

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-5987-2]

**Final National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges From Construction Activities****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of final NPDES general permit reissuance for storm water discharges from construction activities.

**SUMMARY:** Section 405 of the Water Quality Act of 1987 (WQA) added section 402(p) of the Clean Water Act (CWA) which requires the Environmental Protection Agency (EPA) to develop a phased approach to regulating storm water discharges under the National Pollutant Discharge Elimination System (NPDES) program. EPA published a final regulation on November 16, 1990, (55 FR 47990) establishing permit application requirements for storm water discharges associated with industrial activity and for discharges from municipal separate storm sewer systems serving a population of 100,000 or more. In the permit application regulations, EPA defined the term "storm water discharge associated with industrial activity" in a comprehensive manner to cover a wide variety of facilities. This definition greatly expanded the number of industrial facilities subject to the NPDES program. Construction activities that disturb at least five acres of land and have point source discharges to waters of the U.S. are defined as an "industrial activity," 40 CFR 122.26(b)(14)(x).

The following provides notice for a final NPDES general permit, accompanying response to comments, and fact sheets for storm water discharges from construction activities in the following areas of Region 4:

Indian Country Lands within the State of Alabama

The State of Florida

Indian Country Lands within the State of Florida

Indian Country Lands within the State of Mississippi

Indian Country Lands within the State of North Carolina

**ADDRESSES:** Notices of Intent (NOIs) submitted in accordance with this permit to receive coverage under this permit and Notices of Termination (NOTs) to terminate coverage under this permit must be sent to Storm Water Notice of Intent (4203), 401 M Street, SW, Washington, DC 20460. The

complete administrative record is available from the U.S. Environmental Protection Agency, Region 4, Freedom of Information Officer, 61 Forsyth St. SW., Atlanta, GA 30303. A reasonable fee may be charged for copying.

**DATES:** This general permit shall be effective on April 3, 1998. Deadlines for submittal of NOIs are provided in Part II.A. of today's permit.

**FOR FURTHER INFORMATION CONTACT:** Mr. Floyd Wellborn, telephone number (404) 562-9296, or Ms. Gina Fonzi, telephone number (404) 562-9301, or at the following address: United States Environmental Protection Agency, Region 4, Water Management Division, Surface Water Permits Section, Atlanta Federal Center, 61 Forsyth Street S.W., Atlanta, GA 30303.

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**I. Introduction**

In 1972, the Federal Water Pollution Control Act (also referred to as the Clean Water Act (CWA)) was amended to provide that the discharge of any pollutants to waters of the United States from any point source is unlawful, except if the discharge is in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. In 1987, section 402(p) was added to the CWA to establish a comprehensive framework for addressing storm water discharges under the NPDES program. Section 402(p)(4) of the CWA clarifies the requirements for EPA to issue NPDES permits for storm water discharges associated with industrial activity. On November 16, 1990 (55 FR 47990), EPA published final regulations which define the term "storm water discharge associated with industrial activity."

In 1992, EPA issued a general permit for discharges of storm water from construction activities "associated with industrial activity" to reduce the administrative burden of issuing an individual NPDES permit to each construction activity.

**II. Quick Answers to Common Questions**

In this section, EPA provides answers to some of the more common questions on the construction storm water permitting program. It is intended to help you get started in understanding the permit. Be aware these answers are fairly broad and may not take into account all scenarios possible at construction sites.

**How Do I Know If I Need a Permit?**

You need a storm water permit if you can be considered an "operator" of the construction activity that would result in the "discharge of storm water associated with construction activity." You must become a permittee if you meet either of the following two criteria:

- You have operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or
- You have day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan (SWPPP) for the site or other permit conditions (e.g., you are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions).

There may be more than one party at a site performing the tasks relating to "operational control" as defined above. Depending on the site and the relationship between the parties (e.g., owner, developer), there can either be a single party acting as site operator and consequently be responsible for obtaining permit coverage, or there can be two or more operators with all needing permit coverage. The following are three general operator scenarios (variations on any of the three are possible as the number of "owners" and contractors increases):

- Owner as sole permittee. The property owner designs the structures for the site, develops and implements the SWPPP, and serves as general contractor (or has an on-site representative with full authority to direct day-to-day operations). He may be the only party that needs a permit, in which case everyone else on the site may be considered subcontractors and not need permit coverage.
- Contractor as sole permittee. The property owner hires a construction company to design the project, prepare the SWPPP, and supervise implementation of the plan and compliance with the permit (e.g., a "turnkey" project). Here, the contractor

would be the only party needing a permit. It is under this scenario that an individual having a personal residence built for his own use (e.g., not those to be sold for profit or used as rental property) would not be considered an operator. EPA believes that the general contractor, being a professional in the building industry, should be the entity rather than the individual who is better equipped to meet the requirements of both applying for permit coverage and developing and properly implementing a SWPPP. However, individuals would meet the definition of "operator" and require permit coverage in instances where they perform general contracting duties for construction of their personal residences.

