has been a continuing, bona fide effort by the applicant since the date of recording said plat to fulfill the plan of development set forth in the plat and undertaken by the terms of said contractual obligations. In determining the nature and extent of the applicant's obligations to purchasers, the plat shall be considered together with sales contracts and other related documents which combine to make up the applicant's legally enforceable obligations to purchasers of property within the recorded plat.

(c) A permit and/or certification shall be issued for such canals and connections, provided that the applicant makes all reasonable changes in the design and plan of the canals, including drainage thereto, and connections which the Department determines are necessary to ensure that the water quality standards, requirements, criteria, and provisions of Chapter 62-3, Florida Administrative Code, will be met in the canals as well as in the waters to which the canals are to be connected; provided that in determining what changes reasonably should be made and whether the

permit and/or certification should be issued, the Department and/or Commission shall balance the contractual obligations involved against any negative water quality impacts of the project on the purchasers and the general public, and where the negative water quality impacts outweigh the considerations of contractual obligations, the changes shall be required or the permit and/or certification denied. Except that contractual obligations incurred after April 3, 1970, shall not be considered in determining the reasonableness of the proposed changes; provided that changes in the design locations or platted alignments of the canals which are requested by the department's staff and which the applicant believes are unreasonable shall be referred to the Commission for final determination.

(d) Any person who seeks the special consideration provided in this subsection shall register such request with the department within one hundred twenty (120) days of the effective date of this rule. Said registration shall be made on the form provided by the Department. The determination as to whether a person qualifies for special consideration shall be made at the time that an application for a permit and/or certification is filed with the Department and reviewed for purposes of issuance or denial. Persons not registering pursuant to this subsection shall not receive the special consideration provided herein.

(e) Upon the filing of an application for a permit under this section, together with such additional information as may be necessary to enable the Department to determine whether, and what, changes in the plan of development may be required in accordance with the criteria set forth herein, the Department shall notify the applicant within sixty (60) days of the receipt of such application and additional required information as to the nature of any changes to be required. The applicant shall thereafter respond to such notice within sixty (60) days stating whether he will agree to incorporate into his plan of development such changes as have been requested by the Department. If no changes are deemed by the department to be necessary, or if the applicant agrees to incorporate into his plan of development the changes requested by the department, the application shall be approved and a permit stating the agreed-upon changes issued within ten (10) working days of the execution of an agreement reflecting such agreed-upon changes signed by the applicant and the Secretary of the department. If the applicant believes the changes requested by the Department to be unreasonable within the intent of this subsection when taken as a whole, he may seek a final determination by the commission as stated in subparagraph (c) above.

(6) The Department shall process all applications for works in Class II waters and waters approved for shellfish harvesting by the Department of ENVIRONMENTAL Protection according to the provisions of F.A.C. Rule 62-312.080(6) and (7).

(7) The Department shall issue a permit for dredging and/or filling in an upland residential drainage system located above permanent control structures when such upland drainage system is normally dry and where the application for such permit is accompanied by an affidavit, together with supporting data satisfactory to the department, signed by a Registered Professional Engineer, and certifying the accuracy of such data, that such upland drainage system will, when combined with other drainage systems through which the drainage will flow have a one year storm retention capacity and where such drainage will not discharge into any of the waters listed in Section 62-312.150(2), Florida Administrative Code, water which violates the standards designated for such waters.

(8) Additionally, the following requirements shall apply and, where in conflict, shall supercede those contained in Section 62-312.060, Florida Administrative Code.

(a) Within thirty (30) days after receipt of an application for a permit under this section, the Department shall examine the application, notify the applicant of any apparent errors or omissions, and request any required additional information. The Department may deny a permit application if the applicant, after receiving timely notice, fails to correct errors, omissions, or supply additional information within a reasonable period of time. Additional information which the Department is authorized to require prior to acting on the application may include, where applicable:

1. preparation of a hydrographic survey pursuant to sections 253.123 and 253.124, Florida Statutes;
2. submission of any required lease, license, easement or other form of consent from the Board of Trustees of the Internal Improvement Trust Fund or the Department of ENVIRONMENTAL Protection authorizing the proposed use of sovereignty or other lands of the State, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, pursuant to section 253.77, Florida Statutes.
3. submission of a competent survey prepared in the manner prescribed by Chapter 177, Florida Statutes, and generally accepted professional surveying standards, establishing mean high water or ordinary high water lines for purposes of determining the boundary of navigable waters under Chapter 253, Florida Statutes; and

4. any other information the Department is authorized to require by law.

(b) The Department shall notify the applicant if the activity for which he seeks a license is exempt from the Department permitting requirements and return any tendered application fee within thirty (30) days after receipt of the original application or within ten (10) days after receipt of the timely requested additional information or correction of errors or omissions.

(c) Upon receipt of the original completed application, or receipt of the timely requested additional information or correction of errors or omissions, the Department shall forward a copy of the application to the Florida Game and Fresh Water Fish Commission, the adjacent waterfront property owners as indicated on the application forms, the governing body of the local government or governments in which the activity is located, and other governmental agencies which have an interest in the proposed project, for their review and comments. Submission of the application to the local government pursuant to Section 253.125, F.S., shall be within ten (10) days of receipt of the application for a permit pursuant to Section 253.124, F.S., regardless of its completeness.

(d) Within thirty (30) days of receipt of an application for permit under Chapter 253, F.S., the department shall forward a copy to the Department of ENVIRONMENTAL Protection and shall forward any additional information needed to complete the application, revisions or modifications when received by the department. The department shall process the completed application as soon as possible and shall advise the applicant and the Board of Trustees of the Internal Improvement Trust Fund or the Department of ENVIRONMENTAL Protection of its intended agency action. Completeness for this purpose shall be deemed to exclude evidence of consent of use. However, the department shall not issue, but may deny, a permit before consent of use is obtained by the applicant from the Board of Trustees of the Internal Improvement Trust Fund or the Department of ENVIRONMENTAL Protection pursuant to Section 253.77, F.S.

(e) Every application for a permit shall be approved or denied within ninety (90) days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions. The ninety (90) day period shall be tolled by the initiation of a proceeding under section 120.57, Florida Statutes, and shall resume ten (10) days after the recommended order is submitted to the Department and the parties. Any application for a license not approved or denied within the

ninety (90) day period, within fifteen (15) days after conclusion of a public hearing held on the application, or within forty-five (45) days after the recommended order is submitted to the Department and the parties, whichever is latest, shall be deemed approved.

(f) No department permit authorizing construction in, on or over navigable waters or by dredging or filling in waters of the state, unless extended by the Department, shall be valid for more than five (5) years from the date of receipt by the applicant of all state and federal governmental authorizations as may be required for completion of the proposed work. Provided, however, certain maintenance dredging permits issued pursuant to standard applications may be granted for renewable periods of up to ten (10) years from the date described in the preceding sentence, and certain spoil disposal site permits may be issued for up to twenty-five years in accordance with section 403.061(24), F.S.

(g) Prior to commencement of work authorized by a permit under this section, permittee shall notify the local district or subdistrict office of the department.

(h) Whenever comments are required by Section 253.125, F.S., no department permit shall be issued pursuant to Section 253.124, F.S., until written comments or approval of the local government pursuant to Section 253.125, F.S., are received by the department or the time allowed for comments has lapsed. The department shall deny an application when a majority of the local governing body objects, by resolution or other formal action, to the issuance of a permit in accordance with the criteria contained in Section 253.125, F.S.

(9) Nothing herein except Section 62-312.050(1), F.A.C., shall limit the necessity of a person to obtain a certification required by Public Law 92-500.

(10) Those dredging and/or filling activities for which valid certifications (or waivers) under Public Laws 92-500 and 91-224 or permits under Chapter 403, Florida Statutes, have been obtained for the dredging and/or filling and which are being conducted in compliance with the conditions and requirements of such certifications or permits do not require new certifications or permits under this section.

In addition, the department shall not require a permit and/or certification for upland drainage systems which were reviewed for their dredging and/or filling aspects and which previously have been approved in writing as to those dredging and/or filling aspects by the Department's main office in Tallahassee, provided the drainage systems are

constructed in conformance to the plan approved by the Department and any conditions and requirements of such approval.

(11) Any application for a dredge and/or fill permit from the Department for such a project shall constitute application for certification where necessary. Similarly, an application for a certification shall constitute an application for a department permit.

(12) In a continuing effort to expedite the processing of permits and/or certifications and to increase accessibility to the public, it is the Secretary's intent to delegate the administration of this rule to the water management districts created under Section 373.069, Florida Statutes, where the Secretary finds that a particular district has sufficient resources, expertise, and understanding of water quality problems to administer this regulation and desires to receive such delegation. This rule does not prohibit such districts from promulgating regulations more restrictive in pursuance of their responsibilities.

Specific Authority: 403.061, 403.805, F.S.

Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.802,

403.813, 403.817, F.S.

History: New 6-10-75. Amended: 10-26-75, 7-8-76.

Joint Administrative Procedures Committee Objection, Filed 1-12-76, See FAW Vol. 1, No. 28; Amended: 7-19-77; Joint Administrative Procedures Committee Objection Withdrawn See Vol. 3, No. 30, 7-29-77; Amended: 2-6-78, 2-18-79, 3-11-81, 7-8-82, 3-15-84, 10-16-84, 3-26-89. Previously numbered 17-4.28. Formerly 17-4.280, F.A.C., Formerly 17-12.150, F.A.C., Formerly 17-312.150

62-312.160 Construction, Dredging or Filling in, on or over Navigable Waters; Permits Required Pursuant to Chapter 253, F.S. This section applies only to dredging or filling for which a complete application was received before October 1, 1984, or for dredging or filling which is grandfathered by Subsections 403.913(6) and (8), F.S. and Sections 62-312.120, 62-312.130, and 62-312.140, F.A.C. All other dredging or filling is subject to the remaining provisions of Chapter 62-312, E.A.C. The provisions of this section apply only in regard to the requirements of Chapter 253, F.S., and do not relieve any persons from complying with Chapter 403, F.S.

(1) Subject to the statutory limitations and exemptions of Sections 403.501-.57.5 and 403.813(1) and (2), Florida Statutes, and as otherwise limited by general or special statute or department rule, the following activities at or below the line of mean high water or ordinary high water in,

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 on, or over the navigable waters of the State require a department permit;

(a) Filling by the construction of islands, extensions of existing lands or islands bordering on or in the navigable waters including filling to create artificial reefs, groins, jetties, **breakwaters**, riprap or other type sea walling, revetments and any similar type structures and filling associated with construction and/or installation of activities described in this rule.

(b) Dredging and/or digging by pumping sand, rock, silt, or earth of any kind by **any means** including dredging to connect artificial **waterways** or waterbodies to navigable waters; and dredging **associated** with construction and/or installation activities described in this rule.

(c) Marina construction, **maintenance** and installation and/or docks, wharfs, piers, walkways and living quarters or dwelling type structures thereon and/or mooring pilings, dolphins and similar structures and/or boat ramps, lifts or similar launching facilities and/or **ski ramps** or other similar water structures.

(d) Utility installations whether subaqueous, subterranean or over navigable **waters** and maintenance and/or construction involving activities otherwise requiring permits.

(e) **Miscellaneous** activities including navigational aids, commercial **signs, fences** or similar obstructions, canal locks, marine railroads; bridges, walkways or similar structural crossings.

(2) Any person desiring to obtain a permit from the Department to undertake the work described in (1) above shall make application on the application forms prescribed by Section 62-312.900(1), Florida Administrative Code, in accordance with the instructions for standard and short form "Application for Construction, Dredging and Filling in the Waters of Florida" contained in Section 62-312.900(1), F.A.C.

(3) The following activities shall be considered short form projects, for which the application, as set forth in Section 62-312.900(1), F.A.C., shall be completed and submitted to the department. The types of projects described below may be combined in one application. If any portion of the proposed project exceeds the criteria for short-form applications, the application as filed shall be processed **as a standard**-form application. Successive short-form applications shall not be processed for portions of a project whose total scope exceeds the criteria established.

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(a) Projects not exceeding 10,000 cubic yards of material placed in or removed from navigable waters of the state. The 10,000 cubic yardage limit shall be separately applied to proposed dredging or filling (i.e., a short form application may be processed for a single project encompassing both 10,000 cubic yards of filling and an additional 10,000 cubic yards of dredging). In addition, the limitations shall include the total yardage of material involved in the creation or elimination of navigable waters of the state. This short form category is not intended to apply to portions of a project whose total scope exceeds the above maximum cubic yard limitations.

(b) Dockage or marina facilities not exceeding 30,000 square feet of navigable waters of the state or dockage or marina facilities regardless of area occupied, designed primarily for the mooring or storage of watercraft used exclusively for sport or pleasure and containing less than one hundred (100) slips, which number is the sum of existing and proposed boatslips. The square footage limitation shall include all areas excluded from public use by the facility or enclosed by a line surrounding all components of the facility located in navigable waters of the state.

(c) New riprap revetments of any length and new vertical bulkheads, seawalls or similar structures not exceeding 500 linear feet of shoreline except those exempted under F.A.C. Rule 62-312.050(1)(g). This linear footage limitation shall include total shoreline distance existing on the body of water prior to the commencement of work. Applications will not be approved under this section on a cumulative basis.

(d) The installation of buoys, aids to navigation except those described in Section 62-312.050(1)(b), F.A.C., the installation of signs, fences, and ski ramps, and the installation of fish attractors by the Florida Game and Fresh Water Fish Commission.

(e) The performance of maintenance dredging except for those projects described in Rule 62-312.160(3)(f), F.A.C. provided there is no more than 10,000 cubic yards of filling in the waters of the state.

(f) The performance for 10 years from the date of issuance of the original permit of maintenance dredging of permitted navigation channels, port harbors, turning basins and harbor berths. The phrase "original permit" used in this subsection means the original permit issued by the state pursuant to Chapter 253, Florida Statutes. Maintenance dredging permits of up to 10 years duration may also be obtained pursuant to Section 62-312.150(8)(f).

(g) The installation of subaqueous transmission and distribution lines entrenched in (not exceeding 10,000 cubic

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 yards of dredging) , laid on or embedded (as defined in Rule 62-312.020(7), F.A.C.) in the bottoms of navigable waters of the state carrying water, wastewater, electricity, communication cables, oil and gas.

(h) The construction, replacement or widening in, on or over the waters of the state, of footbridges and vehicular bridges supported by pilings or trestles where the effects of pollutants discharged into open waters can be minimized. (i) The construction of artificial reefs.

(4) Application for and the issuance and denial of permits under this section shall be made in accordance with the provisions of Part I of Chapter 62-4, F.A.C., where applicable. Additionally, the requirements specified in Subsection 62-312.150(8), F.A.C., shall apply. The emergency provisions contained in Section 62-312.090, F.A.C., shall also apply to construction, dredging or filling in, on or over the navigable waters of the state pursuant to Chapter 253, F.S. The fee provision contained in Subsection 62-4.050(4), F.A.C., shall apply.

(5) Before issuance of a permit under this section, a biological survey, ecological study, and hydrographic survey, if such hydrographic survey is deemed necessary by the Department, must be prepared by or **under** the supervision of the Department which contains findings and recommendations with **reference** to the effects of the proposed activity upon fish, wildlife or other natural **resources**. **A less extensive** biological survey and ecological study shall be prepared by the Department in evaluating short form applications submitted pursuant to Subsection 62-312.160(3), Florida Administrative Code. However, if deemed necessary, the department may require the applicant to conduct and submit a hydrographic survey.

(6) The Department shall not issue a permit unless the biological survey, ecological study and hydrographic survey, if any, together with **information** and studies provided by the applicant affirmatively show:

(a) that such activity will not interfere with the conservation of **fish, marine** and wildlife or other natural resources, to such an extent as to be contrary to the public interest, and will not result in the destruction of oyster beds, clam beds, or marine productivity, including, but not limited to, destruction of **natural marine habitats, grass** flats suitable as nursery or feeding grounds for marine life, and established marine soils suitable for producing plant growth of a type useful as nursery, or feeding grounds for marine life or natural shoreline **processes** to such an extent as to be contrary to the public interest, and

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(b) that the proposed project will not create a navigational hazard, or a serious impediment to navigation, or substantially alter or impede the natural flow of navigable waters, so as to be contrary to the public interest.

