

62-330.010 Purpose and Implementation.

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

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

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

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

(a) Applicant’s Handbook Volume I, “General and Environmental” (hereinafter “Volume I”), applies statewide to all activities regulated under Chapter 62-330, F.A.C. It includes explanations, procedures, guidance, standards, and criteria on what is regulated by this chapter, the types of permits available, how to submit an application or notice for a regulated activity to the Agencies, how applications and notices are reviewed, the standards and criteria for issuance, and permit duration and modification. Volume I, including Appendices G, H, and I only, is incorporated by reference herein, (effective date ~~June 1, 2018~~) (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12078>).

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

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

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

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

4. Southwest Florida Water Management District, Applicant's Handbook Volume II, is incorporated by reference herein, (~~June 1, 2018~~ ~~October 1, 2013~~) (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12079>), and in Rule ~~40D-1.660~~ ~~40D-4.091~~, F.A.C., (~~June 1, 2018~~ ~~October 1, 2013~~) (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12080>).

5. South Florida Water Management District, Applicant's Handbook Volume II, including Appendices A through D, is incorporated by reference herein, (~~May 22, 2016~~ ~~October 1, 2013~~) (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12081>).

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

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

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

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

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

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

(2) If a person desires Agency verification of qualification to conduct an exempt activity (other than for silviculture, for which the procedures in Rule 62-330.0511, F.A.C., apply), and a self-certification is not available or the person chooses not to use a self-certification, they may submit a written or electronic Form 62-330.050(1) – “Request for Verification of an Exemption,” (effective date June 1, 2018), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12035>), or a letter that clearly requests an exemption verification. A copy of the form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C. Such request must include:

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

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

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

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

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

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

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

(4) The Agency shall take reasonable efforts to determine within 30 days of receipt of a request whether the submitted materials demonstrate the activity qualifies for an exemption or, if they do not, what information would enable the Agency to make such a determination. If those materials are not received within 60 days of the Agency’s

request, the Agency shall advise the person that it cannot verify that the activity qualifies for an exemption. The materials submitted and responses received shall not be considered an application for a general, conceptual approval, or individual permit unless requested in writing.

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

(6) The Agency will consider exempt activities included in an application to conduct other activities as part of an entire application requiring a permit, and will review and act upon the entire application at one time. However, an applicant may request the Agency separately determine whether specific activities that are part of the application qualify for an exemption. In such a case, the applicant shall pay an additional processing fee for the exemption verification, but only one additional exemption verification processing fee will be required even if more than one kind of exempt activity is included. In accordance with section 10.27(d) of Volume I, the Agency will consider the secondary impacts arising from activities described in section 403.813(1), F.S., that are very closely linked and causally related to the activities proposed in the application.

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

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

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

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

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

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

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

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

4. Adversely impede navigation or create a navigational hazard;

5. Cause or contribute to a violation of state water quality standards. Turbidity, sedimentation, and erosion shall be controlled during and after construction to prevent violations of state water quality standards, including any antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), subsections 62-4.242(2) and (3) and rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters due to construction-related activities. Erosion and sediment control best management practices shall be installed and maintained in accordance with the guidelines and specifications described in the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual* (Florida Department of Transportation and Florida Department of Environmental Protection, June 2007), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-02530>), and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual* (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-02531>); nor

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

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

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

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

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

4. Any listed species that is killed or injured by work associated with activities performed shall be reported

immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1(888)404-3922 and ImperiledSpecies@myFWC.com.

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

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

Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.4145, 403.805(1) FS. Law Implemented 373.109, 373.406, 373.4131, 373.4145, 403.813(1), 668.003, 668.004, 668.50 FS. History—New 10-1-13, Amended 6-1-18, _____.

62-330.060 Content of Applications for Individual and Conceptual Approval Permits.

Materials to include in an application or notice for a permit are described below. Applicants are encouraged to have a pre-application meeting or discussion with Agency staff prior to submitting the application or notice.