- Owner and contractor as co-permittees. The owner retains control over any changes to site plans, SWPPPs, or storm water conveyance or control designs; but the contractor is responsible for overseeing actual earth disturbing activities and daily implementation of SWPPP and other permit conditions. In this case, both parties may need coverage.

However, you are probably not an operator and subsequently do not need permit coverage if:

- You are a subcontractor hired by, and under the supervision of, the owner or a general contractor (i.e., if the contractor directs your activities on-site, you probably are not an operator); or
- your activities on site result in earth disturbance and you are not legally a subcontractor, *but* a SWPPP specifically identifies someone other than you (or your subcontractor) as the party having operational control to address the impacts your activities may have on storm water quality (i.e., another operator has assumed responsibility for the impacts of your construction activities).

In addition, for purposes of this permit and determining who is an operator, "owner" refers to the party that owns the structure being built. Ownership of the land where construction is occurring does not necessarily imply the property owner is an operator (e.g., a landowner whose property is being disturbed by construction of a gas pipeline). Likewise, if the erection of a structure has been contracted for, but possession of the title or lease to the land or structure is not to occur until after construction, the would-be owner may not be considered an operator (e.g., having a house built by a residential homebuilder).

*My Project Will Disturb Less Than Five Acres, But It May Be Part of a "Larger Common Plan of Development or Sale." How Can I Tell and What Must I Do?*

If your smaller project is part of a larger common plan of development or sale that collectively will disturb five or more acres (e.g., you are building on six half-acre residential lots in a 10-acre development or are putting in a parking lot in a large retail center) you need permit coverage. The "plan" in a common plan of development or sale is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. You must still meet the definition of operator in order to be required to get permit coverage, regardless of the acreage you personally disturb. As a subcontractor, it is unlikely you would need a permit.

For some situations where less than five acres of the original common plan of development remain undeveloped, a permit may not be needed for the construction projects "filling in" the last parts of the common plan of development. A case in which a permit would not be needed is where several empty lots totaling less than five acres remain after the rest of the project had been completed, providing stabilization had also been completed for the entire project. However, if the total area of all the undeveloped lots in the original common plan of development was more than five acres, a permit would be needed.

*When Can You Consider Future Construction on a Property To Be Part of a Separate Plan of Development or Sale?*

In many cases, a common plan of development or sale consists of many small construction projects that collectively add up to five (5) or more acres of total disturbed land. For example, an original common plan of development for a residential subdivision might lay out the streets, house lots, and areas for parks, schools and commercial development that the developer plans to build or sell to others for development. All these areas would remain part of the common plan of development or sale until the intended construction occurs. After this initial plan is completed for a particular parcel, any subsequent development or redevelopment of that parcel would be

regarded as a new plan of development, and would then be subject to the five-acre cutoff for storm water permitting.

*What Must I Do To Satisfy the Permit Eligibility Requirements Related to Endangered Species?*

In order to be eligible for this permit, you must follow the procedures and examples found in Appendix C for the protection of endangered species. You cannot submit your NOI until you are able to certify your eligibility for the permit. Enough lead time should be built into your project schedule to accomplish these procedures. If another operator has certified eligibility for the project (or at least the portion of the project you will be working on) in his NOI, you will usually be able to rely on his certification of project eligibility and not have to repeat the process. EPA created this "coat tail" eligibility option for protection of endangered species to allow the site developer/owner to obtain up-front "clearance" for a project, thereby avoiding duplication of effort by his contractors and unnecessary delays in construction.

*What Does the Permit Require Regarding Historic Preservation?*

In order to be eligible for this permit, you must not adversely affect a property that is listed or is eligible for listing in the National Historic Register maintained by the Secretary of the Interior. You cannot submit your NOI until you are able to certify your eligibility for the permit. Enough lead time should be built into your project schedule to accomplish these procedures. If another operator has certified eligibility for the project (or at least the portion of the project you will be working on) in his NOI, you will usually be able to rely on his certification of project eligibility and not have to repeat the process. EPA created this "coat tail" eligibility option for protection of historic places to allow the site developer/owner to obtain up-front "clearance" for a project, thereby avoiding duplication of effort by his contractors and unnecessary delays in construction.

*How Many Notices of Intent (NOIs) Must I Submit? Where and When Are They Sent?*

You only need to submit one NOI to cover all activities on any one common plan of development or sale. The site map you develop for the storm water pollution prevention plan identifies which parts of the overall project are under your control. For example, if you are a homebuilder in a residential development, you need submit only one

NOI to cover all your lots, even if they are on opposite sides of the development.

The NOI must be postmarked two days before you begin work on site. The address for submitting NOIs is found in the instruction portion of the NOI form and in Part II.C. of the Construction General Permit (CGP).