(7) The Department shall upon denying any application furnish the applicant an official statement specifying with particularity the reasons for denial, including a precise evaluation as to the detrimental biological and ecological effects to be expected from the proposed project which would interfere with the conservation of fish, marine and wildlife or other natural resources to such an extent as to be contrary to the public interest or a statement showing how the proposed project would create a navigational hazard, or a serious impediment to navigation, or substantially alter or impede the natural flow of navigable waters.

(8) The issuance of a permit under this section shall not relieve an applicant from the requirement of obtaining permits from and complying with lawful requirements imposed by the Department of Army, local government agencies, or the Florida Department of ENVIRONMENTAL Protection, applicable federal, local or state law. Applicants may be required to obtain additional approval from the Board of Trustees of the Internal Improvement Trust Fund or the Division of Resource Management, State of Florida Department of ENVIRONMENTAL Protection, in the exercise of their functions of ownership, preservation, management and protection of lands held or owned by the State of Florida.

Specific Authority: 253.03(7), 403.805, F.S.

Law Implemented: 253.03, 253.123, 253.124, 403.813, F.S. History: New 10-26-75, Amended: 7-19-77, 2-18-79, 3-11-81, 7-8-82, 3-15-84, 10-16-84, 3-26-89. Previously numbered as 17-4.29. Formerly 17-4.290, F.A.C., Formerly 17-12.160, F.A.C., Formerly 17-312.160

62-312.170 Certification and Acceptance.

(1) Pursuant to the provisions of subsections 253.126(1) and (2) and paragraphs 403.061(14)(a) and (b), Florida Statutes, this section establishes the regulatory procedure for Departmental acceptance of certification by the Department of Transportation (DOT) that all requirements imposed by statute, rule or standard for environmental control and protection shall be met in the maintenance, repair or replacement of existing structures as set forth in the certification and formal acceptance thereof. Such certification and acceptance shall constitute a permit to conduct the activity as described and in the manner set forth in the certification.

(2) The procedures in this section shall supersede other departmental procedural rules when in conflict; however, no provision of this section shall supersede any air, noise, or water quality standard extant or adopted in the future by the Department. The procedures in this section shall not preclude the Department from conducting investigations for compliance with the certification and formal acceptance, for compliance with the statutes, rules or standards pertaining to environmental control and protection, or from taking all necessary enforcement action pertaining to violations found to exist. Activities not having specific procedures set forth in this section shall be governed by other applicable sections of this code.

(3) Definitions.

(a) "Acceptance" is the formal written acknowledgement by the Department that a certification by the Department of Transportation meets the requirements of this section and Sections 253.126(1) and 403.061(4), Florida Statutes.

(b) "Activity" is any dredging, filling or construction for which a permit is required involving the maintenance, repair, or replacement of existing structures in, on, or over waters of the state, including, but not limited to, excavation of material from waters of the state, the deposition of fill material in waters of the state, or the physical alteration of any existing structure, when the act of alteration or the altered structure may reasonably be expected to be a source of pollution.

(c) "Certification" is the formal written statement, including such supporting data and exhibits required by this section, made by the Department of Transportation that a given activity or class of activities to be performed by DOT, or to be performed by a person under contract to DOT, will meet all requirements imposed by Chapters 253, or 403, Florida Statutes, and all rules promulgated thereunder.

(d) "Department" means the State of Florida Department of Environmental Protection.

(e) "DOT" means the State of Florida Department of Transportation.

(f) "Maintenance" means the upkeep of existing structures by repairing and restoring deteriorated components to original design specifications.

(g) "Repair" means to restore, to replace or to mend a deteriorated component of an existing structure.

(h) "Replacement" means the substitution within the same right-of-way of a new structure similar in size, general configuration, and purpose for an existing structure.

(i) "Structures" mean road, bridges, tunnels, causeways, approaches, culverts, toll houses and gates, and all other similarly fixed facilities used in connection with the state transportation system.

(j) "Water Quality Certification" is that certification from the Department attesting that a proposed activity, the conduct of which requires a federal license or permit, will not violate water quality standards established in compliance with Sections 301, 302, 303, 306 and 307 of PL 92-500, as amended by PL 95-217.

(4) Certification for Construction, Dredging or Filling Activities.

(a) The certification shall include, but not be limited to, the following items:

1. Accurate, brief statement or description of the activity(ies) to which the certification applies.

2. Typical drawings (plan, section, elevation) of the structural features of the activity being certified.

3. Statement of the geographical or geophysical limits the certification. The certification may apply statewide, be limited to a political sub-unit of the state or a particular DOT district, or be limited to a particular physical geographic feature, such as a particular water body or group of water bodies, or associated transition zones.

4. Statement of dimensional limits (areal and volumetric) of the certification. The certification shall establish limits for quantities of material dredged or filled, if applicable, and shall designate quantities filled or removed waterward of the approximate line of mean high water/ordinary high water, and quantities filled or removed landward of the approximate line of mean high water/ordinary high water, and waterward of the landward extent of waters of the state.

5. Statement, and supporting data where necessary, of the environmental impacts. The statement shall address the impacts of individual components of the proposed projects, the impacts of cumulative or total project, the short-term or construction related impacts of the proposed project, and the long-term or operational impacts of the proposed project.

6. Statement of environmental controls, special conditions, or self-monitoring programs which are proposed by DOT as being adequate to provide reasonable assurance to the Department that State water quality standards will not be violated and that marine or aquatic natural resources will not be impacted to such an extent as to be contrary to the public interest. The statement of environmental controls, special conditions, or self-monitoring programs



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shall include a discussion of how the controls, conditions or programs will be employed by DOT to provide for the intended environmental protection.

7. Statement that all known applicable local, State and federal authorizations, including, but not limited to, approvals, permits, easements, or deeds required by law, will be obtained by DOT before any work pursuant to the certifications take place.

8. Statement setting forth the type of public notice which will be given by DOT for each individual project which is, or will be, conducted pursuant to the certification and acceptance, the method by which the public may comment on the intended project, and the provisions made by DOT to assure the public all rights afforded by Chapter 120, F.S.

(b) The certification shall be filed with the Department's Tallahassee office. Upon receipt, the Department shall process the certification for acceptance in accordance with subsection (5) of this section.

(c) Compliance with the certification as officially accepted by the Department shall be in accordance with subsection (8) of this section.

(5) Acceptance of Certification for Construction, Dredging or Filling Activities.

(a) Within thirty (30) days of receipt by the Department of a certification, the Department shall notify DOT whether Departmental authorization for the proposed activity(ies) is required. If Departmental authorization is required, the Department shall notify, DOT of any apparent errors or omissions in the certification, and request any additional information the Department is authorized by law to require.

(b) Within thirty (30) days of receipt of the certification or within thirty (30) days of the receipt of all timely requested material specified in paragraph (a) of this subsection, the Department shall publish a public notice of intent to accept, deny or accept with conditions of the certification.

1. The public notice shall request public comment within thirty (30) days of publication and shall give notice of how the public may request a public hearing pursuant to Chapter 120, F. S.

2. The public notice shall be published one time in the Florida Administrative Weekly, mailed to all persons who have requested notification, and posted in all Departmental and DOT district, subdistrict and branch offices. For the purpose of ensuring adequate public notice, the Department shall compile and maintain a master mailing list of those persons requesting notice of the filing of a certification with the Department.

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3. A request for a public hearing pursuant to Section 120.57, F.S., shall be forwarded to the Office of General Counsel for disposition and all further proceedings shall be handled by that office in accordance with Chapter 120, F.S.

(c) Within thirty (30) days after the close of the commenting period set forth in the public notice when no public hearing has been requested, the Department shall take final agency action as indicated in the notice of intent. Such final action shall be made by the Secretary and shall be a final order of denial or a formal order of acceptance of certification.

(d) Departmental acceptance of DOT certification shall constitute Water Quality Certification under PL 92-500 as amended by PL 95-217, where applicable. The Department shall state in the formal acceptance document, if appropriate, that Water Quality Certification is in effect until such time as the acceptance is no longer valid.

(e) Departmental acceptance of a certification shall be in effect until it is suspended, revoked, or abandoned, unless otherwise specified by the Department in the formal acceptance. In no case will an acceptance be valid for more than five (5) years.

(6) Recertification.

(a) If recertification of an activity is desired, DOT shall submit to the Department:

1. Statements and supporting documents described in subsection (4)(a) of this section; and

2. A listing of all projects constructed under the previous certification; and

3. A listing of all violations cited including the date of the violation and the corrective action taken, if any; and

4. A statement of any modifications proposed, including the reasons therefor and supporting documents as necessary. (b) The Department shall process the recertification in accordance with subsection (5) of this section.

(7) Limitations. No certification shall be accepted where the activity being certified is expressly prohibited by statute or by rule of the Department.

(8) Compliance.

(a) It shall be the responsibility of DOT to ensure that all conditions of the certification are met.

(b) In the event of a violation of water quality standards, certification conditions or any other requirements associated with the activity certified, DOT and any person under contract to DOT for the conduct of the certified activity shall notify the appropriate Department District Manager.

1. Such notification shall be made immediately by telephone, with a written report to be filed within five (5) days of the verbal report.

2. The written notification shall specify the cause of the violation and the corrective actions taken by DOT or the contractor to achieve compliance with the certification and acceptance or with water quality standards.

(c) Upon discovery of a violation associated with a certified activity, that portion of the project causing or contributing to the violation shall be halted by DOT and the contractor until such time as corrective action **assures** compliance with the certification and acceptance or the standards. This requirement for suspension of operations shall apply only to the project, or portion thereof, in violation. It shall not apply to the entire class of activities being conducted under the particular certification and acceptance.

(d) In addition to corrective action, DOT shall institute, where necessary, restoration of the affected area, including **areas** beyond the project limits if damaged by activities authorized by this rule.

(9) Enforcement. Nothing in this section shall preclude the Department from taking enforcement action as provided for in Chapter 403, Florida Statutes, against DOT or any DOT contractor who commits a violation.

(10) Surveillance. Duly authorized representatives of the Department shall be allowed, upon presentation of the appropriate credentials, to inspect at reasonable times any project embodying activities for which certification has been accepted. The inspection shall be for the purpose of ascertaining compliance with the certification, the laws, the rules and regulations of the Department.

(11) Modification of Certification. DOT or the Department may institute proceedings to modify a certification.

(a) DOT may commence modification proceedings by filing a request including the items listed in subsection (5) and a statement as to why the modification is requested. The Department shall process the request as set forth in subsection (6).

(b) The Department may institute modification proceedings by issuing a notice of intent and offering an opportunity for hearing pursuant to Chapter 62-1, Florida Administrative Code, and Chapter 120, Florida Statutes.

1. Such notice of intent, sent by certified mail, shall contain the basis or grounds upon which the modification is sought and the extent to which the modification will change the certification and acceptance.

2. DOT shall be afforded the opportunity to dispute the modification and to present evidence to substantiate continuation of the certification and acceptance until the expiration date on the acceptance.

(c) Modification of the certification and acceptance may be sought by the Department for good cause.

1. To conform to new or additional conditions resulting from changes in water quality standards adopted pursuant to Chapter 120, F.S., or any of the reasons set forth in Section 62-4.080, F.A.C.; or

2. To remove a geographic portion from a statewide certification when it is demonstrated that compliance with the certification and acceptance is not sufficient protection for the water quality or marine and natural resources of the specific area; or

3. To remove a particular DOT district from a statewide certification and acceptance when it is demonstrated through documented violations that the particular district has a pattern of non-compliance with the terms of certification and acceptance; or

4. To ameliorate a condition for which certification and acceptance is not sufficient to provide adequate environmental protection.

(d) The modified certification and acceptance, if issued, shall contain a statement setting forth a reasonable period of time for compliance.

(e) If the modification consists of removing a particular DOT district from a state-wide certification and acceptance, the district removed shall not be reinstated for at least a twelve-month period following removal and shall not be reinstated until DOT demonstrates affirmatively that the conditions and acceptance have been corrected.

(12) Revocation of Acceptance of Certification. If the Department concludes that remedial and corrective actions, including modification of the certification and acceptance, set forth in this section have proven insufficient to protect water quality and marine or natural resources, a notice of intent to revoke acceptance of certification shall be issued, following the procedures of Chapter 120, Florida Statutes.

(a) The Department shall maintain a log or listing of violations reported by DOT or the contractor and/or cited by the Department in enforcement actions. The log shall include a description of the violations, the date of the violation, the site at which the violation took place; and the action taken by the Department or DOT to ensure compliance.

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 (b) The cumulative list of violations

or a particularly

severe violation in one instance may be used as evidence in the revocation proceedings.

(c) Grounds for revocation of an acceptance shall be the same as those for permits as set forth in Section 403.087, Florida Statutes. Specific Authority: 253.031(7), 403.061, 403.805, F.S. Law Implemented: 253.123, 253.1241 253.126(1)(2), 403.061(14)(a)(b), 403.087, 403.0e8, 403.802, 403.813, F.S. History: New 7-12-79. Amended: 3-11-81, 3-26-89. Formerly 17-4.320, F.A.C., Formerly 17-12.170, F.A.C., Formerly 17-312.170.

PART II LONG TERM  
PERMITS

62-312.200 Scope of Part II. This part shall apply to applications for permits for periods in excess of 10 years except for maintenance dredging permits processed in accordance with Chapter 62-45, F.A.C. Applications shall be processed in accordance with Part I of this chapter except where Part I is in conflict with this Part. Specific Authority: 403.061, 403.912, F.S. Law Implemented: 403.061, 403.912, 403.913, 403.918, 403.919, 403.921, F.S. History: New 12-10-84, 3-26-89., Formerly 17-12.200, F.A.C., Formerly 17-312.200.

62-312.210 Procedures to Obtain a Long-Term Permit. (1) Application

for permit.

(a) Application for permit under this part shall use DEP Form 62-312.900(1), F.A.C., supplemented with DEP Form 62-312.900(7), F.A.C.

(b) All technical studies and other data collection required to complete the application shall be undertaken at the applicant's expense. However, the applicant may use any data compiled by others which is pertinent.

(c) An application fee as set forth in Section 62-4.050, F.A.C., shall accompany the application.

(2) Department review. The department shall review the application according to Part I of this chapter except that an application for a long term permit shall be approved or denied within 135 days after receipt of the original completed application, or receipt of the timely requested additional information, or correction of errors or omissions. The 135-day period shall be tolled in accordance with Sections 120.60, 403.815 or 403.913(3), F.S.

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(3) Notice. The applicant shall publish a public notice in accordance with Subsection 62-103.150(2), F.A.C., except that the notice shall be surrounded by a prominent buck border with a three-column heading in bold letters

"Notice of Proposed Agency Action  
on an Application for a Long Term Permit for (name of applicant)"  
The notice shall be prepared by the department following the format set forth in Subsection 62-103.150(2), F.A.C. and shall be paid for by the applicant. Specific Authority: 403.061, 403.912, F.S. Law Implemented: 403.061, 403.912, 403.913, 403.918. 403.919, 403.921, F.S. History: New 10-16-84. Amended: 3,-26-89; Formerly 1c-12.210, F.A.C., Formerly 17-312.210

62-312.220 Standards for Issuance or Denial of a Long Term Permit. The standards set forth in Section 62-312.080, F.A.C., shall apply to long-term permits.

Specific Authority: 403.061, 403.912, F.S. Law Implemented: 403.031, 403.061, 403.912, 403.913, 403.918, 403.919, F.S. History: New 12-10-84. Amended: 3-26-89., Formerly 17-12.220, F.A.C., Formerly 17-312.220.

PART III  
MITIGATION

62-312.300 Intent.

(1) It is the intent of this rule to implement Section 403.918(2) (b), F.S., by establishing criteria to be followed in evaluating proposals to mitigate the adverse impacts of dredging and filling in waters of the state that caused the project to be not permissible.

(2) Part III shall apply to those permit applications submitted pursuant to Sections 403.91-.929, F.S., and Chapter 62-312, F.A.C. Part III shall not apply to any person who has a valid Department permit or has submitted a complete dredge and fill permit application as of the effective date of this rule, unless the permit or application is substantially modified or the applicant elects to proceed under these rules. Modifications or changes to a project made in response to suggestions by the Department or modifications or changes to a project that result in the incorporation of mitigation or the reduction of wetland impacts shall not be considered substantial modifications for purposes of this subsection.

(3) The Department will, in each case, first explore project modifications that would reduce or eliminate the adverse environmental impacts of the project, and will suggest any such modifications to the applicant either in addition to or in lieu of mitigation, as provided in Rule 62-312.060(10), F.A.C. The applicant shall consider modifications to the project proposed by the Department, whether or not a mitigation proposal has been submitted. Should such mutual consideration of modification and mitigation not result in a permissible project the Department must deny the permit.