(1) An application for an individual permit or conceptual approval permit shall be made on Form 62-330.060(1), “Application for Individual and Conceptual Approval Environmental Resource Permit, State 404 Program Permit, and Authorization to Use State-Owned Submerged Lands;”, including the information required in the applicable Sections A through I H (effective date), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12036>), a copy of which may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C., or by use of the equivalent e-application form of the applicable Agency. Attachments 1, 2, and 3 of the form (containing agency contacts and a summary of the application fees related to applications and notices) are not incorporated by reference, but are available at <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/forms-environmental-resource>.

(2) The application must include all material requested in the application form; the processing fee in accordance with rule 62-330.071, F.A.C.; and other information needed to provide reasonable assurance that the proposed

activities meet the conditions for issuance in rule 62-330.301, F.A.C., the additional conditions for issuance in rule 62-330.302, F.A.C., and the Applicant's Handbook.

(3) The applicant must certify that it has sufficient real property interest over the land upon which the activities subject to the application will be conducted, as required in Section A of Form 62-330.060(1) and Section 4.2.3(d) of the Applicant's Handbook Volume I. The applicant or the applicant's authorized agent must sign Part 4.A. of the application, and the applicant must sign Part 4.B. If the applicant's authorized agent signs Part 4.A, the applicant also must sign Part 4.C.

(4) An application for an individual permit also constitutes an application to operate and maintain the project. The application must specify the entity that will operate and maintain the project. If the applicant proposes an entity other than the current owner to operate and maintain the proposed project, documentation must be included demonstrating how such entity will meet the requirements of sections 12.3 through 12.3.4 of Volume I. A homeowner's or property owner's association ("HOA" or "POA," respectively) draft association documents designating the HOA or POA as the operating entity, and prepared in conformance with sections 12.3 through 12.3.4 of Volume I, shall satisfy this requirement. This provision of the association documents may not be modified without a permit modification in accordance with rule 62-330.315, F.A.C.

Rulemaking Authority 373.044, 373.113, 373.171, 373.4131 FS. Law Implemented 373.042, 373.413, 373.4131, 373.416, 668.003, 668.004, 668.50 FS. History—New 10-1-13, Amended 6-1-18,_____.

62-330.090 Processing of Individual and Conceptual Approval Permit Applications.

(1) The Agency shall review, notice, and issue a request for any required additional information in accordance with section 5.5.3 of Volume I.

(2) Pending applications shall be exempt from changes in the rules adopted after an application has been deemed complete except as otherwise provided by law or in this chapter.

(3) If an applicant submits a processing fee in excess of the required fee, the Agency shall begin processing the application and shall refund to the applicant the amount received in excess of the required fee. If an applicant fails to provide the complete processing fee, the Agency will inform the applicant of the amount of additional fee required, and the application will not be complete until the complete processing fee is received, along with the other materials that have been timely requested in accordance with section 5.5.3 of Volume I. The Agency cannot be compelled to

issue a permit in advance of receipt of the required fee or any other material required by the Agency to deem an application complete.

(4) If a substantial revision is submitted to a pending application, other than revisions proposed to reduce adverse impacts identified by the Agency, the applicant shall pay the difference between the processing fees already submitted and any additional fees required for the revised application under rule 62-330.071, F.A.C. In such a case, the time frames in section 5.5.3 of Volume I for processing the application shall be restarted.

(5) In addition to the procedures in this section, processing of the application will be performed in accordance with sections 5.5 through 5.6 of Volume I.

(6) A permit shall only be issued to an entity meeting the requirements of section 4.2.3(d) of Volume I.

(7) The Agency shall cause a “Recorded Notice of Environmental Resource Permit” Form No. 62-330.090(1), (June 1, 2018), incorporated by reference herein (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09362>), a copy of which may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C., to be recorded in the public records of the county where the property is located unless otherwise noted in the permit. This notice shall not be considered an encumbrance upon the property. Such notice need not be recorded when the entire activity:

(a) Is for an individual, single-family residence, duplex, triplex, or quadruplex that is not part of a larger common plan of development or sale proposed by the permittee, except when the permit specifies that recording is necessary to ensure future owners are advised of long-term operational and maintenance requirements, or conservation provisions;

(b) Is authorized by a general permit under this chapter;

(c) Is temporary (not to exceed one year) in nature;

(d) Has no long term maintenance or operation requirements associated with it;

(e) Is located within lands encumbered by a real property interest held by a federal, state, county, or municipal government entity, including a school, university, or college;

(f) Is a utility within an easement recorded in the official records; or

(g) Is within the permit area of an existing permit for which a Notice has already been recorded, and the permit modification does not change the permit area.