*Do I Have Flexibility in Preparing the Storm Water Pollution Prevention Plan (SWPPP) and Selecting Best Management Practices (BMPs) for My Site?*

Storm water pollution prevention plan requirements were designed to allow maximum flexibility to develop the needed storm water controls based on the specifics of the site. Some of the factors you might consider include: More stringent local development requirements and/or building codes; precipitation patterns for the area at the time the project will be underway; soil types; slopes; layout of structures for the site; sensitivity of nearby water bodies; safety concerns of the storm water controls (e.g., potential hazards of water in storm water retention ponds to the safety of children; the potential of drawing birds to retention ponds and the hazards they pose to aircraft); and coordination with other site operators.

*Must Every Permittee Have His Own Separate SWPPP or Is a Joint Plan Allowed?*

The only requirement is that there be at least one SWPPP for a site which incorporates the required elements for all operators, but there can be separate plans if individual permittees so desire. EPA encourages permittees to explore possible cost savings by having a joint SWPPP for several operators. For example, the prime developer could assume the inspection responsibilities for the entire site, while each homebuilder shares in the installation and maintenance of sediment traps serving common areas.

*If a Project Will not Be Completed Before This Permit Expires, How Can I Keep Permit Coverage?*

If the permit is reissued or replaced with a new one before the current one expires, you will need to comply with whatever conditions the new permit requires in order to transition coverage from the old permit. This usually includes submitting a new NOI. If the permit expires before a replacement permit can be issued, the permit will be administratively "continued." You will be required to submit an NOI for coverage under the continued permit, until the earliest of:

- The permit being reissued or replaced;
- Submittal of a Notice of Termination (NOT);
- Issuance of an individual permit for your activity; or
- The Director issues a formal decision not to reissue the permit, at which time you must seek coverage under an alternative permit.

*When Can I Terminate Permit Coverage? Can I Terminate Coverage (i.e., Liability for Permit Compliance) Before the Entire Project Is Finished?*

You can submit an NOT for your portion of a site providing: (1) You have achieved final stabilization of the portion of the site for which you are a permittee (including, if applicable, returning agricultural land to its pre-construction agricultural use); (2) another operator/permittee has assumed control according to Part VI.G.2.c. of the permit over all areas of the site that have not been finally stabilized which you were responsible for (for example, a developer can pass permit responsibility for lots in a subdivision to the homebuilder who purchases those lots, providing the homebuilder has filed his own NOI); or (3) for residential construction only, you have completed temporary stabilization and the residence has been transferred to the homeowner.

### III. Coverage of General Permit

Section 402(p) of the Clean Water Act (CWA) clarifies that storm water discharges associated with industrial activity to waters of the United States must be authorized by an NPDES permit. On November 16, 1990, EPA published regulations under the NPDES program which defined the term "storm water discharge associated with industrial activity" to include storm water discharges from construction activities (including clearing, grading, and excavation activities) that result in the disturbance of five or more acres of total land area, including areas that are part of a larger common plan of development or sale (40 CFR 122.26(b)(14)(x))<sup>1</sup>. The term "storm water discharge from construction activities" will be used in this document to refer to storm water discharges from construction sites that meet the definition of a storm water

discharge associated with industrial activity.

This general permit may authorize storm water discharges from existing construction sites (facilities where construction activities began before the effective date of this permit, and final stabilization is to occur after the effective date of this permit) and new construction sites. New construction sites are those facilities where disturbances associated construction activities commence after the effective date of this permit. To obtain authorization under today's permit, a discharger must submit a complete NOI and comply with the terms of the permit. The terms of the permit, including the requirements for submitting an NOI, are discussed in more detail below.

The following discharges are not authorized by this final general permit:

- Storm water discharges associated with industrial activity that originate from the site after construction activities have been completed and the site has undergone final stabilization;
- Non-storm water discharges (except certain non-storm water discharges specifically listed in today's general permit). However, today's permit can authorize storm water discharges from construction activities where such discharges are mixed with non-storm water discharges that are authorized by a different NPDES permit;
- Storm water discharges from construction sites that are covered by an existing NPDES individual or general permit. However, storm water discharges associated with industrial activity from a construction site that are authorized by an existing permit may be authorized by today's general permit after the existing permit expires, provided the expired permit did not establish numeric limitations for such discharges;
- Storm water discharges from construction sites that the Director has determined to be or may reasonably be expected to be contributing to a violation of a water quality standard; and
- Storm water discharges from construction sites if the discharges are likely to adversely affect a listed endangered or threatened species or a species that is proposed to be listed as endangered or threatened or its critical habitat.