(4) The Department shall consider any mitigation proposed by a permit applicant in accordance with this rule. Mitigation may be proposed by a permit applicant, or suggested by the Department only where the proposed dredging and filling would otherwise be unable to meet the criteria of Sections 403.918(1) and (2)(a), F.S., and Rule 62-312.080, F.A.C. However, mitigation may not be required by the Department. Mitigation is neither necessary nor applicable to projects covered by general permits or projects exempt from the requirements for individual dredge and fill construction permits.

(5) It is understood that in certain circumstances mitigation proposals for dredging and filling projects will not be able to offset the adverse impacts of the project sufficiently to yield a permissible project. Such instances may include projects that are in or that would significantly degrade Outstanding Florida Waters, the presence of endangered species or the likelihood that a particular wetland type may not be successfully created.

(6) The Department recognizes that other agencies are concerned with adverse impacts on waters of the state and may require mitigation for such impacts. Mitigation or reclamation required by other agencies will be acceptable to the Department to the extent that such mitigation or reclamation fulfills the Department's statutory requirements. If not, additional measures shall be necessary to fulfill the Department's requirements. It is the intent of the Department to reduce duplication of regulatory requirements. To that end, inspections, reports or other similar reviews of mitigation projects by the Department of ENVIRONMENTAL Protection or other agencies will be used to augment the Department's determination of compliance with permit requirements.

(7) The amount, type and location of mitigation, if any, required of electric utilities conducting dredge and fill activities for the purpose of providing energy service shall

**be determined in conjunction with the criteria in Section 403.918, F.S., in recognition of the fact that such activities generally promote the public interest. Specific Authority: 403.061, 403.804, 403.912, F.S.  
Law Implemented: 403.912, 403.913, 403.918, 403.919, F.S. History: New 1-3-89., Formerly 17-12.300, F.A.C., Formerly 17-312.300.**

62-312.310 Definitions. As used in this Part:

(1) "Cash equivalent" means a readily negotiable instrument that can be guaranteed convertible to cash upon presentation for the life of the requirement for financial responsibility without penalty, discount or interruption.

(2) "Enhance" means to improve existing altered or affected waters of the state or other wetlands. Such action would include, but not be limited to, successfully removing exotic or nuisance species, successfully planting indigenous wetland species, or improving the water regime or hydroperiod. In water bodies where existing ambient water quality does not meet standards, enhancement shall also include improvements in the water quality of the receiving body of water for those parameters which do not meet standards. If the permit applicant is responsible for adversely affecting the functions of the waters of the state in violation of regulations applicable at the time of the action, a proposal for the subsequent improvement of those functions shall not be considered enhancement.

(3) "Exotic species" means a plant species which is not indigenous to the geographic area under consideration. Whether or not a plant species is indigenous to the area may be determined from floristic information available about the natural range of the plant species.

(4) "Function" means the major physical, biological and chemical processes occurring in the waters of the state. Functions would include, but are not limited to, the following: fish and wildlife habitat, water quality enhancement, ground water recharge and erosion control.

(5) "Mining areas" means areas of land that have been disturbed by the severance of solid minerals as defined in Subsection 211.30(2), F.S.

(6) "Mitigation" means an action or series of actions that will offset the adverse impacts on the waters of the state that cause a proposed dredge and fill project to be not permissible. "Mitigation" does not mean:

(a) avoidance of environmental impacts by restricting, modifying or eliminating the proposed dredging and filling.

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 (b) cash payments, unless payments are specified for use in a previously identified, Department endorsed,

environmental or restoration project and the payments initiate a project or supplement an ongoing project. The project shall be sponsored or approved by a governmental agency and the adverse impacts of the dredge and fill project shall be offset by that previously identified project.

(7) "Modifications" means changes in the design of a proposed project, but does not include the alternative of not implementing the project in some form.

(8) "Nuisance **species**" means species of flora and fauna which meet the definition contained in Rule 62-3.021(19), F.A.C.

(9) "Project" means that portion of a proposed dredging, filling, development, construction or mining activity which is subject to the Department's dredge and fill permitting criteria and other applicable requirements.

(10) "Reference **waters**" means the waters of the state which are to be used as a standard for judging the mitigation proposal and the mitigation success. The reference waters may be the waters which are to be adversely affected by the dredge and fill project; the waters which were present at the site prior to such man-induced changes as drainage canals, dikes **and berms**; or other waters of the same type as the proposed mitigation site and in the vicinity of the project which are substantially equivalent to or **less** degraded than the project **site**. The decision as to which are to be the reference **waters** shall be approved by the Department.

(11) "Soil" means that earth material which has been so modified and acted upon by physical, chemical and biological agents that it will support rooted plants. Specific Authority: 403.061, 403.804, 403.912, F.S. Law Implemented: 403.912, 403.913, 403.918, F.S.

History: New 1-3-89., Formerly 17-12.310, F.A.C., Formerly 17-312.310

or fill permit application and the Department thereafter decides to issue the requested dredge or fill permit then the Department shall require the applicant to publish notice of the Department's proposed action to grant the permit in the same manner as provided by Rule 62-103.150(2), F.A.C.

(2) The mitigation proposal, unless submitted with a mining application, if offered by the applicant, shall be made as a modification to the application and shall be reviewed during the final processing of the application. If a mitigation proposal is approved, the permit issued by the Department shall contain appropriate conditions specifying the mitigation activities to be undertaken by the permittee, establishing criteria for determining the success of the mitigation, and establishing monitoring requirements.

(3) Any permit issued with approved mitigation shall be issued for a period of time determined by the Department to allow for construction of the project and completion of all required mitigation. The application shall be accompanied by a fee as specified in Rule 62-312.060(15), F.A.C., based on the time needed to complete the dredge and fill project and to complete construction of the mitigation. A single additional fee of \$500 will be required for projects in which the monitoring and evaluation to determine success of the mitigation will be required beyond the period of time to which the permit fee would, ordinarily apply.

(4) If at least 90 days prior to the expiration date of the permit, the mitigation is not expected to be or is not deemed to be successful pursuant to Rule 62-312.350, F.A.C., the permittee shall submit to the Department a proposed agreement for continued monitoring until the mitigation is successful as defined by Rule 62-312.350, F.A.C. The agreement shall include implementing remedial measures, including but not limited to the following:

(a) A description of the conditions existing at the mitigation site.

(b) A written explanation of why the mitigation has not been determined to be successful.

(c) A written explanation and description, including drawings if necessary, of what efforts will be made to correct or modify the mitigation to achieve success.

(d) A proposed monitoring program to evaluate the success of the mitigation.

(e) A statement of the time anticipated to achieve the success of the mitigation.

Specific Authority: 403.061, 403.804, 403.912, F.S. Law Implemented: 403.912, 403.913, 403.918, 403.919, 403.921, F.S.

History: New 1-3-89., Formerly 17-12.320, F.A.C., Formerly 17-312.320

#### 62-312.320 Incorporation of Mitigation Into the Permit Application Process.

(1) Mitigation proposals may be evaluated after consideration of the project as specified in Rules 62-312.060(10) and 62-312.300, F.A.C. Mitigation proposals for proposed mining areas may be submitted with the permit application, but this shall not imply that reasonable modifications to applications for proposed mining areas may not be required. If the mitigation proposal is submitted after the Department has issued an intent to deny the dredge



**DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 62-312.330 Mitigation Proposals.**

When those negative aspects of the proposed dredging and filling project have been identified that would otherwise result in action to deny a permit, an appropriate mitigation proposal may be developed and submitted to the Department for review. The goal of the mitigation proposal shall be to offset the expected adverse impacts of the project that have resulted in the project being deemed unpermittable such that the resulting project with mitigation is not contrary to the public interest or, in the case of Outstanding Florida Waters, is clearly in the public interest.

Each mitigation proposal submitted to the Department that involves the creation, **enhancement** or preservation of a particular type of waters of the state shall be in writing and shall include the following information:

(1) Description of mitigation **area**. A description of the waters of the state to be created, enhanced or protected as a result of the mitigation activity, which shall include, where applicable, the type and functions of the waters of the state to be enhanced, its area, species present or to be planted, plant density, anticipated source of plants, soils and hydrologic regime. **Based on** the size or complexity of the mitigation proposal, the Department shall require further information including but not limited to data on the **drainage** basin, topography, proposed hydrologic regime and methodology to be used, **when necessary** to properly evaluate the mitigation proposal.

(2) Description of the "reference **waters**". Where reference **waters** will be used for judging the mitigation success, a description of the reference waters including the type and function, area, flora and fauna present and their densities, hydrologic regime and **soils**. Based on the size and complexity of the **reference waters** the Department may require further information including but not limited to data on the drainage basin, topography, soil profile, and ground water and surface water conditions.

(3) Description of proximal habitat. When unpermittable adverse effects are expected to be incurred by fish and wildlife, a description, including location, of any nearby or adjacent areas that may provide habitat for fauna displaced from the project **area**, or of any areas which may serve as sources of faunal recolonization.

(4) Monitoring plan. A plan for monitoring the success of a creation or enhancement project.

(5) Mitigation cost estimate. A written estimate of the cost of the mitigation shall be submitted. If the cost will exceed \$25,000 a detailed estimate shall be submitted and shall include costs associated with earthmoving,

**DEP 1995 DREDGE AND FILL ACTIVITIES 62-312** planting, consultant fees and monitoring, reflecting the cost of the mitigation. Federal, state, county and municipal governments and state political subdivisions, and investor owned utilities regulated by the Public Service Commission, shall be exempt from this requirement.

(6) Sufficient legal interest. In order to obtain a dredge and fill permit which includes mitigation measures, the applicant must provide the Department with documentation of its sufficient legal interest in the site to be used for mitigation. Sufficient legal interest may include, but is not limited to, fee title, a license or consent of use, a lease or easement, or written authorization from the property owner.

Specific Authority: 403.061, 403.804, 403.912, F.S. Law Implemented: 403.912, 403.913, 403.918, F.S.

History: New 1-3-89., Formerly 17-12.330, F.A.C., Formerly 17-312.330

**62-312.340 Evaluation of Mitigation Proposals.** The Department recognizes that each mitigation proposal must be evaluated on a case by case basis. It is necessary to first determine the probability that the proposed mitigation will offset the actual adverse impacts of the dredging and filling, including cumulative impacts, as identified by those negative aspects of the project that resulted in a negative permitting balance. The Department in making this determination will consider the likelihood that the mitigation will be successful.

The permit applicant shall provide the Department with reasonable assurances that the mitigation shall meet the success criteria in Rule 62-312.350, F.A.C., and shall comply with the following standards, where applicable:

(1) Type of waters of the state.

(a) Reclamation activities pursuant to Section 211.32, F.S., may be considered as mitigation to the extent that the type, nature, and function of the biological systems existing prior to mining are restored or improved. For waters and mining activities that fall under the jurisdiction of the Florida Department of ENVIRONMENTAL Protection pursuant to Chapter 378, F.S., approved DEP reclamation plans that have been reviewed and favorably commented upon in writing by the Department prior to final approval by DEP will be presumed to be acceptable as mitigation by the Department with respect to the waters addressed in those plans. This presumption may only be rebutted by evidence that the plans do not fulfill the Department's statutory and regulatory requirements.

will identify

the functions that will be impacted by the project and that have resulted in the project being determined to be contrary to the public interest pursuant to Sections 403.918(1) and (2)(a), F.S. Based on that analysis the Department will judge whether the mitigation proposal will offset those identified negative aspects of the dredge and fill project. Offsetting the adverse impacts will usually be best addressed through protection, enhancement or creation of the same type of waters (e.g., Spartina marsh, Cypress swamp, etc.), as those being affected by the proposed project. However, where the waters being affected have been significantly altered by human activity or other factors such as, but not limited to, drainage or invasion of exotic or nuisance species, a mitigation proposal utilizing other types of waters may be considered. Where mitigation using other types of waters is considered, preference will usually be given to utilization of the type of waters that were historically present before alteration.

(2) Ratios for created waters of the state. The mitigation proposed shall be sufficient to offset the adverse impacts expected to occur due to the proposed dredging and filling that render the project unpermissible.

For mitigation involving the creation of waters of the state, the **Department shall use as a guideline** two acres created for each acre adversely impacted by the proposed dredging or filling. This guideline is for preliminary planning purposes only and the actual extent of wetland creation may be more **or less based** on a consideration of the factors listed in subparagraphs (a) through (h) below. (a) The length of time that can be expected to elapse before the functions of the waters of the state identified during the permitting process as being adversely affected have been restored or offset.

(b) Any special designation or classification specified in Chapters 62-3, 62-4, or 62-312, F.A.C., affecting the water body.

(c) The type of waters to be created and the likelihood of successfully creating that type of waters.

(d) Whether or not the waters of the state to be affected by the proposed dredging or filling are functioning as natural, healthy waters of the state of that type, and the current condition and relative value of functions being performed by the areas affected by the proposed activity compared to the proposed character and quality of the wetlands to be created.

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 (e) Whether the waters of the state are unique for that geographical area.

(f) For mine reclamation activities subject to Chapter 211, F.S., Part II, whether the ratio is consistent with the mine reclamation plan submitted to the Department of ENVIRONMENTAL Protection.

(g) The presence or absence of exotic or nuisance plant species within the waters of the state to be disturbed or altered.

(h) Whether the proposed project eliminates waters or changes waters from one type to another.

(3) Ratios for enhanced waters of the state. It is recognized that stressed wetlands provide some degree of wetland function. When enhancement is proposed, the Department must make a judgment regarding the degree of enhancement expected to occur. The degree of expected enhancement must be weighed against the adverse impacts identified in the evaluation of the dredge and fill project. In general, ratios for enhanced waters shall be higher than for created waters. Factors that should be considered in establishing a ratio include:

(a) The degree to which the wetlands to be enhanced have been stressed.

(b) The type of stress the wetlands to be enhanced have experienced.

(c) The **cause** of the stress.

(d) Whether the proposed method of enhancement is one that will be low maintenance or self-regulating once implemented.

(e) The likelihood that the proposed enhancement will be successful in offsetting the adverse impacts of the dredge and fill project that **caused** the project to be not permissible.

(4) Protection of the mitigation area. The permit applicant shall propose appropriate methods to assure that the created or enhanced waters will not be adversely affected during the establishment phase by secondary impacts resulting from human activities such as, but not limited to, boat traffic and other recreational **uses**. Such assurances may include, but shall not be limited to, restricting access to the site.

(5) Exotic or nuisance species. The proposed mitigation plan shall include a requirement that exotic and nuisance species be removed from the mitigation area. The plan shall also include reasonable **measures** to assure that these **species** do not invade the mitigation area in such **numbers as** to affect the likelihood of success of the project. Depending on the topography of the area and the



DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 species involved, such measures could include, but not be limited to, continuing **maintenance** and/or a buffer zone.

(6) Location of mitigation area. Because the adverse impacts of a dredge and fill project rarely occur off-site, mitigation activities off-site are not generally acceptable unless they would better offset the adverse impacts. There **are some instances** where on-site mitigation may not be possible or may be restricted, such as, but not limited to, road projects and utility corridors. In such instances, the mitigation should be in close proximity to the dredge and fill site, in the same water body or within the same drainage basin, if possible. The negative aspects of the dredge and fill project must be offset by the off-site mitigation, as in any other mitigation.

When fish and wildlife habitat functions are a concern, several points shall be considered:

(a) The types of habitat function being performed at the site; such as fishery nursery area, rookery, multi-species habitat, foraging value, shelter value.

(b) The species to be affected by the project.

(c) The relative value of the site; such as whether it is the last remaining area of that habitat in the vicinity or whether the site is pristine.

(d) Whether the proposed off-site mitigation can reasonably be expected to offset the impacts of the project on specific habitat functions that would be affected as a result of the project.

(7) Use of donor **sites**. The use of **waters of** the state as plant or soil donor **sites, where such** use involves any dredging or filling, shall not be allowed except pursuant to an exempted activity, a Department permit or consent order.

(8) Location of donor site. Whenever practical, waters of the state which are to be dredged or filled shall be utilized as plant or soil donor sites for mitigation under this Part.

Specific Authority: 403.061, 403.804, 403.912, F.S. Law Implemented:

403.912, 403.913, 403.918, 403.919, 403.921, F.S.