(8) An applicant may waive the timeframes in section 5.5.4 of Volume I if the project also requires a State 404 Program authorization under Chapter 62-331, F.A.C., that must be reviewed using the timeframes in that chapter.

Waiving the timeframes allows the Agency(ies) to issue agency action for both authorizations at the same time. This is strongly recommended by the Agencies to ensure consistency between the authorizations and to reduce the potential need for project modifications to resolve inconsistencies that may occur when the agency actions are issued at different times.

Rulemaking Authority 373.026(7), 373.043, 373.116, 373.118, 373.413, 373.4131, 373.4145, 373.418, 403.805(1) FS.

Law Implemented 373.109, 373.118, 373.4131, 373.4141, 373.4145 FS. History–New 10-1-13, Amended 6-1-18,

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62-330.201 ~~Formal~~ Determinations of the Landward Extent of Wetlands and Other Surface Waters.

(1) For any application that requires a determination or assessment of the landward extent of wetlands and other surface waters pursuant to section 7.1 of Volume I, Agency staff shall use Form 62-330.201(1), “Chapter 62-340, F.A.C., Data Form”, (effective date), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12037>), as described in Volume I section 7.1.1, to document verification of determinations of the landward extent of wetlands and other surface waters for formal determinations and for applications for individual and conceptual approval permits. The “Chapter 62-340, F.A.C., Data Form Guide” in Appendix J of Volume I, and the “Chapter 62-340, F.A.C., Data Form Instructions” in Appendix K of Volume I, is available to assist staff in completion of the form, and to assist other environmental professionals in performing delineations.

(a) For the delineation of the landward extent of wetlands and other surface waters, at least one data point along the delineation boundary shall be verified and documented by the Agency during the visual site inspection pursuant to Chapter 62-340.100(1) F.A.C. A delineation data point will be documented for each homogenous boundary within the site inspection area. One delineation data point representative of homogeneous boundaries found in other locations throughout the site is sufficient for documentation. Documentation of a delineation data point shall include two data forms; one representative of the waterward area adjacent to the data point, the other representative of the landward or upland area adjacent to the data point. The two complete data forms at a delineation data point will document failure or satisfaction of all methodology criteria pursuant to Chapter 62-340 F.A.C., and changes in evidence used to determine the boundary delineation at that point.

(b) For identification or conclusions regarding the absence or presence of a non-wetland surface water, wetland, or upland classification by the Agency within the site inspection area, at least one data point within homogenous areas of classification shall be verified and documented by the Agency during the visual site inspection pursuant to Chapter 62-340.100(1), F.A.C. One data point representative of homogeneous areas found in other locations throughout the site is sufficient for documentation. Documentation of an identification data point shall include one data form representative of the area of classification. The data form at an identification data point will document failure or satisfaction of all methodology criteria pursuant to Chapter 62-340, F.A.C., and evidence used to determine the upland, wetland, or non-wetland surface water classification.

(2)-(4) Formal determinations.

(a) A real property owner, an entity having a contract to purchase real property, an entity having the power of eminent domain, or any other person who has legal or equitable interest in real property, may petition the Agency for a formal determination of the landward extent of wetlands and other surface waters for that property pursuant to Section 373.421(2), F.S. A formal determination means the Agency will make a binding determination of the landward extent (boundaries) of wetlands and other surface waters as defined by Chapter 62-340, F.A.C. A formal determination is binding on the real property for which that determination is sought for as long as the determination is valid, in accordance with Sections 373.421(2) and (3), F.S. If the petitioner is not the owner of the land, the petitioner must provide the Agency with information sufficient to contact the current owner, and the Agency shall provide notice of receipt of the petition to the landowner.