### IV. Summary of Options for Controlling Pollutants

Most controls for construction activities can be categorized into two groups: (1) Sediment and erosion controls; and (2) storm water

<sup>1</sup> On June 4, 1992, the United States Court of Appeals for the Ninth Circuit remanded the exemption for construction sites of less than five acres to the EPA for further rulemaking (*Natural Resources Defense Council v. EPA*, Nos. 90-70671 and 91-70200, slip op. at 6217 (9th Cir. June 4, 1992)).

management measures. Sediment and erosion controls generally address pollutants in storm water generated from the site during the time when construction activities are occurring. Storm water management measures generally are installed during and before completion of the construction process, but primarily result in reductions of pollutants in storm water discharged from the site after the construction has been completed. Additional measures include housekeeping best management practices.

#### A. Sediment and Erosion Controls

Erosion controls provide the first line of defense in preventing offsite sediment movement and are designed to prevent erosion through protection and preservation of soils. Sediment controls are designed to remove sediment from runoff before the runoff is discharged from the site. Sediment and erosion controls can be further divided into two major classes of controls: Stabilization practices and structural practices. Major types of sediment and erosion practices are summarized below. A more complete description of these practices is given in "Florida Development Manual: A Guide to Sound Land and Water Management" or in "Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices," U.S. EPA, 1992.

##### 1. Sediment and Erosion Controls: Stabilization Practices

Stabilization, as discussed here, refers to covering or maintaining an existing cover over soils. The cover may be vegetation, such as grass, trees, vines, or shrubs. Stabilization measures can also include nonvegetative controls such as geotextiles, riprap, or gabions (wire mesh boxes filled with rock). Mulches, such as straw or bark, are most effective when used in conjunction with establishing vegetation, but can be used without vegetation. Stabilization of exposed and denuded soils is one of the most important factors in minimizing erosion while construction activities occur. A vegetation cover reduces the erosion potential of a site by absorbing the kinetic energy of raindrops that would otherwise disturb unprotected soil; intercepting water so that it infiltrates into the ground instead of running off the surface; and slowing the velocity of runoff, thereby promoting deposition of sediment in the runoff. Stabilization measures are often the most important measures taken to prevent offsite sediment movement and can provide large reductions suspended sediment levels in discharges and

receiving waters.<sup>2</sup> Examples of stabilization measures are summarized below.

a. *Temporary Seeding.* Temporary seeding provides for temporary stabilization by establishing vegetation at areas of the site where activities will temporarily cease until later in the construction project. Without temporary stabilization, soils at these areas are exposed to precipitation for an extended time period, even though work is not occurring on these areas. Temporary seeding practices have been found to be up to 95 percent effective in reducing erosion.<sup>3</sup>

b. *Permanent Seeding.* Permanent seeding involves establishing a sustainable ground cover at a site. Permanent seeding stabilizes the soil to reduce sediment in runoff from the site by controlling erosion and is typically required at most sites for aesthetic reasons.

c. *Mulching.* Mulching is typically conducted as part of permanent and temporary seeding practices. Where temporary and permanent seeding is not feasible, exposed soils can be stabilized by applying plant residues or other suitable materials to the soil surface. Although generally not as effective as seeding practices, mulching by itself, does provide some erosion control. Mulching in conjunction with seeding provides erosion protection prior to the onset of vegetation growth. In addition, mulching protects seeding activities, providing a higher likelihood of successful establishment of vegetation. To maintain optimum effectiveness, mulches must be anchored to resist wind displacement.

d. *Sod Stabilization.* Sod stabilization involves establishing long-term stands of grass with sod on exposed surfaces. When installed and maintained properly, sodding can be more than 99 percent effective in reducing erosion,<sup>4</sup> making it the most effective vegetation practice available. The cost of sod stabilization (relative to other vegetative controls) typically limits its use to exposed soils where a quick vegetative cover is desired and sites which can be maintained with ground equipment. In addition, sod is sensitive to climate and

may require intensive watering and fertilization.

e. *Vegetative Buffer Strips.* Vegetative buffer strips are preserved or planted strips of vegetation at the top and bottom of a slope, outlining property boundaries, or adjacent to receiving waters such as streams or wetlands. Vegetative buffer strips can slow runoff flows at critical areas, decreasing erosion and allowing sediment deposition.

f. *Protection of Trees.* This practice involves preserving and protecting selected trees that exist on the site prior to development. Mature trees provide extensive canopy and root systems which help to hold soil in place. Shade trees also keep soil from drying rapidly and becoming susceptible to erosion. Measures taken to protect trees can vary significantly, from simple measures such as installing tree fencing around the drip line and installing tree armoring, to more complex measures such as building retaining walls and tree wells.