History: New 1-3-89., Formerly 17-12.340, F.A.C., Formerly 17-312.340

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 by conditions in the permit when there is insufficient information available to judge the successful creation or enhancement of the type of wetland involved. In comparing the mitigation area to a reference water, it is not the intent of the Department to require that the mitigation area exactly duplicate or replicate the reference water. The reference water is to be used as a guide to the Department to assure that the mitigation area will be sufficiently similar to the reference water to meet the permitting criteria. Success must be measured in terms of whether the objectives of the mitigation can be realized. The success criteria to be included in the permit conditions must clearly address the minimum requirements necessary to attain a determination of success (e.g., percent cover by wetland vegetation, vegetation is reproducing naturally, target water quality standards are met, etc.). The mitigation will be judged to be successful if:

(a) All applicable water quality standards are met. However, where reference waters are used as a standard for dissolved oxygen, the daily and seasonal fluctuations of dissolved oxygen in the reference waters of the state shall be maintained;

(b) The mitigation project has a hydrologic regime sufficient to sustain it in a viable condition; and (c) The specific success criteria contained in the permit are met.

(2) Climatic impacts. The Department shall take the occurrence of extreme or unusual climatic conditions into consideration when evaluating the success of the created or enhanced waters.

(3) Subsequent to determination of success by the Department, the waters of the state created or enhanced as mitigation can be used for purposes permittable pursuant to Chapters 62-6 and 62-25, F.A.C.

Specific Authority: 403.061, 403.804, 403.912, F.S. Law implemented: 403.912, 403.913, 403.918, F.S.

History: New 1-3-89., Formerly 17-12.350, F.A.C., Formerly 17-312.350

#### 62-312.360 Pre-Construction Mitigation.

(1) Pre-construction mitigation is mitigation that is constructed and determined to be successful after issuance of the dredge and fill permit, but prior to construction of the dredge and fill project. If pre-construction mitigation is proposed, the proposal shall contain the information required for any mitigation proposal.

#### 62-312.350 Determination of Success for Mitigation Projects.

(1) Success criteria. Due to the wide range of types of projects which may be used to create or enhance existing waters, specific success criteria will be determined on a case-by-case basis. A determination that the mitigation area will be compared to a reference water will be specified

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(2) The Department may accept as mitigation, creation, enhancement or preservation activities that meet all other requirements of this rule, and that predate a permit application. However, any such activities are at the risk of the applicant prior to inclusion as a permit condition, and the mitigation must offset the identified adverse impacts of the project for which the permit is requested. Specific Authority: 403.061, 403.804, 403.912, F.S.  
Law Implemented: 403.912, 403.913, 403.918, F.S.  
History: New 1-3-89., Formerly 17-12.360, F.A.C., Formerly 17-312.360.

62-312.370 Restrictions on Property Use. (1)  
Property restrictions as mitigation.

(a) Conservation easements or other such deed restrictions, and land conveyances, will be considered as mitigation only where they offset potential adverse impacts of the proposed dredging and filling, including cumulative impacts pursuant to Section 403.919, F.S.

(b) Property restrictions and conveyances may be considered as mitigation when they would preclude development in wetlands otherwise unprotected by the regulatory processes in Section 403.918, F.S., or in waters of the state that may be subject to future dredge and fill permit applications. In certain circumstances property restrictions on or conveyance of uplands adjacent to protected wetlands will be acceptable. The evaluation of the lands proposed for restriction or conveyance will be considered with respect to whether they would offset the negative aspects of the dredge and fill project that have rendered it unpermissible.

(2) Conservation easements on mitigation areas.

(a) A conservation easement for any mitigation area created, enhanced or reclaimed as part of a mitigation proposal may be required as a condition of the dredge and fill permit under the following circumstances:

1. If the applicant proposes mitigation which, upon completion, would be outside the Department's dredge and fill jurisdiction, and the applicant cannot provide reasonable assurance that the mitigation of adverse impacts will not be lost after completion of the mitigation, the Department may require a conservation easement for such mitigation area, equal in duration to the period of time necessary to provide such reasonable assurance.

2. If necessary to provide a reasonable period of time for establishment of a functioning system, the Department may require a temporary conservation easement for the mitigation area, equal in duration to the period necessary for establishment of a functioning system in such area.

(b) The Department may accept a comparable use restriction such as, but not limited to, state or federal ownership.

(3) Requirements for conservation easements. Any conservation easement provided under Rule 62-312.370(1), F.A.C., shall be perpetual and all conservation easements shall be consistent with the requirements of Section 704.06, F.S.

(a) It shall be the responsibility of the permit applicant to provide for a survey of the boundaries of any property which is being conveyed to the State or for which a conservation easement is being provided.

(b) The recording of the conservation easement is required and shall be the responsibility of the permittee. (4) Title to mitigation area.

The applicant shall demonstrate sufficient title to the created or enhanced waters of the state to meet the requirements of Rule 62-312.370(3)(a)-(c), above, or shall provide the appropriate conveyance from the owner or owners holding such title so that the requirements are met.

Specific Authority: 403.061, 403.804, 403.912, F.S. Law Implemented: 403.912, 403.913, 403.918, 403.919, 403.921, F.S.

History: New 1-3-89., Formerly 17-12.370, F.A.C., Formerly 17-312.370

62-312.380 Release from Responsibility. After receipt by the Department of the executed conservation easement, when required by Rule 62-312.370(2), F.A.C., and upon determination by the Department that the mitigation is successful, the permittee shall be released from all responsibility for the waters of the state created or enhanced as mitigation.

Specific Authority: 403.061, 403.804, 403.912, F.S.

Law Implemented: 403.912, 403.913, 403.918, 403.921, F.S. History: New 1-3-89., Formerly 17-12.380, F.A.C., Formerly 17-312.380

62-312.390 Financial Responsibility. (1)  
Applicability.

(a) Each dredge and fill permit that involves mitigation shall require the permittee to provide evidence of financial resources necessary to conduct mitigation activities in a manner prescribed by the Department, to conduct mitigation monitoring and to conduct any necessary corrective action indicated by this monitoring. Permittees whose mitigation is deemed successful pursuant to Rule 62-312.350, F.A.C., prior to dredging or filling shall be

exempt from this requirement. Federal, state, county and municipal governments and state political subdivisions, and investor owned utilities regulated by the Public Service Commission, shall also be exempt from this requirement.

(b) The permittee shall be required to submit proof of financial responsibility pursuant to Rule 62-4.110, F.A.C. Applicants whose mitigation is estimated to cost less than \$25,000 shall be exempted from this requirement.

(2) Amount. The assurance of financial responsibility provided by the permittee shall be in an amount equal to 110% of the cost estimate included as part of the mitigation plan submitted under the requirements of Rule 62-312.330, F.A.C.

(3) Duration of financial responsibility. The financial documents submitted by the permittee under the requirements of this section shall be effective on or prior to the date that the activity authorized by the permit commences and shall continue to be effective through the date of notification of final release by the Department in accordance with Rule 62-312.390(5), F.A.C.

(4) Methods for demonstrating financial responsibility. Assurance of financial responsibility required under this section may be provided by any of the following methods, at the discretion of the applicant:

(a) Cash or cash equivalent. (b) Letter of credit.

(c) Performance bond.

(d) An audited annual financial statement submitted by a Certified Public Accountant representing that the permittee has a tangible net worth equal to or in excess of 110 percent of the cost of the mitigation plan. For purposes of this paragraph, "tangible net worth" means total assets, not including intangibles such as goodwill and rights to patents or royalties, minus total liabilities, computed in accordance with generally accepted accounting principles.

(e) A demonstration that the applicant meets the financial test and corporate guarantee requirements set forth in 40 C.F.R. Section 264.143(f) as incorporated by reference at Section 62-730.180(1), F.A.C. Where the referenced test is used to provide evidence of financial resources necessary to conduct mitigation activities the term "closure and post-closure cost estimates" as set forth therein, shall generally be construed as meaning "mitigation cost estimates."

(f) A demonstration that the applicant meets the self-bonding provisions set forth at 30 C.F.R., Section 800.23. Where the referenced provisions are used to provide

evidence of financial resources necessary to conduct mitigation activities, the term "surface coal mining and reclamation operations", as set forth therein, shall generally be construed as meaning "mitigation activities."

(5) Final release of the permittee from financial responsibility requirements. Within thirty days of the Department determining that the mitigation is successful, in accordance with Rule 62-312.350, F.A.C., the Secretary will notify the permittee in writing that the permittee is no longer required by this section to maintain financial assurance for mitigation. On determination by the Department that mitigation has been successful, the Department shall authorize return and release of all funds held or give written authorization to the permittee for cancellation of a bond or termination of a letter of credit or other financial guarantee.

(6) Partial release of the permittee from financial responsibility requirements. As phases of the mitigation plan, such as earth moving or other construction, are completed in accordance with the approved mitigation plan, and funds expended, the Department shall authorize a reduction in the amount of financial responsibility to the amount of mitigation expenditures remaining.

(7) Incapacity of permittees, guarantors, or financial institutions.

(a) A permittee must notify the Secretary by certified mail of the commencement of a voluntary or involuntary proceeding under Title XI (Bankruptcy), U.S. Code naming the permittee as debtor, within 10 business days after the commencement of the proceeding.

(b) A permittee who fulfills the requirements of this section by obtaining a letter of credit or surety bond will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy, insolvency, or a suspension or revocation of license or charter of the issuing institution. The permittee must reestablish financial assurance within 60 days after such an event.

(8) Use of a financial mechanism for multiple projects. A permittee may use a mechanism specified in Rule 62-312.390(4), F.A.C., to meet the financial responsibility requirements of this section. Evidence of financial responsibility must include a list of projects and the amount of funds assured for each project. The mechanism must be no less than the sum of funds that would be necessary in accordance with Rule 62-312.390(2), F.A.C., if separate mechanisms had been established for each project. As additional permits are issued which require mitigation, the amount of financial assurance provided by the mechanism

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Specific Authority: 403.061, 403.804, 403.912, F.S. Law Implemented: 403.061, 403.912, 403.913, 403.918, 403.921, F.S.  
History: New 1-3-89., Formerly 17-12.390, F.A.C., Formerly 17-312.390

#### PART IV

#### Additional Criteria for Dredging and Filling within Outstanding Florida Waters in Monroe County.

##### 62-312.400 Intent

(1) Part IV pertains to Outstanding Florida Waters, exclusive of all artificial water bodies, within Monroe County, as identified in Florida Administrative Code Rule 62-3.041 and is in addition to all other applicable Departmental rules relating to dredge and fill projects. Artificial water bodies shall be defined as any water body created by dredging, or excavation, or by the filling in of its boundaries, including canals as defined in Section 62-312.020(3), F.A.C., and borrow pits or waters resulting from rock mining activities.

(2) The Environmental Regulation Commission finds that the waters of the Florida Keys and other Outstanding Florida Waters in Monroe County are an irreplaceable asset which require special protection.

Further, the Florida Legislature in adopting Section 380.0552, Florida Statutes, and Chapter 86-170, Laws of Florida recognized the value of the Florida Keys to the State as a whole by designating the Keys an Area of Critical State Concern. This rule implements Section 403.912(1), Florida Statutes, and is intended to provide the most stringent protection for the applicable waters allowable by law.

(3) In addition to the considerations identified in Section 403.919, Florida Statutes, the Department in evaluating applications for dredge and fill permits shall consider secondary impacts which could result from or be stimulated by the issuance of the permit. Such consideration shall only include those potential impacts within the statutory authority of the Department as provided for in Section 403.061 and 403.912, Florida Statutes. The Department may, as part of the permit application, require an applicant to provide information and data regarding potential secondary impacts. Secondary impacts include the impacts expected from the use of a permitted facility or other impacts not directly related to construction

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activities. Such impacts in the Florida Keys typically include the impact from the use and repair of boats, the impacts of disposal of sewage or wastes at a permitted pier or marina, or the impact from other activities resulting from the construction of the permitted facilities, when there is a substantial likelihood these impacts result in degradation of water quality or unmitigated damage to the biological resources identified in Rule 62-312.410(1)(a).

(4) Pursuant to Section 380.0552(7), Florida Statutes (1986 Supp.), the specific criteria set forth in this rule are intended to be consistent with the Principles for Guiding Development as set forth in Chapter 28-29, Florida Administrative Code, and with the principles set forth in that statute. These principles are not applicable within the boundaries of the City of Key West or within Everglades National Park or areas north of the Park within Monroe County. Therefore certain criteria as set forth in Section 62-312.420 of this part shall not be applicable in Outstanding Florida Waters in these areas. However, all other provisions of this Part are applicable in these areas. Specific Authority: 403.061, 403.062, 403.087, 403.912, 403.918, F.S.

Law Implemented: 403.061, 403.062, 403.087, 403.91, 403.929, F.S. History New 6-8-88. Amended: 3-26-89., Formerly 62-12.400, F.A.C., Formerly 17-312.400.

##### 62-312.410 General Criteria

(1) Subject to the provisions of the mitigation section of this Part (Rule 62-312.450), no dredge and fill permit shall be issued for any activity in Outstanding Florida Waters in Monroe County if such activity:

(a) Alone or in combination with other activities damages the viability of a living stony coral community (Scleractinia and Milleporina), soft coral community (Alcyonoacea, Gorgonoacea and Pennatulacea), Macro marine algae community (Chlorophyta, Phaeophyta and Rhodophyta), sponge bed community (Porifera), or marine seagrass (Hydrocharitaceae and Cymodoceae) bed community. This prohibition shall not include algae unattached to the bottom, nor shall it include algae growing landward of the mean high water line or growing as an epiphyte or periphyte on woody plants. For the purposes of this Part a marine seagrass bed or marine macroalgae community means an area dominated by the listed biota having an areal extent of at least 100 square feet. This paragraph does not imply that DEP can not restrict the impact on smaller areas for such species based on other DEP rules;

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(b) Has been initiated or completed without benefit of a dredge and fill permit required by the Department until all administrative and judicial enforcement matters have been resolved; or

(c) Involved an existing facility which is the subject of an administrative or judicial enforcement action initiated by the Department regarding dredge and fill activities.

(2) Subject to the provisions of the mitigation section of this Part (Rule 62-312.450), no permit shall be issued for the placement of fill in Outstanding Florida Waters in Monroe County unless expressly authorized by this rule or unless the Department determines that under applicable rules a permit may be issued in the following situations:

(a) Filling for projects which have been proposed by a governmental entity, public authority or public or private utility;

or (b) Filling for any other projects located within the landward extent of state waters solely due to vegetative dominance as described in Rule 62-3.022(1) (b) . Such areas do not include open waters or waters within the landward extent of state waters due to vegetative dominance as described in Rule 62-3.022(1)(a), F.A.C.

Specific Authority: 403.061, 403.062, 403.087, 403.912, 403.918, F.S.

Law Implemented: 403.061, 403.062, 403.087, 403.91 403.929, F.S.

History: New 6-8-88. Amended: 2-21-89, 3-26-89., Formerly 17-12.410, F.A.C., Formerly 17-312.410

62-312.420 Permitting Requirements for Piers

(1) No permit shall be issued for a pier which requires the dredging of an access channel or mooring basin unless such dredging is exempt from DEP permitting requirements.

(2) Any pier used for the dockage of water crafts not exempt from permitting requirements pursuant to Section 403.813 (2)(b), F.S., shall be evaluated on the following criteria:

(a) For piers designed to moor three or more boats, water depths at the specific mooring site shall not be less than 4 ft. mean low water. However, within those areas where the Principles for Guiding Development as described in Rule 28-29 are not applicable, water depths at any specific mooring site shall not be less than three feet, except at marinas. Such water depths at marinas shall be at least 4 feet, as described in this Part.

(b) For piers designed to moor one (1) or two (2) boats, water depths at the specific mooring site shall not be less than 3 ft. mean low water.

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(c) The applicant shall affirmatively demonstrate to the Department that adequate depths exist for ingress and egress of boats to the mooring site and in no case shall the depth of the access area be less than the minimum depths necessary to avoid damage to a seagrass bed community or other biological communities listed in Section 62-312.410(1)(a). (d) The applicant shall affirmatively demonstrate that proposed construction techniques shall protect the viability if a seagrass bed community or other biological communities as listed in Section 62-312.410(1)(a).

(e) Boat mooring sites shall not be located over a seagrass bed community at depths less than 5 feet mean low water or a coral reef regardless of water depth.