(b) (2) Procedures for the submittal, review, noticing, and action on a petition for a formal determination are contained in sections 7.2 through 7.2.7 of Volume I. The petition shall be submitted using Form 62-330.201(24), “Petition for a Formal Determination of the Landward Extent of Wetlands and Other Surface Waters,” (effective date June 1, 2018), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12038>). It shall be submitted with the fee prescribed in Rule 62-330.071, F.A.C.

Rulemaking Authority 373.026(7), 373.043, 373.4131, 373.421(2), 403.0877 FS. Law Implemented 120.54(5)(a), 373.026, 373.4131, 373.421(2), 373.441 FS. History—New 7-4-95, Amended 8-14-96, 8-16-98, 2-19-03, Formerly 62-343.040, Amended 10-1-13, 6-1-18,_____.

62-330.340 Transfer of Permit Upon Change in Ownership or Control.

(1) Permits in the Operation and Maintenance Phase – Projects constructed in accordance with the terms and conditions of a general permit are automatically authorized to be operated and maintained by the permittee and subsequent owners. A permittee with a valid individual permit in the operation and maintenance phase under this chapter or chapter 62-342, F.A.C., shall notify the Agency electronically or in writing within 30 days of a change in ownership or control of the entire real property, project, or activity covered by the permit. A processing fee is not required for this notice. The permit shall automatically transfer to the new owner or person in control, except in cases of abandonment, revocation, or modification of a permit as provided in sections 373.426 and 373.429, F.S. If a permittee fails to provide written notice to the Agency within 30 days of the change in ownership or control, or if the change does not include the entire real property or activity covered by the permit, then the transfer shall be governed by subsections (2) through (4), below.

(2) Except as provided in subsection (1), above, and in section 6.3.1 of Volume I, or as otherwise required in an individual or conceptual approval permit, or for activities authorized under a general permit, a permittee shall notify the Agency electronically or in writing within 30 days of any change in ownership or control of any portion of the real property upon which an activity is permitted under this chapter or chapter 62-342, F.A.C. A person who obtains an interest in or control of such real property shall:

(a) Request transfer of the permit to become the new permittee or modification of the permit to become a co-permittee; or

(b) Provide written documentation of the following:

1. Certification that the permittee continues to retain sufficient real property interest over the land upon which the activities subject to the permit will be conducted as described in section 4.2.3(d) of Volume I; and

2. Authorization for Agency staff with proper identification to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit. (3) The person requesting transfer of the permit shall submit to the Agency a completed Form 62-330.340(1), “Request to Transfer Environmental Resource and/or State 404 Program Permit,” incorporated by reference herein (effective date June 1, 2018) (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12039>), a copy of which may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C., together with the permit modification fee prescribed by

the Agency as set forth in Rule 62-330.071, F.A.C. A proposed new permittee shall demonstrate that it has sufficient real property interest in or control over the land consistent with subsection 62-330.060(3), F.A.C.

(a) The Request to Transfer Environmental Resource and/or State 404 Program Permit shall be processed in the same manner as a minor modification as provided in subsection 62-330.315(2), F.A.C.

(b) The proposed new permittee shall include demonstration or documentation with the request that it meets the requirements for being an acceptable operation and maintenance entity provided in subsections 62-330.310(2); and (3), F.A.C., if applicable.

(4) Upon receipt of the completed Request to Transfer Environmental Resource and/or State 404 Program Permit form and applicable processing fee, the Agency shall approve the permit transfer unless it determines that the proposed permittee or co-permittee has failed to provide reasonable assurances that it qualifies to be a permittee or that it can meet the permit conditions.

(a) If the Agency proposes to deny the transfer, it shall provide both the current permittee and the proposed permittee with notice of proposed agency action of denial, and of the right to request an administrative hearing pursuant to chapter 120, F.S.