##### 2. Sediment and Erosion Controls: Structural Practices

Structural practices involve the installation of devices to divert flow, store flow, or limit runoff. Structural practices have several objectives. First, structural practices can be designed to prevent water from crossing disturbed areas where sediment may be removed. This involves diverting runoff from undisturbed upslope areas through use of earth dikes, temporary swales, perimeter dike/swales, or diversions to stable areas. A second objective of structural practices can be to remove sediment from site runoff before the runoff leaves the site. Approaches to removing sediment from site runoff include diverting flows to a trapping or storage device or filtering diffuse flow through silt fences before it leaves the site. All structural practices require proper maintenance (removal of sediment) to remain functional.

a. *Earth Dike.* Earth dikes are temporary berms or ridges of compacted soil that channel water to a desired location. Earth dikes should be stabilized with vegetation.

b. *Silt Fence.* Silt fences are a barrier of geotextile fabric (filter cloth) used to intercept sediment in diffuse runoff. They must be carefully maintained to ensure structural stability and to remove excess sediment.

c. *Drainage Swales.* A drainage swale is a drainage channel lined with grass, riprap, asphalt, concrete, or other materials. Drainage swales are installed to convey runoff without causing erosion.

<sup>2</sup> "Performance of Current Sediment Control Measures at Maryland Construction Sites", January 1990, Metropolitan Washington Council of Governments.

<sup>3</sup> "Guides for Erosion and Sediment Control in California," USDA, Soil Conservation Service, Davis CA, Revised 1985.

<sup>4</sup> "Guides for Erosion and Sediment Control in California", USDA—Soil Conservation Service, Davis CA, Revised 1985.

d. *Sediment Traps*. Sediment traps can be installed in a drainage way, at a storm drain inlet, or other points of discharge from a disturbed area.

e. *Check Dams*. Check dams are small temporary dams constructed across a swale or drainage ditch to reduce the velocity of runoff flows, thereby reducing erosion of the swale or ditch. Check dams should not be used in a live stream. Check dams reduce the need for more stringent erosion control practices in the swale due to the decreased velocity and energy of runoff.

f. *Level Spreader*. Level spreaders are outlets for dikes and diversions consisting of an excavated depression constructed at zero grade across a slope. Level spreaders convert concentrated runoff into diffuse runoff and release it onto areas stabilized by existing vegetation.

g. *Subsurface Drain*. Subsurface drains transport water to an area where the water can be managed effectively. Drains can be made of tile, pipe, or tubing.

h. *Pipe Slope Drain*. A pipe slope drain is a temporary structure placed from the top of a slope to the bottom of a slope to convey surface runoff down slopes without causing erosion.

i. *Temporary Storm Drain Diversion*. Temporary storm drain diversions are used to re-direct flow in a storm drain to discharge into a sediment trapping device.

j. *Storm Drain Inlet Protection*. Storm drain inlet protection can be provided by a sediment filter or an excavated impounding area around a storm drain inlet. These devices prevent sediment from entering storm drainage systems prior to permanent stabilization of the disturbed area.

k. *Rock Outlet Protection*. Rock protection placed at the outlet end of culverts or channels can reduce the depth, velocity, and energy of water so that the flow will not erode the receiving downstream reach.

l. *Other Controls*. Other controls include temporary sediment basins, sump pits, entrance stabilization measures, waterway crossings, and wind breaks.

## B. Storm Water Management Measures

Storm water management measures are installed during and prior to completion of the construction process, but primarily result in reductions of pollutants in storm water discharged from the site after the construction has been completed. Construction activities often result in significant changes in land use. Such changes typically involve an increase in the overall imperviousness of the site, which can

result in dramatic changes to the runoff patterns of a site. As the amount within a drainage area increases, the amount of pollutants carried by the runoff increases. In addition, activities such as automobile travel on roads can result in higher pollutant concentrations in runoff compared to preconstruction levels. Traditional storm water management controls attempt to limit the increases in the amount of runoff and the amount of pollutants discharged from a site associated with the change in land use.

Major classes of storm water management measures include infiltration of runoff onsite; flow attenuation by vegetation or natural depressions; outfall velocity dissipation devices; storm water retention structures and artificial wetlands; and storm water detention structures. For many sites, a combination of these controls may be appropriate. A summary of storm water management controls is provided below. A more complete description of storm water management controls is found in "Florida Development Manual: A Guide to Sound Land and Water Management" or in "Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices," U.S. EPA, 1992, and "A Current Assessment of Urban Best Management Practices" Metropolitan Washington Council of Governments, March 1992.

### 1. Onsite Infiltration

A variety of infiltration technologies, including infiltration trenches and infiltration basins, can reduce the volume and pollutant loadings of storm water discharges from a site. Infiltration devices tend to mitigate changes to predevelopment hydrologic conditions. Properly designed and installed infiltration devices can reduce peak discharges, provide ground water recharge, augment low flow conditions of receiving streams, reduce storm water discharge volumes and pollutant loads, and protect downstream channels from erosion. Infiltration devices are a feasible option where soils are permeable and the water table and bedrock are well below the surface. Infiltration basins can also be used as sediment basins during construction.<sup>5</sup> Infiltration trenches can be more easily placed into under-utilized areas of a development and can be used for small sites and infill developments. However,

<sup>5</sup> "Controlling Urban Runoff: A Practical Manual for Planning and Designing Urban BMPs", July, 1987, Metropolitan Washington Council of Governments.

trenches may require regular maintenance to prevent clogs, particularly where grass inlets or other pollutant removing inlets are not used. In some situations, such as low density areas of parking lots, porous pavement can provide for infiltration.