(f) All portions of the pier facility other than the specific mooring sites shall be designed in a manner which will prevent the mooring of watercraft other than at the specific mooring sites. The "specific mooring site" shall be defined as the dockage and associated loading areas including only those portions of finger piers not used solely to provide access.

(g) Sewage pump out facilities designed to be in compliance with DEP or HRS criteria shall be provided at any site which provides dockage for ten or more vessels or at which a liveaboard vessel is proposed to be docked.

(3) Any pier or other over water structure, except vehicular bridges, not used for the dockage of water craft shall be evaluated on the following criteria

(a) The applicant shall affirmatively demonstrate that proposed construction techniques shall protect the viability of a seagrass bed community or other biological communities Listed in Section 62-312.410(1)(a).

(b) Piers or other overwater structures shall be constructed at an appropriate elevation to prevent the lockage of water craft.

Specific Authority: 403.061, 403.062, 403.087, 403.912, 103.918, F.S.

Law Implemented: 403.061, 403.062, 403.087, 403.91 103.929, F.S.

History: New 6-8-88., Formerly 17-12.420, F.A.C., Formerly 17-312.420

62-312.430 Permitting Requirements for Marinas. Marinas shall be evaluated on the following criteria. For the purpose of this Part a marina shall be defined as a lockage facility providing ten (10) or more wet storage slips or providing commercial marine products or services.

(1) Fueling facilities shall have automatic shutoff valves.

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 (2) Fuel storage or pumping facilities

shall not be

located on over-water structures.

(3) Spill containment equipment shall be located on site sufficient to prevent the discharge of pollutants into state waters beyond the marina boundary. Personnel trained in the use of the containment equipment shall be in attendance

during all operating hours. At any time such personnel are not in attendance, fuel facilities shall be adequately secured to **prevent use**.

(4) **Sewage** pumpout facilities in compliance with Department of Environmental Protection and Department of Health and Rehabilitation criteria shall be provided.

(5) Water depths at the specific mooring sites shall not be less than 4 feet **mean** low water.

(6) The applicant shall affirmatively demonstrate to the Department that adequate depths exist for ingress and egress of boats to the mooring **sites and in no case** shall the depths of the access area be **less** than the minimum depth specified in (5).

(7) Proposed construction techniques shall protect the viability of a **seagrass** bed community or other biological communities **as listed** in Section 62-312.410(1)(a).

(8) **Boat mooring sites** shall not be located over a **seagrass** bed community or coral reef regardless of water depth.

Specific Authority: 403.061, 403.062, 403.087, 403.912, 403.918, F.S.

**Law Implemented:** 403.061, 403.062, 403.087, 403.91 403.929, F.S.

History: **New** 6-8-88., Formerly 17-12.430, F.A.C., Formerly 17-312.430

62-312.440 Permitting Requirements for Shoreline Stabilization

(1) Permit applications for shoreline stabilization shall be evaluated on the following criteria

(a) Except as provided in Section 403.813(2)(e) and Section 403.918(5)(b), Florida Statutes, and Rule 62-312.050(1) (j) Florida Administrative Code, vertical seawalls as defined by Section 62-4312.020, Florida Administrative Code, shall not be permitted within the waters regulated by this Part.

(b) Native aquatic vegetation shall be used for shore line stabilization, except at sites where an applicant can affirmatively demonstrate that the use of vegetation, including the existing undisturbed vegetation on site, will not prevent erosion. The Department may allow the use of rip rap and other sloping revetments provided that:

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1. no dredging and/or filling will be authorized other than that necessary for safe and efficient installation of the revetment.

2. filter cloth underliners shall be used for all revetments.

3. the slope of the revetment shall be no steeper than 2 Horizontal: 1 Vertical.

4. no revetment shall be placed over or within a sea grass bed community.

5. only rocks 2 feet in diameter or larger shall be used as the outer layer of a rip rap revetment.

(2) Beach renourishment and restoration projects subject to Chapter 161, Florida Statutes, are not subject to the provisions of this section.

Specific Authority: 403.061, 403.062, 403.912, 403.918, F.S. Law Implemented: 403.061, 403.062, 403.087, 403.91 403.929, F.S. History: New 6-8-88. Amended: 3-26-89., Formerly 17-12.440, F.A.C., Formerly 17-312.440

62-312.450 Mitigation. Notwithstanding any of the prohibitions contained in this rule, the Department shall consider mitigation pursuant to Section 403.918(2)(b), F.S., and applicable Department rules to determine whether the project may otherwise be permissible. In any application for mitigation, the applicant shall demonstrate before **issuance** of any permit for the construction of the intended project that the proposed mitigation will be effective.

Mitigation shall not be permitted where it appears after due **considerations** that construction of the intended project will **cause** irreplaceable damage to the site. Specific Authority: 403.061, 403.087, 403.912, 403.918, F.S. Law Implemented: 403.061, 403.062, 403.087, 403.91-403.929, F.S. History: New 6-8-88., Formerly 17-12.450, F.A.C., Formerly 17-312.450

62-312.460 Special Consideration

Notwithstanding any of the prohibitions contained in this part, the Department may issue permits for dredging and filling required for the **maintenance**, construction, or reconstruction of the **Overseas** Highway (U.S.1) where the applicant has demonstrated that the proposed project is **necessary** for the protection of the public health, safety, or welfare and complies with all other Department rules. Specific Authority: 403.061, 403.062, 403.087, 403.912, 403.918, F.S.

Law Implemented: 403.061, 403.062, 403.087, 403.91-403.929, F.S. History: New 6-8-88., Formerly 17-12.460, F.A.C., Formerly 17-312.460

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 62-312.470 Applicability. Part IV

shall not apply to

any projects for which a complete dredge and fill permit application has been submitted before June 8, 1988. Specific Authority: 403.061, 403.062, 403.087, 403.912, 403.918, F.S.

Law Implemented: 403.061, 403.062, 403.087, 403.91-403.929, F.S.

History: New 6-8-88. Amended: 3-26-89., Formerly 1-12.470, F.A.C., Formerly 17-312.470

PART V General  
Permits

62-312.800 Scope of Part V. The scope and definitions of this part are provided in Section 62-4.510 and 62-4.520, F.A.C. Persons wishing to use one or more of the general permits shall be subject to the notice provision of Section 62-4.530, F.A.C. before any work is conducted as authorized herein. The general conditions provided pursuant to Section 62-4.540, F.A.C. and the fee provisions of Section 62-4.050, F.A.C., shall be applicable to all of the general permits in this Part.

Specific Authority: 403.061, 403.814, F.S.

Law Implemented: 403.061, 403.062, 403.813, 403.814, 403.91 - 403.929, F.S.

History: New: 3-26-89., Formerly 17-12.800, F.A.C., Formerly 17-312.800

62-312.801 General Permit to U.S. Forest Service for Minor works within National Forests in Florida.

(1) A general permit is hereby granted to the U.S. Forest Service to conduct the works described below:

(a) Culvert placement, replacement, and maintenance in streams of less than fifteen (15) cubic feet per second average discharge at the culvert location or draining less than 5,000 acres in the Apalachicola National Forest, 10,000 acres in the Osceola National Forest, and 7,500 acres in the Ocala National Forest, except for culverts associated with low water crossings.

(b) Bridge construction, replacement and maintenance for structures up to 400 feet in length and two lanes or less in width, pursuant to the restrictions listed in Section 403.813(2)(1), F.S.;

(c) Construction and maintenance of low-water crossings (hard surface crossings over which water flows during storm events or immediately thereafter);

(d) Bathing beach restoration at developed recreation sites where maintenance dredging is less than 100 cubic

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 yards per year and less than 100 cubic yards per single occurrence;

(e) Dock construction, replacement and maintenance for docks of up to 1000 square feet of over water surface area, in Outstanding Florida Waters subject to restrictions listed in Section 403.813(2)(b) and (d), F.S.;

(f) Temporary stream channel diversions necessary to complete projects detailed in paragraph (a), (b) and (c) of this rule;

(g) Channel clearing and shaping to facilitate maximum hydraulic efficiency of designed structures detailed in paragraphs (a), (b), and (c) of this rule.

(2) This general permit is subject to the general conditions of Rule 62-4.540 and the following specific conditions:

(a) The U.S. Forest Service shall submit to the appropriate DEP district office once a year a schedule including location, typical drawings and approximate commencement date for the activities planned for that year.

(b) The U.S. Forest Service or its contractors shall follow Best Management Practices pursuant to Section 208 of Public Law 95-217 and detailed in the Silviculture Best Management Practices Manual, published by the Florida Division of Forestry, Department of Agriculture and Consumer Services, and referenced in Rule 62-25.030(1)(a).

(c) The U.S. Forest Service or its contractors shall utilize appropriate turbidity control measures while actively dredging or filling within stream channels or springs.

(d) The U.S. Forest Service or its contractors shall stabilize fill areas and stream banks disturbed by the activity by revegetation except where the fill area is a bathing beach. If revegetation is inappropriate, rip rap may be used.

(e) The U.S. Forest Service or its contractors shall limit stream channel relocation to those streams having an average annual discharge of fifteen (15) cubic feet per second or less. The length of relocated channels or those significantly altered shall be limited to 200 feet per stream. A stream channel shall be altered only when such a measure will reduce the long term adverse water quality impacts and will maintain or restore the stream's natural hydraulic capability.

(f) The U.S. Forest Service or its contractors shall limit bridge construction to those bridges spanning bank to bank with no causeway approaches in the flood plain. This limitation does not apply to maintenance of existing bridges.

Specific Authority: 403.814(1), F.S.  
Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, F.S.  
History: New 7-8-82. Previously numbered as 17-4.55. Formerly 17-4.550, F.A.C. Amended: 3-26-89., Formerly 17-12.801, F.A.C., Formerly 17-312.801

62-312.802 General Permit to Florida Game and Fresh Water Fish Commission for use of Rotenone.

(1) A general permit is hereby granted to the Florida Game and Fresh Water Fish Commission to use rotenone in conducting tests related to its responsibilities regarding fish management.

(2) This general permit is subject to the general conditions of Rule 62-4.540 and the following specific conditions:

(a) The area being tested shall be the minimum area necessary for the test.

(b) The chemical selected shall be used in a lesser strength than the EPA approved label amounts where the lesser strength is sufficient to accomplish the test. At no time shall greater strength than the label amount be used. (c) The chemical shall be used only under the direct on site supervision of a staff member of the Florida Game and Fresh Water Fish Commission.

(d) The Florida Game and Fresh Water Fish Commission shall notify the appropriate Department district office at least two (2) weeks prior to the test being conducted. The notification shall include the area in which the chemical will be used and the approximate length of time the test will be conducted.

Specific Authority: 403.814(1), F.S.  
Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, F.S. History: New 7-8-82. Previously numbered as 17-4.56. Formerly 17-4.560, F.A.C., Formerly 17-12.802, F.A.C., Formerly 17-312.802

62-312.803 General Permit for Installation or Maintenance of Boat Ramps.

(1) A general permit is hereby granted to any person installing or maintaining a boat ramp; provided

(a) This general permit shall apply to only those boat ramps not exempt from permitting pursuant to Section 403.813(2)(c), F.S.; and

(b) No ramp shall be installed under this general permit unless navigational access to the proposed ramp exists.

(c) There shall be no filling other than the actual boat ramp surface and incidental filling associated with

recontouring the land under the ramp to create a level grade; and

(d) There shall be no more than 25 cubic yards of material removed for installation of the boat ramp surface; and

(e) The installation or use of the boat ramp shall not interfere with navigation in the water body; and

(f) The above-water, level portion of the ramp shall be landward of the mean or ordinary high water line; and

(g) All spoil material shall be deposited on self-contained upland spoil site which shall be located so as to prevent the escape of spoil material into waters of the state; and

(h) Maintenance dredging shall be limited to that amount of material necessary to restore the ramp to its original configuration and dimension; and

(i) The boat ramp shall not infringe upon the riparian rights of adjacent property owners; and

(j) The permittee shall remit to the Board of Trustees of the Internal Improvement Trust Fund payment for material removed from sovereignty or state-owned lands in accordance with the schedule established by the Board.

(2) This general permit shall be subject to the general conditions in Rule 62-4.540 and the following specific conditions:

(a) Turbidity curtains or similar devices shall be utilized to prevent violation of state water quality standards.

(b) The installation of a boat ramp does not obligate the Department to approve any subsequent request to dredge for navigational access.

Specific Authority: 403.814(1), F.S.  
Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, F.S.  
History: New 7-8-82. Previously numbered as 17-4.57. Formerly 17-4.570, F.A.C. Amended: 3-26-89., Formerly 17-12.803, F.A.C., Formerly 17-312.803.

62-312.804 General Permit for Rip Rap.

(1) A general permit is hereby granted to any person installing rip rap at the toe of an existing vertical seawall, provided

(a) The rip rap consists only of natural boulders or clean concrete rubble six (6) inches to three (3) feet in diameter or in average dimensions; and

(b) The slope of the rip rap is no steeper than 2H:1V and the horizontal distance is no more than eight (8) feet; and



DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 (c) There are no reinforcing rods or

other similar

protrusions in concrete rubble and all rubble or boulders are free of attached sediments; and

(d) Neither the distance nor the use of the rip rap interferes with navigation or infringes upon the riparian rights of the adjacent property owners; and

(e) There is no filling or dredging associated with the placement of rip rap other than the rip rap material itself. (2) This general permit shall be subject to the general conditions of Rule 62-4.540 and specific conditions as

follows: (a) Turbidity curtains or silt traps or similar devices where appropriate shall be utilized to prevent violation of state water quality standards; and

(b) Installation of the structure does not obligate the Department to approve any subsequent request to dredge for navigational access; and

(c) There shall be no backfilling to obtain useable upland or to straighten an otherwise sinuous shoreline; and (d) There shall be no filling or backfilling to reclaim

land lost by avulsion or erosion. Specific

Authority: 403.814(1), F.S.

Law implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, F.S.

History: New 7-8-82. Previously numbered as 17-4.58. Formerly 17-4.580, F.A.C., 3-26-89., Formerly 17-12.804, F.A.C., Formerly 17-312.804.

62-312.805 General Permit for Headwalls, and Culverts Associated with a Stormwater Discharge Facility.

(1) A general permit is hereby granted to any person to construct headwalls and culverts associated with a stormwater discharge facility; provided,

(a) A stormwater permit has been granted to the permittee by the Department or an entity on behalf of the Department; and

(b) The discharge from the stormwater system is to an artificial waterway; and

(c) The culvert shall not extend waterward of the headwall; and

(d) The culvert and the headwall shall not extend more than one

(1) foot waterward of the existing shoreline.

(2) This general permit shall be subject to the general conditions in Rule 62-4.540 and the specific conditions as follows:

(a) Turbidity curtains or similar devices shall be utilized where appropriate to prevent violation of state water quality standards; and

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 (b) There shall be no backfilling

to obtain useable

upland or to straighten an otherwise sinuous shoreline. Specific Authority: 403.814(1), F.S.

Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, F.S.

History: New 7-8-82. Previously numbered as 17-4.59. Formerly 17-4.590, F.A.C., Formerly 17-12.805, F.A.C., Formerly 17-312.805.

62-312.806 General Permit to the Florida Department of Transportation for Minor Works Within Existing FDOT Rights-of-Way or **Easements**.

(1) A general permit is hereby granted to the Florida Department of Transportation to conduct the work described below:

(a) The extension of existing culverts and crossing **approaches** to accommodate widening of the roadway where excavation or deposition of material shall not exceed 1000 cubic yards in waters of the state and the area from which material is excavated or to which material is deposited shall not exceed a total of 0.25 acres at any one location (project site). The 1000 cubic yardage limitation shall be separately applied to excavation and deposition of material.

(b) Relocation, recontouring, widening, or reconstruction of existing highway drainage ditches through uplands provided the floor elevation of the ditch is not deepened below the original design elevation and provided that the work does not cause a change in the hydrology of any jurisdictional wetlands which are connected to or which are adjacent to the ditch.

(c) Culvert placement, replacement and maintenance **associated** with existing roadways, in streams of less than 10 cubic **feet** per second average discharge at the culvert location **or streams** draining less than 10 square miles, provided that construction does not cause scour in the downstream waters or increase the velocity of the water downstream, the material excavated or deposited as fill shall not exceed 1000 cubic yards in waters of the State, and the cross sectional **area of** the culvert shall not be reduced if it had been previously permitted by the Department as a wildlife crossing.