(b) Failure of the permittee to notify the Agency in writing within 30 days of a change in ownership or control shall not, by itself, render a permit invalid. When it does not appear the current permittee has met the requirements of subsection (2), above, or has not otherwise approved or been made aware of the request to transfer the permit, upon transfer of the permit to the new permittee, the Agency will provide notice to the former permittee, at its last known address, advising of the permit transfer, together with a notice of rights under chapter 120, F.S.

(5) A permittee from whom the permit is transferred shall:

(a) Be jointly and severally liable with the new owner or permittee for compliance with the permit and for any corrective actions that may be required as a result of violations of the permit or Agency rule on the property prior to permit transfer; and

(b) Remain jointly and severally liable for any corrective actions that are required as a result of any violations of the permit that occurred prior to the change in ownership or control of the property upon which the permitted project or activity is located.

(6) Upon transfer of a permit, the new permittee shall comply with all terms and conditions of the permit.

Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4131, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.118, 373.109, 373.413, 373.4131, 373.4142, 373.4145, 373.416, 373.426, 373.429, 668.003, 668.004, 668.50 FS. History—New 10-1-13, Amended 6-1-18,_____.

62-330.402 Submittal and Processing of General Permits.

(1) A person wishing to construct, operate, maintain, alter, abandon, or remove projects under a general permit shall provide notice using Form 62-330.402(1), “Notice of Intent to Use an Environmental Resource and/or State 404 Program General Permit,” (effective date ~~June 1, 2018~~), incorporated by reference herein (<https://www.flrules.org/Gateway/reference.asp?No=Ref-12040>), a copy of which may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C. The notice must be received by the applicable Agency at least 30 days prior to initiating the activities authorized by the general permit, or at such other time as specified in the general permit. Notices for general permits that identify the reviewing agency as the Department shall be submitted to the Department instead of a District.

(2) The notice for a general permit must include the processing fee prescribed in rule 62-330.071, F.A.C. If a single notice includes more than one general permit, a separate fee shall be required for each general permit.

(3) The specific procedures of a general permit shall govern if they differ from the procedures in this rule.

(4)(a) Within 30 days of receiving Form 62-330.402(1), the Agency shall determine whether the activity qualifies for a general permit. If the activity does not qualify or the notice does not contain all the required information, the Agency will notify the person as provided in section 5.3.2 of Volume I.

(b) If the notice does not demonstrate that the requested activity qualifies for a general permit due to errors or omissions, the person shall have 60 days to amend the notice as provided in section 5.3.3 of Volume I. An additional processing fee will not be required if the person submits additional information demonstrating compliance with the general permit within that 60 days. Alternatively, the person may request that the submitted information be processed as an application for an individual permit, which must be supplemented with the information required in rule 62-330.060, F.A.C., and sections 4.2.3, 4.3, and 4.4 of Volume I, or the person may withdraw the notice for a general permit.

(c) If the activities do not qualify for a general permit, the processing fee submitted for the general permit shall be applied to the processing fee required for an individual permit, as provided in section 5.3.4 of Volume I. The

processing fee will not be returned if the person withdraws the notice or if qualification for the general permit is denied.

(5) The Agency will place notice of the proposed use of a general permit on the Agency website within 10 days of receipt of the request.

(6) At their discretion, persons qualifying for a general permit may publish a notice of qualification to use a general permit in a newspaper of general circulation in the affected area. The Agency will not publish, or require the person to publish, such notice.

(7) A person may waive the timeframes in subsection (4), above, if the project also requires a State 404 Program authorization under Chapter 62-331, F.A.C., that must be reviewed using the timeframes in that chapter. Waiving the timeframes allows the Agency(ies) to issue agency action for both authorizations at the same time. This is strongly recommended by the Agencies to ensure consistency between the authorizations and to reduce the potential need for project modifications to resolve inconsistencies that may occur when the agency actions are issued at different times.
Rulemaking Authority 373.044, 373.113, 373.118, 373.413, 373.4131 FS. Law Implemented 373.116(2), 373.118(3), 373.413, 373.4131, 373.416, 373.426, 668.003, 668.004, 668.50 FS. History—New 10-1-13, Amended 6-1-18,

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