### 2. Flow Attenuation by Vegetation or Natural Depressions

Flow attenuation provided by vegetation or natural depressions can provide pollutant removal and infiltration and can lower the erosive potential of flows.<sup>6</sup> In addition, these practices can enhance habitat values and the appearance of a site. Vegetative flow attenuation devices include grass swales and filter strips as well as trees that are either preserved or planted during construction.

Typically the costs of vegetative controls are less than other storm water practices. The use of check dams incorporated into flow paths can provide additional infiltration and flow attenuation.<sup>7</sup> Given the limited capacity to accept large volumes of runoff, and potential erosion problems associated with large concentrated flows, vegetative controls should usually be used in combination with other storm water devices.

Grass swales are typically used in areas such as low or medium density residential development and highway medians as an alternative to curb and gutter drainage systems.<sup>8</sup>

### 3. Outfall Velocity Dissipation Devices

Outfall velocity dissipation devices include riprap and stone or concrete flow spreaders. Outfall velocity dissipation devices slow the flow of water discharged from a site to lessen erosion caused by the discharge.

### 4. Water Quality, Detention and Wetland Systems

a. Storm water detention practices include wet detention and wetlands systems. These systems are designed to manage both storm water quantity and quality. They are designed to maintain a permanent pool of water and include a littoral zone vegetated with suitable aquatic plants. They also may include wetland storm water treatment systems as allowed by Florida Statutes and Florida storm water or environmental

<sup>6</sup> "Urban Targeting and BMP Selection", United States EPA, Region V, November 1990.

<sup>7</sup> "Standards and Specifications for Infiltration Practices", 1984, Maryland Water Resources Administration.

<sup>8</sup> "Controlling Urban Runoff: A Practical Manual for Planning and Designing Urban BMPs", Metropolitan Washington Council of Governments, July 1987.

resource permitting regulations. Properly designed, constructed, and maintained wet detention systems, wetland storm water systems, and constructed wetlands can achieve a high removal rate of sediments, BOD, organic nutrients and metals. They are most appropriate and cost effective when used to control runoff at sites with high water tables and a minimum drainage area of 8 acres. These practices rely on settling and biological processes to remove pollutants. They can also create wildlife habitat, recreation, and landscape amenities as well as corresponding higher property values.

a. *Retention Structures/Artificial Wetlands.* Retention structures include ponds and artificial wetlands that are designed to maintain a permanent pool of water. Properly installed and maintained retention structures (also known as wet ponds) and artificial wetlands<sup>9</sup> can achieve a high removal rate of sediment, BOD, organic nutrients and metals, and are most cost-effective when used to control runoff from larger, intensively developed sites.<sup>10</sup>

b. *Water Quality Detention Structures.* Storm water detention structures include extended detention ponds, which control the rate at which the pond drains after a storm event. Extended detention ponds are usually designed to completely drain in about 24 to 40 hours, and will remain dry at other times. They can provide pollutant removal efficiencies that are similar to those of retention ponds.<sup>11</sup> Extended detention systems are typically designed to provide both water quality and water quantity (flood control) benefits.<sup>12</sup>

### C. Housekeeping BMPs

Pollutants that may enter storm water from construction sites because of poor housekeeping include oils, grease, paints, gasoline, concrete truck washdown, raw materials used in the manufacture of concrete (e.g., sand, aggregate, and cement), solvents, litter, debris, and sanitary wastes. Construction site management plans can address the following to prevent the discharge of these pollutants:

- Designate areas for equipment maintenance and repair;

- Provide waste receptacles at convenient locations and provide regular collection of wastes;
- Locate equipment washdown areas on site, and provide appropriate control of washwaters;
- Provide protected storage areas for chemicals, paints, solvents, fertilizers, and other potentially toxic materials; and
- Provide adequately maintained sanitary facilities.

### V. Changes From the April 16, 1997 Proposed Permit (Amended June 27, 1997)

- Facilities located on Indian country lands in South Carolina will not be covered by this permit. Coverage for these facilities can be obtained under a State issued NPDES construction general permit.

- References to the applicability of this permit to utility companies have been deleted from Part I.B.3 of the permit.

- Individuals who intend to obtain coverage under this general permit for storm water discharges from a construction site (where disturbances associated with the construction project commence before the effective date of this permit), including unpaved rural roads, must submit a Notice of Intent (NOI), if they have not already done so, in accordance with the requirements of Part II within 30 days of the effective date of this permit.