(d) Temporary stream channel diversions necessary to complete projects detailed in paragraph (c) above, provided the area used for the temporary diversion is restored to its previous contours and elevations.

(e) Channel clearing and shaping, not to exceed a combined total of 0.5 acres of dredging and/or filling in **waters of** the State, to facilitate maximum hydraulic



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efficiency of structures authorized by paragraph (c) above, where the spoil material is used on an upland portion of the project or is deposited on a self-contained, upland spoil site. Escape of spoil material and/or return water from the spoil deposition area into waters of the State is prohibited.

(f) Repair of existing concrete bridge pilings by the construction of pile jackets, provided that the permanent outer form is composed of inert materials and the quantity of material shall not exceed 300 cubic yards of dredging or 300 cubic yards of filling per project. Although the bottom sediments within the forms may be removed by jetting or pumping, and may not be recoverable, proper turbidity control measures shall be employed as necessary to prevent violations of state water quality standards.

(2) This general permit shall be subject to the general conditions of Rule 62-4.540, F.A.C., and the following specific conditions:

(a) The permittee shall use best management practices, including turbidity curtains or similar devices, in strict adherence to the Florida Department of Transportation "Standard Specifications for Road and Bridge Construction, Edition of 1986" to prevent violation of State water quality standards.

(b) As soon as possible following completion of slope construction, the fill areas and the banks of the water body shall be stabilized with vegetation and/or riprap to prevent erosion. Temporary erosion controls for all exposed soils within jurisdictional areas shall be completed within seven calendar days of the most recent construction activity. Prevention of erosion of exposed earth in jurisdictional areas is a construction priority and completed slopes shall not remain unstabilized while other construction continues.

(c) Any area outside of the project area which is disturbed by the permitted construction activities shall be restored to its pre-construction state, including but not limited to re-contouring, revegetation, etc.

(d) In addition to complying with the notice provisions of Rule 62-4.530, F.A.C., at least 90 days prior to commencement of construction, the permittee will notify the appropriate Department district office of the date the permitted construction activities are planned to begin and within 90 days following completion of construction, a notice will be sent by letter of the date construction activities are completed.

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(e) The permittee shall limit stream channel relocation to streams which have an average annual discharge of 10 cubic feet per second or less. The length of relocated channels or those significantly altered shall be limited to 200 feet per stream. A stream channel shall be altered only when such a measure will reduce the long term adverse water quality impacts and will maintain or restore the stream's natural hydraulic capability.

(f) This general permit shall not apply to ditch construction in Class I or Class II surface waters or waters designated as Outstanding Florida Waters.

(g) This general permit authorizes certain minor dredge and fill activities only and does not relieve the permittee from compliance with any other applicable Department rules.

(3) This general permit shall apply only where the widening of the existing roadway has received all required permits for stormwater discharge before the start of construction.

Specific Authority: 403.814, F.S.

Law Implemented: 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, 403.912, 403.913, 403.918, - .921, 403.931, F.S.

History: New 4-26-84. Amended: 1-1-89, 3-26-89, 7-11-90, 1-29-91. Formerly 17-4.66; 17-4.660; 17-12.806, F.A.C., Formerly 17-312.806

62-312.807 General Permit for the Construction of Artificial Reefs.

(1) A general permit is hereby granted to any person to construct an artificial reef, provided:

(a) The material to be used shall be clean concrete or rock, or clean steel boat hulls; and

(b) The material shall be free of soils, oil and greases, debris, litter, putrescible substances or other pollutants; and

(c) The material shall be firmly anchored to the bottom and shall not be indiscriminately dumped; and

(d) The material shall be placed so that the top of the reef does not exceed 1/2 the distance from the bottom to the surface of the water unless a greater distance is required for safe navigation. At no time shall the distance between the top of the reef and the surface of the water be less than 6 feet.

(2) This general permit shall be subject to the general conditions of Section 62-4.540 and the following specific conditions:

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 (a) The permittee shall conduct a

survey of the

bottomland on which **the reef is** to be built and shall submit the survey to the department with notice pursuant to Section 62-4.530 demonstrating that the bottom **does** not have grassbeds, or hardbottom or other corals; and

(b) There shall be **no reefs** constructed in shallow bay or estuarine bottoms; and

(c) There shall be no "white goods", asphalt material, tires or other pollutant materials used in construction of the reef; and

(d) The site shall be marked with buoys to ensure that no material is deposited outside of the site; and

(e) The permittee shall notify the National Ocean Service, National Oceanographic and Atmospheric Association, U.S. Department of Commerce, Rockville, Maryland, of the precise location of the reef. Specific Authority: 403.814(1), F.S.

Law Implemented: 253.123, 253.124, 403.061, 403.087, **403.088**, 403.813, **403.814**, 403.817, F.S.

History: **New 4-26-84**. Previously numbered as 17-4.68. Formerly 17-4.680, F.A.C., Formerly 17-12.807, F.A.C., Formerly 17-312.807

62-312.808 General Permit for Certain Piers and Associated Structures. a

(1) A general permit is hereby granted to any person to construct minor works as described below:

(a) Construction of private, single-family piers along with associated boat lifts where the pier:

1. Does not accommodate the mooring of more than two water craft; and

2. Does not, together with its walkways and end "T" or "L", exceed 6 feet in width; and

3. Is constructed in waters or to waters that are sufficiently deep to avoid bottom scour by vessel operation or by prop dredging.

(b) Construction of boat shelters associated with a pier where the shelter has no walls or doors.

(c) Construction of an extension to an existing private, single-family pier where the extension is no more than 6 feet in width and is designed to enhance safety of boat use, to reach navigable water depths, or to accommodate a larger boat.

(2) This general permit shall be subject to the general conditions of Section 62-4.540 and specific conditions as follows:

(a) Construction shall not occur over submerged grassbeds.

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(b) There shall be no bait houses, storage shelters, sun decks, gazebos, screen porches, wet bars, living quarters, or other non-water-dependent structures over waters of the state or on the pier.

(c) The pier and its use shall not interfere with navigation in the water body.

(d) There shall be no dredging associated with pier construction other than that required for installation of the pilings for the pier and mooring of the water craft.

(e) There shall be no fish cleaning facilities, boat repair facilities or equipment and fueling facilities on the pier.

(f) The pier and its use shall not infringe on the riparian rights of adjacent property owners and shall be in accordance with the rules of the Division of State Lands, Department of ENVIRONMENTAL Protection when construction occurs on state-owned bottomland.

Specific Authority: 403.814(1), F.S.

Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, F.S.

History: New 4-26-84. Previously numbered as 17-4.69. Formerly 17-4.690, F.A.C. Amended: 3-26-89., Formerly 17-12.808, F.A.C., Formerly 17-312.808.

62-312.809 General Permit to the Florida Department of Transportation for Minor Bridge Construction:

(1) A general permit is hereby granted to the Florida Department of Transportation to conduct the work described below:

(a) The construction of bridges and approaches parallel and adjacent to existing bridges where the combined total of dredging and filling, both temporary and permanent, in waters of the State does not exceed 0.50 acre.

(b) The replacement or modification of bridges and approaches where the combined total of dredging and filling, both temporary and permanent, in waters of the State does not exceed 0.50 acre.

(c) The construction of bridges over waters of the State where no permanent dredging or filling is required other than placement of bridge support structures, and the combined total of temporary dredging and filling does not exceed 0.25 acre.

(d) Channel clearing and shaping, not to exceed a combined total of 0.5 acres of dredging and/or filling in waters of the State, to facilitate maximum hydraulic efficiency of the structures detailed in paragraphs (a) and (b) above, where the spoil material is used on an upland portion of the project or is deposited on a self-contained,



**DEP 1995 EDGE AND FILL ACTIVITIES 62-312** upland spoil site. Escape of spoil material and/or return water from the spoil deposition area into waters of the State is prohibited.

(2) This general permit shall be subject to the general conditions of Rule 62-4.540, F.A.C., and the following specific conditions:

(a) In addition to compliance with the notice provisions of Rule 62-4.530, F.A.C., at least 90 days prior to commencement of construction the permittee will notify the appropriate Department district office of the date the permitted construction activities are planned to begin, and within 90 days following completion of construction, the permittee will notify by letter the appropriate Department district office of the date construction activities were completed.

(b) No access or work channels are authorized by this general permit.

(c) Temporary fill roads may not be constructed waterward of mean high water or ordinary high water. (d) All temporary fill areas shall be regarded to original elevations and revegetated with native wetland species.

(e) This general permit shall not apply to bridge construction in Class I or Class II surface waters, or waters designated as Outstanding Florida Waters.

(f) Hydraulic openings of new bridges constructed under (1) (c) above shall be sufficient to prevent downstream scour, increased downstream water velocities, and significant backwater conditions upstream of the bridge structure.

(g) Minimum horizontal and vertical navigational clearances on new or replacement bridges over navigable waters of the United States shall be established in accordance with procedures outlined in the U.S. Coast Guard Bridge Administration Manual, COMDTINST M16590.5, May 7, 1982.

(h) Horizontal and vertical clearances for replacement bridge structures shall meet or exceed those of the bridge being replaced.

(i) Horizontal and vertical clearances on parallel bridges adjacent to existing bridges shall meet or exceed those of the existing bridge.

(j) The permittee shall limit crossings of any particular stream to an average of one every 0.5 mile. (k) Temporary erosion controls for all exposed soils within jurisdictional areas shall be completed within seven calendar days of the most recent construction activity.

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(1) The fill areas and the banks of the water body shall be stabilized with vegetation and/or riprap as soon as possible following completion of slope construction. This stabilization is considered a construction priority and completed fill slopes in jurisdictional areas shall not remain unstabilized while other construction continues.

(m) This general permit does not authorize the use of dredged material for roadway construction.

(n) The permittee shall use best management practices, including turbidity curtains or similar devices, in strict adherence to the Florida Department of Transportation "Standard Specifications for Road and Bridge Construction, Edition of 1986" to prevent violations of State water quality standards.

(o) This general permit authorizes dredging and filling activities associated with minor bridge construction only and does not relieve the permittee from compliance with any other applicable Department rules.

(3) This general permit shall apply only where all required permits for stormwater discharge have been received prior to beginning of construction.

Specific Authority: 403.814, F.S.

Law Implemented: 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, 403.912, 403.913, 403.918, 403.931, F.S. History: New 7-11-90, Amended 1-29-91, Formerly 17-312.809.

#### 62-312.810 General Permit to Perform Prospecting Activities for Phosphate Minerals

(1) A general permit is hereby granted to any person engaged in or proposed to engage in the mining of phosphatic ore within the boundaries of the Department of Environmental Protection Northeast and Southwest Districts as described in Rule 62-101.020, F.A.C., to perform prospecting activities for phosphate minerals within certain portions of waters of the state, except in Outstanding Florida Waters, Aquatic Preserves, Class I waters, Class II waters, or waters approved for shellfish harvesting; provided:

(a) Prospecting activities shall be defined as the conducting of activities that are considered normal and reasonably necessary in order to retrieve core samples of subsurface geologic sediments for the specific purpose of locating, mapping and determining the quantities and quality of any phosphorus bearing strata or deposits.

(b) Vehicles utilized in prospecting activities shall be of a type generating minimum ground pressure in order to minimize rutting and other environmental impacts, or the disturbed area along each prospecting line shall be restored to original contours upon completion of the prospecting

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 activities along that specific alignment. In areas within the landward extent of waters of the state identified as wooded wetlands, the permittee shall choose alignments which will minimize the destruction of mature wetland trees.

(c) Disturbance within the landward extent of waters of the state identified as herbaceous wetlands shall be no wider than twenty-five (25) feet along any portion of the prospect line and disturbance within the landward extent of waters of the state identified as wooded wetlands shall be no wider than fifteen (15) feet along any portion of the prospect line, except at the immediate, site of the drill hole where disturbance shall not exceed twenty-five (25) feet in width and no activities regulated by the Department associated with prospecting shall occur outside the fifteen (15) foot and twenty-five (25) foot limits, respectively, and

(d) An individual prospecting line shall not extend into **waters** of the state more than one-third (1/3) of the width of the landward extent of the water body involved, unless prospecting is conducted by hand carried drilling devices in which case full penetration of the water body shall be allowed except as restricted by (1)(f). When hand carried drilling devices are used all drilling tailings shall be returned to the drill hole and no spoil shall be left on the surface, and

(e) No prospecting activities shall occur in open waters (**areas of water bodies** not supporting emergent vegetation), such as **lakes**, ponds, **streams**, and rivers, and

(f) A minimum interval of six hundred and sixty (660) feet shall exist between individual parallel prospecting lines. A minimal distance of three hundred and thirty (330) feet shall be maintained between the alignment of the prospecting line originating from opposing sides of water bodies. When hand carried drilling devices are to be used for total penetration of the wetland, the minimal interval of three hundred and thirty (330) feet between prospecting lines shall apply.

(g) No debris or spoil shall be mechanically placed outside of the twenty-five (25) foot width allowed above, and

(h) The disturbed area along each prospecting line within herbaceous **wetlands** shall be replanted with indigenous native species using acceptable reclamation practices unless evidence exists that substantial natural revegetation has commenced within one growing season. The disturbed **area** along each prospecting line with wooded wetlands shall be replanted with indigenous native tree species using acceptable reclamation practices and the

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permittee shall institute necessary maintenance activities to insure the survival of the planted indigenous native trees. The restored sites shall be maintained free of any new growth of *Schinus terebinthifolia* (Brazilian pepper), *Melaleuca quinquenervia* (Punk tree), and *Casuarina* spp. (Australian pine). The restored site shall also be managed in a manner where *Typha* spp. (cattails) shall not be permitted to manifest a vegetative dominance to a degree which would result in water quality violations.

(2) This general permit is subject to the general conditions of Rule 62-4.540 and the following specific conditions:

(a) A person wishing to utilize this general permit shall submit to the appropriate DEP district office, an annual schedule of proposed prospecting activities within the prospect areas including location maps, aerial photographs showing the proposed prospecting lines, and approximate commencement and completion dates for the activities planned for each prospect area. The annual schedule, or modifications to the annual schedule, must be submitted at least thirty (30) days prior to the commencement of the proposed activity. Where practicable, the annual schedule should be filed with the Department no later than June 1 for the fiscal year July 1 through June 30.

(b) Appropriate turbidity and erosion control measures shall be utilized, as necessary, to prevent violation of state water quality standards.

(c) The prospecting activities shall be in accordance with the rules promulgated under the authority of the Board of Trustees of the Internal Improvement Trust Fund by the Division of State Lands, Department of ENVIRONMENTAL Protection, when they occur on state-owned bottomland.

(d) When requested, the Department and its employees shall keep confidential all information submitted by the permittee as provided in Section 403.111, F.S.

Specific Authority: 403.814, E.S.

Law Implemented: 403.061, 403.087, 403.088, 403.814, 403.912, 403.913, 403.918, 403.919, F.S.

History: New 9-3-86. Formerly 17-4.750, F.A.C., Formerly 17-12.810, F.A.C., Formerly 17-312.810

62-312.811 General Permit for Temporary Dragline Crossings of Waterways

(1) A general permit is hereby granted to any person engaged in or proposing to engage in the mining of a phosphatic ore within the boundaries of the Department of Environmental Protection Northeast and Southwest Districts

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 as described in Rule 62-101.20, F.A.C., for the construction of temporary dragline crossings within certain waters of the state, except in Outstanding Florida Waters, Aquatic

Preserves, Class I waters, Class II waters, or waters approved for shellfish harvesting; provided:

(a) The crossing is of a ditch or artificially channelized portion of a water body or at a documented location of a previously existing dragline crossing within the preceding five (5) years, of a natural water body, and is not a navigable water body. The term navigable, for the purpose of this permit, **means** the water body is capable of use by small craft, and

(b) Only clean sand fill shall be utilized in the construction of the crossing, and

(c) When demucking or removal of topsoil is necessary for the construction of the crossing, the muck and/or topsoil shall be retained at a nearby upland location and returned to the crossing site for the restoration activities, and

(d) Adequate culverts are installed to maintain the natural and seasonal volume and flow of water, and

(e) The top width of the fill shall not exceed one hundred and fifty (150) feet and the toe to toe width of the fill shall **not exceed** two hundred (200) feet and the side slopes shall **be no steeper** than 3H:1V, and the lateral limits of disturbance of the wetlands shall be no more than twenty (20) feet on **each side** of the fill, and

(f) The crossing shall not infringe on the riparian rights of adjacent property **owner(s)** without written consent of the adjacent property owner(s), and

(g) The crossing shall not remain in place for more than one (1) year, **unless** the crossing is for **a one**-way access in which case it shall not **remain** in place for more than six (6) months, and

(h) the area must be restored to original topographic contours within sixty (60) days of the abandonment of the dragline crossing, which shall be after the dragline has crossed the water body.