- The NOI submission requirements of Part II.E. and Part VII.B. have been changed. Facilities that have submitted an NOI for coverage under the administratively continued previous general permit do not have to submit an NOI for coverage under today's permit. Facilities who will seek coverage under today's permit if it is administratively continued after its expiration, must submit an NOI for coverage during the post expiration continuance.

- Facilities that have submitted an NOI for coverage under the administratively continued general permit or have submitted since the general permit's expiration, will get automatic coverage under today's permit.

- Facilities located on Indian country lands are exempted from obtaining a State storm water or environmental resource permit.

- The currently approved NOI (EPA form 3510-9) published in the March 6, 1998 *Federal Register* (63 FR 11253) is authorized for use.

- Part III.A.2.b. has been changed to clarify what discharges may be authorized under today's permit.

• Part IV.B language has been changed to eliminate references to the Silviculture BMP manual. The language now requires applicable facilities to be consistent with the requirements of the State Water Policy, the applicable State storm water or environmental resource permit, and the guidelines contained in the Florida Development Manual: A Guide to Sound Land and Water Management. In addition, erosion and sediment control performance standards are deleted from the permit.

- Part V language has been changed to limit the application of nutrients to rates necessary to maintain vegetation and not cause water quality standards violations. In additions the language has been updated to ensure that the application, generation and migration of toxic substances is limited and that toxic materials are properly stored and disposed.

- References to arid and semi-arid regions have been eliminated from the permit.

- Facilities terminating coverage must submit the NOT within 14 days of final stabilization.

- NOTs are to be sent to the processing center in Washington, DC. at the address indicated in Part IX of the permit.

- The current endangered and threatened species list is included.

- References are made to the State of Florida environmental resource permits where applicable.

### VI. Summary of Permit Conditions

This general permit contain Notice of Intent requirements, a prohibition on discharging sources of non-storm water, requirements for releases of hazardous substances or oil in excess of reporting quantities, requirements for developing and implementing storm water pollution prevention plans, and requirements for site inspections.

#### A. Notice of Intent Requirements

NPDES general permits for storm water discharges associated with industrial activity require that dischargers submit a Notice of Intent (NOI) to be covered by the permit prior to the authorization of their discharges under such permit (see 40 CFR 122.28(b)(2)). Consistent with these regulatory requirements, today's permit proposes NOI requirements. These requirements are consistent with the previously issued general permit. Dischargers that submit a complete NOI are not required to submit an individual permit application for such discharge, unless the Director specifically notifies the discharger that an individual permit application must be submitted.

<sup>9</sup> See "Wetland basins for Storm Water Treatment: Discussion and Background", Maryland Sediment and Storm water Division, 1987 and "The Value of Wetlands for Non-point Source Control—Literature Summary", Strecker, E., et.al., 1990.

<sup>10</sup> "Controlling Urban Runoff, A Practical Manual for Planning and Designing Urban BMPs", Metropolitan Washington Council of Governments, 1987.

<sup>11</sup> "Urban Targeting and BMP Selection", United States EPA, Region V, November 1990.

<sup>12</sup> "Urban Surface Water Management", Walesh, S.G., Wiley, 1989.

Dischargers who want to obtain coverage under this permit must submit NOIs using the form provided by EPA (or a photocopy thereof). The NOI form referenced in Appendix A of this document and can be photocopied for use in submittals. NOI forms are also available from the EPA Region 4 Office (see the ADDRESSES section of today's document). Completed NOI forms must be submitted to the following address: Storm Water Notices of Intent (4203), 401 M Street, SW., Washington, DC 20460.

Dischargers operating under approved State or local sediment and erosion plans, grading plans, or storm water management plans, must, in addition to filing copies of the NOI with EPA, submit signed copies of the NOI to the State or local agency approving such plans by the deadlines stated below.

#### 1. Deadlines for Submitting NOIs

Deadlines for submittal of NOIs to be authorized to discharge under this permit are as follows:

- Applicants who have submitted a completed NOI for coverage under the administratively continued previous general permit (57 FR 44412) or applicants who have submitted a completed NOI for coverage under the general permit after its expiration shall automatically receive coverage under today's permit. If the applicant cannot certify that they meet all applicable eligibility requirements of Part I.B of today's permit or cannot be covered by, or comply with, the terms and conditions of this permit, then the applicant shall notify the director, in accordance with the requirements of Part IX of this permit, within 90 days of the effective date of this permit.

- On or before the effective date of this permit, for storm water discharges from construction sites where disturbances associated with a construction project occur on or before the effective date of this permit, and final stabilization<sup>13</sup> is completed at the site after the effective date of this permit;

- At least 2 days prior to the commencement of construction activities (e.g., the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities), where such activities commence after the effective date of this permit; and

- For storm water discharges from construction sites where the operator

changes, (including projects where an operator is selected after an NOI has been submitted), an NOI shall be submitted at least 2 days prior to when the operator commences work at the site.