(2) This general permit shall be subject to the general conditions of Rule 62-4.540 and specific conditions as follows:

(a) Appropriate turbidity and erosion control measures shall be utilized to prevent violation of state water quality standards.

(b) The holder of the general permit shall act in accordance with the rules promulgated **under** the authority of the Board of Trustees of the Internal Improvement Trust Fund by the Division of State Lands, Department of ENVIRONMENTAL

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Protection, when the crossing occurs on state-owned bottomland.

(c) Upon restoration of original topographic contours at a temporary dragline crossing site, the permittee shall at the end of the first growing season provide the opportunity for inspection of the site by the appropriate DEP district office staff. If in the opinion of the Department, satisfactory revegetation of the site has not occurred, the permittee shall initiate, conduct and maintain a revegetation program for the site. For the purpose of this general permit, revegetation of a waterway shall be with native species in similar composition to those species which were present at the site or in the contiguous wetland prior to the temporary dragline crossing. The restored site shall be maintained free of any new growth of *Schinus terebinthifolius* (Brazilian pepper), *Melaleucaquingueneria* (Punk tree), and *Casuarina* spp. (Australian pine). The restored site shall also be managed in a manner where *Typha* spp. (cattails) shall not be permitted to manifest vegetative dominance to a degree which would result in water quality violations.

(d) A person wishing to utilize this general permit shall submit to the appropriate DEP district office, an annual schedule of proposed temporary dragline crossing areas including location **maps**, aerial photographs with proposed temporary dragline crossings, typical drawings, and approximate commencement and completion dates for the activities planned. Additionally, the plans shall include proposed restoration procedures for each temporary dragline crossing. The annual schedule, or modifications to the annual schedule, must be submitted, together with the required documentation, at least thirty (30) days prior to the commencement of the proposed activity. Where practicable, the annual schedule and documentation should be filed with the Department no later than June 1 for the fiscal year July 1 through June 30.  
Specific Authority: 403.814, F.S.  
Law Implemented: 403.061, 403.087, 403.088, 403.814, 403.912, 403.913, 403.918, 403.919, F.S.  
History: **New 9-3-86**. Formerly 17-4.760, F.A.C., Formerly 17-12.811, F.A.C., Formerly 17-312.811

62-312.812 General Permit for Low Water Crossings (1) A general permit is hereby granted to any person engaged in or proposing to engage in the mining of a mineralized non-metallic ore to move equipment and vehicles, excluding dredges, through and across waters of the state during periods of low water, except in Outstanding Florida



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waters, Class II waters, or waters approved for shellfish harvesting; provided:

(a) The only dredging or filling which is performed will be that caused by the movement of the vehicle or equipment through the water, and

(b) The maximum water depth along the crossing shall not exceed two (2) feet during the time the crossing is utilized, and

(c) Vegetative debris shall not be deposited within waters of the state, and

(d) That the lateral width of disturbance shall in no case exceed that necessary to move the vehicles and equipment through and across the water body and shall in no case be greater than fifty (50) feet, and

(e) That the distance between crossings on an individual water body shall be at least five thousand (5000) feet, except that at sites where a documented four (4) wheel vehicular access exists, crossings may be at a spacing of twenty-five hundred (2500) feet.

(2) This general permit shall be subject to the general conditions of Rule 62-4.540 and specific conditions as follows:

(a) The person wishing to utilize this general permit shall to the maximum degree practicable initiate planning activities to locate crossings at sites which will cause least environmental impact. To the maximum degree practicable the permittee shall coordinate with the appropriate DEP district office.

(b) Appropriate turbidity and erosion control measures shall be utilized, as necessary, to prevent violation of state water quality standards, and

(c) Upon restoration of an individual low water crossing site, the permittee shall at the end of the first growing season provide the opportunity for inspection of the site by the appropriate DEP district office staff. If in the opinion of the Department, satisfactory revegetation program for the site has not occurred, the permittee shall initiate, conduct and maintain a revegetation of the waterway. For the purpose of this general permit, revegetation of the site shall be with native species in similar composition to those species which were present at the site or in the contiguous wetland prior to the low water crossing. The restored site shall be maintained free of any new growth of *Schinus terebinthifolius* (Brazilian pepper), *Melaleuca quinquenervia* (Punk tree), and *Casuarina* spp. (Australian pine). The restored site shall also be managed in a manner where *Typha* spp. (cattails) shall not be permitted to manifest

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Vegetative dominance to a degree which would result in water quality violations.

(d) A person wishing to utilize this general permit shall submit to the appropriate DEP district office, an annual schedule of proposed low water crossing sites including location maps, aerial photographs with proposed low water crossing sites, typical drawings, and approximate commencement and completion dates for the activities planned. Additionally, the plans shall include proposed restoration procedures for each low water crossing. The annual schedule, or modifications to the annual schedule, must be submitted, together with the required documentation, at least thirty (30) days prior to the commencement of the proposed activity. Where practicable, the annual schedule and documentation should be filed with the Department no later than June 1 for the fiscal year July 1 through June 30.

Specific Authority: 403.814, F.S.

Law Implemented: 403.061, 403.087, 403.088, 403.814, 403.912,

403.913, 403.918, 403.919, F.S.

History: New 9-3-86. Formerly 17-4.770, F.A.C., Formerly 17-12.812, F.A.C., Formerly 17-312.812

62-312.813 General Permit for the Installation of Fences (1) A general permit is hereby granted to any person installing a fence in waters of the state, except in Outstanding Florida Waters, Aquatic Preserves, Class II waters, or waters approved for shellfish harvesting; provided:

(a) The structure shall not block navigation, create a navigational hazard, impede the natural flow of water by itself or through the accumulation of debris, and

(b) No fence shall be installed into open waters (areas of water bodies not supporting emergent vegetation) of any navigable river, stream, canal, or tributary thereto, a distance of more than twenty-five (25) feet, or more than twenty percent (20%) of the width of the open water, whichever is less, and in any lake shall not extend more than fifteen (15) feet waterward of the landward extent of waters of the state, and

(c) The fence will be constructed of wire attached to wood or metal posts which project at least two (2) feet above the minimum flood or ordinary high water elevation of the waterway, and

(d) In navigable waters and all lakes, the structure shall be adequately marked with reflectors visible from both directions paralleling the shoreline, and

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**DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 (e)** Dredging or filling performed shall be limited to

that necessary to install individual fence posts, and

(f) The installation shall not infringe on the riparian rights of adjacent property owners and shall be in accordance with the rules promulgated under the authority of the Board of Trustees of the Internal Improvement Trust Fund by the Division of State Lands, Department of ENVIRONMENTAL Protection, when installation occurs on state-owned bottomland. 4

(2) This general permit shall be subject to the general conditions of Section 62-4.540 and the following specific condition:

Turbidity curtains or similar devices shall be utilized, **as necessary**, to prevent violation of state water quality standards.

(3) This general permit shall not be used to regulate agricultural installation of fences pursuant to Section 403.913, F.S.

Specific Authority: 403.814, F.S.

Law Implemented: 403.061, 403.087, **403.088**, 403.813, 403.814, 403.912, 403.913, 403.918, 403.919, F.S. History: **New 9-3-86**. Formerly 16-4.780, F.A.C., Formerly 17-12.813, F.A.C., Formerly 17-312.813

62-312.814 General Permit to Florida Game and Fresh Water Fish Commission, U.S. Forest Service, and County and Municipal Governments for the Construction of Freshwater Fish Attractors

(1) A general permit is hereby granted to the Florida Game and Fresh Water Fish Commission, the U.S. Forest Service, and County and Municipal Governments to construct a fish attractor in freshwater lakes; provided:

(a) That any fish attractor to be constructed by County or Municipal Government must have the written approval of the Florida Game and Freshwater Fish Commission, and

(b) The material to be used shall be clean concrete or rock, or brush, or logs, or trees, and

(c) The material shall be free of soils, preservatives, oil and greases, debris, litter, putrescible substances, "white goods", asphalt material, tires, or other pollutants, and A

(d) The material shall be firmly anchored to the bottom and shall not be indiscriminately dumped, and

(e) The size of an individual fish attractor shall not exceed one quarter of an acre in area, and

(f) The material shall be placed so that the top of the fish attractor is at least three (3) feet below the surface of the water at ordinary low water and shall be outside any posted navigational channels.

(2) This general permit shall be subject to the general conditions of Section 62-4.540 and the following specific conditions:

(a) No fish attractor material shall be placed on or in areas vegetated by aquatic herbs or algae (except nuisance exotics), and

(b) The site shall be marked with a buoy or buoys to ensure that no material is deposited outside of the site. Specific Authority: 403.814, F.S. Law Implemented: 403.061, 403.087, 403.088, 403.813, 403.814, 403.912, 403.913, 403.918, 403.919, F.S. History: **New 9-3-86**. Formerly 17-4.790, F.A.C., Formerly 17-12.814, F.A.C., Formerly 17-312.814

62-312.815 General Permit for Ski Jumps and Slalom Courses

(1) A general permit is hereby granted to any person to install ski jumps and slalom courses, except in Aquatic Preserves, Outstanding Florida Waters, and posted manatee areas; provided:

(a) The structures and their uses will not impede the natural flow of water, create a navigational hazard or otherwise interfere with the public use of waters of the state, and

(b) No ski jump or slalom course shall be installed under this general permit unless navigational access to the proposed structure(s) exists, and

(c) The structure(s) shall be placed at locations with a minimum water depth of six (6) feet, and shall be placed at least three hundred (300) feet from any shoreline that is not under the ownership or control of the permittee, and

(d) The ski jump and/or slalom course shall be flagge to mark the location of the race course, and

(e) There shall be no dredging, filling, or construction activities associated with the ski structure(s) other than the installation and removal of the ski jump and/or slalom course, and

(f) The ski jump and/or slalom course and its (their) use shall not infringe on the riparian rights of adjacent property owners and shall be in accordance with the rules promulgated under the authority of the Board of Trustees of the Internal Improvement Trust Fund by the Division of State Lands, Department of ENVIRONMENTAL Protection, when installation occurs on state-owned bottomland, and

(g) Installation shall not occur over submerged marine grassbeds, or other areas of aquatic herbs or algae, except nuisance exotics.



DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 (2) This general permit shall be

subject to the general

conditions of Section 62-4.540 and the following specific conditions:

(a) The installation of a ski jump or slalom course does not obligate the Department to approve any subsequent request for a dredge or fill permit at the site.

(b) The permittee shall submit to the appropriate DEP district office a set of plans indicating the location of the ski course and ski jump on the lake, the depth of water, and how the course will be marked.

Specific Authority: 403.814, F.S.

Law Implemented: 403.061, 403.087, 403.088, 403.813, 403.814, 403.912,

403.913, 403.918, 403.919, F.S. History: **New 9-3-86**. Amended: 10-28-87.

Formerly 17-4.800, F.A.C., Formerly 17-12.815, F.A.C., Formerly 17-312.815

62-312.816 General Permit for the Construction or Maintenance of Culverted Driveway or Roadway Crossings and Bridges of Artificial Waterways

(1) A general permit is hereby granted to any person for the purpose of constructing or maintaining a driveway or roadway which **crosses an artificial waterway**; provided

(a) This general permit shall apply only to wholly artificial, non-navigable drainage conveyances within the Department's jurisdiction, and

(b) A culvert or culverts are placed under the roadway or driveway, and

(c) The size and number of the culvert(s) shall be adequate to pass normal high water stages of the artificial water body being crossed. In no instance shall the culvert(s) provide a smaller cross-sectional area or discharge capacity than any upstream culvert, and

(d) The elevation of the culvert invert shall be at the existing bottom grade of the artificial waterway, and

(e) The length of the driveway, roadway or bridge crossing the waterway shall not exceed fifty (50) feet top of bank to top of bank, and

(f) The top width of the driveway, roadway, or bridge shall not exceed 75 feet and the toe to toe width shall not exceed 100 feet and the side **slopes** shall be not steeper than 2H:1V, and

(g) Clean fill used for the crossing must be obtained from uplands or from a dredge site approved through a dredge and fill permit, exemption, or general permit, and

(h) There shall be no additional dredging, filling, or construction activities, except as exempted by statute or rule, and those directly involved in the construction or maintenance of the proposed crossing or bridge, and

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(i) The maintenance of the roadway, driveway or bridge shall continue to provide at least the same volume of discharge through the culvert(s).

(2) This general permit shall be subject to the general conditions of Section 62-4.540 and the following specific conditions:

(a) Turbidity curtains or similar devices shall be utilized, as required, to prevent violation of state water quality standards.

(b) This general permit does not relieve the permittee of the responsibility for obtaining stormwater management system approval where it is required.

(c) The permittee shall stabilize fill areas and waterway banks disturbed by the activity by revegetation or riprap as necessary to prevent erosion, siltation or turbid runoff into state waters.

(d) 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 no siltation, erosion or turbid discharges into waters of the state occur in violation of Rule 62-3, F.A.C. Any temporary works shall be completely removed and all areas upstream and downstream from the crossing shall be restored to grades, elevations and conditions which existed before construction.

(3) This general permit shall not be used to regulate agricultural crossings of drainage conveyances pursuant to Section 403.913, F.S.

(4) This general permit shall apply only to a maximum of two (2) crossings on a given parcel of property with a minimum distance of five hundred (500) feet between crossings. Maintenance shall be allowed at any and all existing structures meeting the specifications of this general permit.

(5) This general permit shall not apply to the following activities and/or conditions where:

(a) Relocation of all or part of the artificial waterway is required, or

(b) Dredging or filling activities are required, other than for the proposed culvert crossing, except as exempted by statute or rule.

Specific Authority: 403.814, F.S.

Law Implemented: 403.061, 403.087, 403.088, 403.814, 403.912,

403.913, 403.918, 403.919, F.S.

History: **New 9-3-86**. Formerly 17-4.810, F.A.C. Amended: 3-26-89.,

Formerly 17-12.816, Formerly 17-312.816

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Construction of

Aerial Pipeline Crossings of Certain Waters

(1) A general permit is hereby granted to any person constructing an aerial pipeline crossing of artificial waterways, including man-made canals, and drainage ditches, as defined in Section 403.803, F.S., and natural water bodies, where the width of the waters of the state is no greater than twenty-five (25) feet; provided:

(a) They are not located in Outstanding Florida Waters, Aquatic Preserves, Class I waters, Class II waters, or waters approved for shellfish harvesting, and are used for the transport of the following materials: potable water, raw non-wastewater (well water, reservoir water, etc.), treated domestic waste, phosphate matrix slurry, phosphatic clay or sand tailings, recirculated water from beneficiation processes, electrical power cables and conduits that are not subject to the provisions of Sections 403.52-403.539, F.S., and telephone and other electronic communication cables and conduits, and

(b) There shall be a minimum clearance of five (5) feet above the elevation of the mean or ordinary high water line, or no lower than existing pipeline structures in the area, and

(c) The structure does not create a navigational hazard or impede the natural flow of water, and

(d) The dredging performed shall be restricted to that quantity necessary for actual installation of the support piles, and no fill other than the support piles shall be placed within waters of the state, and any disturbance of the side slopes of the waterway shall be stabilized with native vegetation, and

(e) Work activities for the installation of the aerial pipeline crossing shall be restricted to a width of no more than thirty (30) feet on each side of the pipeline

alignment. In cases where multiple pipes are to be installed along the same alignment the thirty (30) foot width shall commence from the outermost pipes. For the purposes of this general permit, no more than three (3) pipes shall be placed along a given alignment, and in no case shall the total disturbance area exceed seventy-five (75) feet in width, and

(f) Construction techniques necessary for the installation of the aerial pipeline, including the transport and placement of materials, shall not disturb the adjacent bottoms or adversely affect water quality.

(2) This general permit shall be subject to the general conditions in Rule 62-4.540 and the following specific conditions:

(a) Turbidity curtains or similar devices shall be utilized, as necessary, to prevent violation of state water quality standards.

(b) Any pipeline transporting authorized materials, other than potable water or raw non-wastewater, shall be subject to the following spill prevention design criteria:

1. double piping (pipe within a pipe) constructed in such a manner that any leakage from the inside pipe into the outside pipe shall be conveyed to spill detention areas constructed in areas outside the landward extent of waters of the state, and

2. pressure sensitive devices designed to detect any leak shall be installed proximal to the aerial crossing, and shall be designed in a manner to both visually and audibly alert the appropriate authorities that a leak is in progress.

(c) The Department shall be notified of any leak or failure of any of the pipes associated with the aerial crossing.

Specific Authority: 403.814, F.S.

Law Implemented: 403.061, 403.087, 403.088, 403.814, 403.912, 403.913, 403.918, 403.919, F.S.

History: New 9-3-86. Formerly 17-4.820, F.A.C., Formerly 17-12.817, F.A.C.

Amended 11-27-91., Formerly 17-312.817 62-312.818 General Permit for

Subaqueous Utility

Crossings of Artificial Waterways

(1) A general permit is hereby granted to any person constructing, repairing or replacing a subaqueous utility crossing of artificial waterways, which are defined for purposes of this rule as residential canal systems and all other bodies of water that have been totally dredged or excavated and which do not overlap natural surface waters of the State, and which were not created as a part of a mitigation plan; provided:

(a) The work is not located in Outstanding Florida Waters, Aquatic Preserves, Class I waters, Class II waters or waters approved for shellfish harvesting by the Department of ENVIRONMENTAL Protection; and

(b) Such construction shall be limited only to non-navigable watercourses or to those waterways in which navigation can be maintained at all times without the necessity of removing or relocating turbidity control devices to allow boat passage; and

(c) No dredging or filling shall be conducted in jurisdictional wetlands, as defined in F.A.C. Rule 62-3.022, which are located landward of the top of the banks of an

artificial waterway. Dredging and back filling of littoral zones and wetland vegetation growing on the side slopes of the artificial waterway may be performed only as is

reasonably necessary to install the subaqueous utility line crossing and restore the banks to their original design specifications; and

(d) There shall be no dewatering or construction of temporary berms or dikes; and

(e) The maximum length of the utility crossing shall not exceed 150 ft. from top of bank to top of bank. Excavated trench dimensions shall be limited to a depth of not more than 10 ft. below existing bottom contours and a trench top width of not more than 10 ft.; and

(f) The maximum width of the area disturbed by equipment during construction shall be no more than 30 ft. wide; and

(g) All previously excavated contours are restored with on site native backfill, coarse sand, or clean, non-toxic rock bedding or cap material, as appropriate, within 72 hours following installation of the utility line; and

(h) This general permit shall only authorize utility installations extending from bank to opposite bank on a particular waterway. The placement of utility lines paralleling the watercourse alignment is not authorized; and

(i) Placement of the utility line shall not result in a navigational hazard. Customary navigation through the waterway shall be maintained at all times during installation.

(2) This general permit shall be subject to the general conditions in Rule 62-4.540 and the following specific conditions:

(a) Measures shall be taken as necessary to prevent violations of state water quality standards during and after construction arising from the work, including but not limited to the use of turbidity screens, staked filter cloth, and staked hay bales. Where turbidity screens, filter cloth, hay bales, and similar structural measures are not expected to be sufficient to contain turbid runoff, additional measures, such as restricting work to periods of low flow and dry season months, shall be taken to ensure that construction can be performed in a manner which will not violate water quality standards; and

(b) All erodible ground areas and slopes disturbed during construction shall be revegetated with sod, mulch, seed, wetland species, or otherwise appropriately stabilized (such as with seawalls or riprap in accordance with F.A.C. Rule 62-312.050(1)(g)) within 72 hours after installation of

DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 the utility line and at any other time as necessary to prevent erosion, siltation, or turbid discharges exceeding 29 NTUs above background into waters of the State; and

(c) Temporary or permanent spoil disposal sites shall be located exclusively on uplands, and shall be sited or designed to prevent erosion, siltation, turbidity in excess of 29 NTU's above background, or other discharges into waters of the state; and

(d) The utility crossing shall be designed in accordance with generally recognized practices of sound engineering; and

(e) Signs of a legible size and nature shall be installed and maintained at conspicuous locations to identify the alignment and type of the utility line within waters of the State.

Specific Authority: 403.814, F.S.

Law Implemented: 403.061, 403.088, 403.814, 403.912, 403.913, 403.918, 403.919, F.S.

History: New 11-16-89., Formerly 17-312.818

62-312.819 General Permit for the Limited Dredging of Sediment for Aquatic Plant Management Purposes

(1) A general permit is hereby granted to any person engaged in limited dredging of sediment for aquatic plant management purposes; provided:

(a) This general permit shall apply to only those activities that have a valid Rule 16C-20, F.A.C., permit for aquatic plant control already issued by the Florida Department of ENVIRONMENTAL Protection in which the conditions for limited dredging have been set forth in the supplemental conditions of the Rule 16C-20, F.A.C., permit. For the purposes of this general permit, a valid Rule 16C-20, F.A.C., permit shall hereinafter be referred to as a valid Department of ENVIRONMENTAL Protection Aquatic Plant Control Permit;

(b) Sediment removal for aquatic plant management purposes shall be limited to only those lakes with naturally occurring sand bottoms, and only those vegetated areas within lakes, to their landward extent, that have a minimum of eighty percent areal coverage of Typha spp. (cattail) within the project area;

(c) Only unconsolidated, flocculent detrital material from decaying vegetation shall be removed under this general permit. The depth to which the detrital material may be removed shall be as determined by the Department of ENVIRONMENTAL Protection through a site inspection during the review of a Department of ENVIRONMENTAL Protection



DEP 1995 DREDGE AND FILL ACTIVITIES 62-312 Aquatic Plant Control Permit, but in any event shall not exceed three feet of sediment, and in no case shall the removal include the natural mineral soil material which underlays the detrital material;

(d) Sediment removal shall not occur where the water depth above the unexcavated sediments exceeds three feet, or from areas which are located more than two hundred feet waterward of the existing water line, at the time of the Department of ENVIRONMENTAL Protection Aquatic Plant Control permit application site inspection;

(e) The distance along the shoreline from which sediment may be removed shall not exceed five hundred linear feet;

(f) All spoil material shall be deposited in an upland spoil site which is located and designed so as to prevent the escape of spoil material into waters of the State. The deposition of material into the upland spoil site shall either be through direct deposit, or following initial deposition into self-contained trucks for transfer to the upland spoil site, or as the final step following the use of a temporary stockpile site. Temporarily stockpiled material may be located within the landward extent of waters of the State for a period not to exceed twenty four hours, and must be located within unvegetated areas or within areas from which sediments are identified to be removed in the Department of ENVIRONMENTAL Protection Aquatic Plant Control Permit. Temporary spoil stockpile sites shall not be located in areas of standing water, and must be placed and contained to prevent run-off into any areas of standing water;

(g) Dredged sites required by the Department of ENVIRONMENTAL Protection to be revegetated shall be planted according to specifications as defined in the Department of ENVIRONMENTAL Protection Aquatic Plant Control Permit. Only indigenous plant species obtained from a nursery source approved by the Department of ENVIRONMENTAL Protection shall be planted. Dredged sites required by the Department of ENVIRONMENTAL Protection Aquatic Plant Control Permit to be revegetated shall be planted at a minimum of fifty percent areal coverage within each revegetation area. The installation of vegetation required by the Department of ENVIRONMENTAL Protection Aquatic Plant Control Permit shall be completed within one year following notice to use this general permit. Within the project area, at least sixty percent areal coverage of the planted species or of other plant species which are listed in Rule 62-302.400, F.A.C., and which are found to be acceptable by the Department of ENVIRONMENTAL Protection under the requirements of the

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Department of ENVIRONMENTAL Protection Aquatic Plant Control Permit, shall be achieved within two years following installation of the required vegetation. The restored site shall also be managed in a manner where cattail and other undesirable plants, as determined by the Department of ENVIRONMENTAL Protection and specified in the Department of ENVIRONMENTAL Protection Aquatic Plant Control Permit, shall not be allowed to constitute more than ten percent areal coverage during the term of the valid Department of ENVIRONMENTAL Protection Aquatic Plant Control Permit;

(2) This general permit is subject to the general conditions of Rules 62-4.530 and 62-4.540, F.A.C. and the following specific conditions:

(a) All sediment and cattail removal operations must conform to conditions imposed by the Department of ENVIRONMENTAL Protection Aquatic Plant Control Permit, and must be performed in a manner which does not cause violations of State water quality standards;

(b) The permittee shall use best management practices, such as properly installed and maintained turbidity curtains or similar devices, at all times during the execution of permitted activity to prevent violations of State water quality standards;

(c) Additional dredging activities are not authorized by this general permit and shall not occur except as authorized by statute or Department rule.

(d) There shall be no filling or backfilling of any kind associated with the work other than incidental sediments which may be attached to vegetation which is planted pursuant to the valid Department of ENVIRONMENTAL Protection Aquatic Plant Control Permit;

(e) Dredging activities, when they occur on state-owned bottom land, shall be in accordance with the rules promulgated under the authority of the Board of Trustees of the Internal Improvement Trust Fund by the Division of State Lands, Department of ENVIRONMENTAL Protection.

Specific Authority: 403.814, 4-3.912, F.S.

Law Implemented: 403.061, 403.062, 403.813, 403.814, 403.817, 403.912, 403.913, F.S.

History: New 12-17-90, Formerly 17-312.819.

62-312.822 General Permit for the Construction and Maintenance of Electric Power Lines by Electric Utilities. (1) Definitions. Terms used in this rule shall have the meaning specified below:

(a) "Access areas" shall mean areas which are cleared to allow equipment to reach existing electrical structures or the proposed location of electrical structures;

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(b) "Existing facilities" shall mean existing power lines, substations or power plants;

(c) "Impact site" shall mean that portion of a wetland area within the right-of-way either surrounded by uplands within the right-of-way or lying between upland segments of the right-of-way within which clearing of vegetation to the ground is proposed to occur;

(d) "Maintenance" shall mean, for purposes of this rule only, any activity conducted to preserve, restore, repair, remove, or replace an existing power line, so long as the activity does not involve dredge and fill activities beyond the removal of the existing structure and the installation of the new structure and the activity does not increase the voltage of existing power lines. An activity does not qualify as maintenance if it results in relocation of an existing structure or facility more than 10 feet in any direction from its original location. Maintenance shall not mean the construction of new power lines or the repair and replacement of existing structures that require dredge and fill activities to provide access to the site;

(e) "Power line" shall mean the conductors, supporting structures, and related hardware installed or maintained by electric utilities as defined in Section 366.02(2), F.S.;

(f) "Project" shall mean the proposed or existing power line for which use of the general permit is proposed;

(g) "Selective clearing" shall mean the cutting or control of vegetation by hand, herbicide, or mechanized equipment that minimizes soil compaction, to a height no lower than the water level at the time of cutting or ground level in areas without standing water. This would include removal of the cut trees from the wetland in cases where leaving the trees would preclude revegetation or impound waterflow. This shall not mean the non-selective aerial or broadcast application of herbicides;

(h) "Siting board" means the Governor and Cabinet as defined in Section 403.503(6), F.S.;

(i) "Wetlands" shall mean those areas within the landward extent of waters of the state as defined in rule 62-301.400, F.A.C., and regulated under Sections 403.91 403.929, F.S., and isolated and non-isolated wetlands regulated under Part IV of Chapter 373, F.S.; and

(j) "Work areas" shall mean areas surrounding the electrical support structures, towers, poles, and guy wires which must be cleared to enable equipment to install and maintain the power line.

(2) A general permit is granted to electric utilities for the construction of power lines, provided the following provisions are met:

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(a) the project is not covered by a certification issued under Part II of Chapter 403, F.S.;

(b) all permanent fill shall be at grade. Fill shall be limited to that necessary for electrical support structures, including towers, poles, and guy wires, stabilizing backfill necessary for the aforementioned structures, and at-grade access roads limited to a width of 20 ft.;

(c) access and work areas may be cleared to the ground, including removal of stumps as necessary; however, such clearance shall be limited to the following:

1. a linear access area of up to 25 ft. wide between electrical support structures;
2. an access area of up to 25 ft. wide from the edge of the power line right of way to electric support structures; and
3. work areas around the electrical support structures, towers, poles, and guy wires;

(d) Vegetation in wetlands under the conductor and up to 20 feet on either side of the outermost conductor may be cut or removed by hand or by mechanized equipment to a height no lower than the soil surface. Any mechanized equipment that is used shall minimize soil compaction. Except for Brazilian pepper, Australian pine and Melaleuca, clearing in the remainder of the project right-of-way within wetlands shall be limited to selective clearing of vegetation which has an expected mature height of 14 ft. or more. During construction and while conducting normal maintenance activities, the permittee shall eradicate all Brazilian pepper, Australian pine, and Melaleuca from the wetland portion of the right-of-way. During the initial clearing event, and during subsequent maintenance cycles, EPA approved herbicides may be used on the following:

1. vegetation growing within the area that was formerly cleared to the ground;
2. vegetation with an expected mature height of over 14 ft. growing within the remainder of the right of way; and
3. any specimen of exotic vegetation within the right of way;

(e) not more than 15 acres of forested wetlands may be cleared to the ground within each 10 mile section of the project, whether or not filling activities occur within the wetlands. In sections where filling activities, as defined in Rule 62-312.020, F.A.C., occur, not more than 4 acres of forested wetland may be cleared to the ground within each 10 mile section of the project, with no more than one impact site exceeding 0.5 acres per 10 mile section. The one impact site which may exceed 0.5 acres shall not exceed 2.0

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(f) erosion and turbidity control methods shall be implemented as necessary to insure that state water quality standards for turbidity are met. The applicant shall submit to the Department, along with the notice of intent to use this general permit, a narrative that documents the applicant will use erosion and turbidity control methods that are consistent with generally accepted industry practice;

(g) diversion and impoundment of surface waters shall be limited to incidental diversion during construction, and diversion which occurs around support structures, towers, guy wires, and poles;

(h) the proposed construction and clearing shall be conducted in a manner that does not adversely affect threatened or endangered species. The applicant shall submit to the Department, along with the notice of intent to use this general permit, a narrative summary of surveys that have been performed on the existence and potential existence of threatened and endangered species within and adjacent to the project, and the expected effects on these species; and

(i) the proposed construction and clearing shall not result in a permanent change to existing ground surface elevation.

(3) The maintenance of existing power lines as defined in 1(d), and the clearing of vegetation in wetlands to construct new power lines that do not require the placement of structures in wetlands or other dredge and fill activities, does not require an individual or general permit.

(4) This general permit shall not apply to any portion of a project located in forested wetlands located within 550 feet from the mean or ordinary high water line of a named waterbody designated as an Outstanding Florida Water.

(5) The provisions of this general permit apply to the permitting requirements of the Department, any water management district, and any local government implementing Part IV of Chapter 373, F.S. or Part VIII of Chapter 403, F.S.

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(6) This general permit shall be subject to the procedures and general conditions in Rules 62-4.530 and 62-4.540, F.A.C.  
Specific Authority: 403.061, 403.814, F.S. Law Implemented: 403.814, F.S.  
History: New 01-19-94, Formerly 17-312.822.

PART VI  
FORMS

62-312.900 Wetland Resource Forms.

The forms and instructions used by the Department in the Wetland Resource Management Program are adopted and incorporated by reference in this section. The forms are listed by rule number, which is also the form number, and with the subject title and effective date. Copies of forms may be obtained by writing to the Bureau of Wetland Resource Management, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or any local district or branch office of the Department.

(1) Joint Application for Works in the Waters of Florida, October 30, 1991.

(2) Joint U.S. Army Corps of Engineers/Florida Department of Environmental Protection Emergency Permit, November 30, 1982.

(3) Recognition of Jurisdiction Under Chapter 253 and 403, Florida Statutes, November 30, 1982.

(4) Application Guide for Deepwater Port Maintenance Dredging and Disposal 25-Year Permit, March 31, 1984.

(5) Application for Long-Term Permits, October 16, 1984.

(6) Notice of Intent to Construct Works Pursuant to a Wetland Resource General Permit, October 30, 1991. Specific Authority: 120.53(1), 403.061, 403.814, 403.912, F.S.  
Law Implemented: 120.53(), 403.0875, 403.814(1), 403.912, 403.918, F.S.  
History: New 11-30-82, Amended 3-31-84, 10-16-84, 5-15-88, 10-9-90, 6-5-91, 10-30-91, 5-25-92. Formerly 17-12.900, F.A.C., Formerly 17-312.900.