EPA will accept an NOI at a later date. However, in such instances, EPA may bring appropriate enforcement actions.

#### 2. Authorization

Dischargers who submit a complete NOI in accordance with the requirements of this permit are authorized to discharge storm water from construction sites under the terms and conditions of this permit 2 days after the date that the NOI is postmarked, unless notified by EPA.

EPA may deny coverage under this permit and require submittal of an individual NPDES permit application based on a review of the completeness and/or content of the NOI or other information (e.g., water quality information, compliance history, etc.). Where EPA requires a discharger authorized under the general permit to apply for an individual NPDES permit or an alternative general permit, EPA will notify the discharger in writing that a permit application is required. Coverage under this general permit will automatically terminate if the discharger fails to submit the required permit application in a timely manner. Where the discharger does submit a requested permit application, coverage under this general permit will automatically terminate on the effective date of the issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee.

#### 3. Contents of the NOI

A photocopy of the NOI in Appendix A of today's document may be completed and submitted to EPA's central address to obtain authorization to discharge under today's permit. The NOI form requires the following information:

- The mailing address of the construction site for which the notification is submitted. Where a mailing address for the site is not available, the location of the approximate center of the site must be described in terms of the latitude and longitude to the nearest 15 seconds, or the section, township, and range to the nearest quarter;

- The site owner's name, address, and telephone number;

- The name, address, and telephone number of the operator(s) with day-to-day operational control who have been identified at the time of the NOI

submittal, and their status as a Federal, State, private, public, or other entity. Where multiple operators have been selected at the time of the initial NOI submittal, NOIs must be attached and submitted in the same envelope. When an additional operator submits an NOI for a site with a preexisting NPDES permit, the NOI of the additional operator must indicate the preexisting NPDES permit number for discharge(s) from the site;

- The name of the receiving water(s), or if the discharge is through a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water(s);

- The permit number of any NPDES permit(s) for any other discharge(s) (including any other storm water discharges or any non-storm water discharges) from the site;

- An indication of whether the operator has existing sampling data that describe the concentration of pollutants in storm water discharges. Existing data should not be included as part of the NOI and should not be submitted unless and until requested by EPA; and

- An estimate of project start date and completion dates, estimates of the number of acres of the site on which soil will be disturbed, and a certification that a storm water pollution prevention plan has been prepared for the site in accordance with the permit and that such plan complies with approved State and/or local sediment and erosion plans or permits and/or storm water management plans or permits. A copy of the plans or permits should not be included with the NOI submission, and should not be submitted unless and until requested by EPA.

The NOI must be signed in accordance with the signatory requirements of 40 CFR 122.22. A complete description of these signatory requirements is provided in the instructions accompanying the NOI (see Appendix A).

#### 4. Additional Notification

In addition to submitting the NOI to EPA, facilities operating under approved State or local sediment and erosion plans, grading plans, or storm water management plans are required to submit signed copies of the NOI to the State or local agency approving such plans by the deadlines stated above. Failure to do so constitutes a violation of the permit.

<sup>13</sup>The term "final stabilization" is defined in today's permits and is discussed in more detail in the Notice of Termination section of today's fact sheet.



## B. Special Conditions

### 1. Prohibition on Non-Storm Water Discharges

Today's permit does not authorize non-storm water discharges that are mixed with storm water except for specific classes of non-storm water discharges specified in the permit. Non-storm water discharges that can be authorized under today's permit include discharges from firefighting activities; fire hydrant flushings; waters used to wash vehicles or control dust in accordance with permit requirements; potable water sources including waterline flushings; irrigation drainage; routine external building washdown that does not use detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; springs; and foundation or footing drains where flows are not contaminated with process materials such as solvents.<sup>14</sup>

To be authorized under the final issued permit, sources of non-storm water (except flows from firefighting activities) must be specifically identified in the storm water pollution prevention plan prepared for the facility. (Plan requirements are discussed in more detail below). Where such discharges occur, the plan must also identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water components of the discharge. For example, to reduce pollutants in irrigation drainage, a plan could identify low maintenance lawn areas that do not require the use of fertilizers or biocides; for higher maintenance lawn areas, a plan could identify measures such as limiting fertilizer use based on seasonal and agronomic considerations, decreasing biocide use with an integrated pest management program, introducing natural vegetation or more hearty species, and reducing water use (thereby reducing the volume of irrigation drainage).

This permit will not require pollution prevention measures to be identified and implemented for non-storm water flows from firefighting activities since these flows will usually occur as unplanned emergency situations where it is necessary to take immediate action to protect the public.

The general prohibition on non-storm water discharges in today's permit

ensures that non-storm water discharges (except for those classes of non-storm water discharges that are conditionally authorized) are not inadvertently authorized by this permit. Where a storm water discharge is mixed with process wastewaters or other sources of non-storm water prior to discharge, and the discharge is currently not authorized by an NPDES permit, the discharge cannot be covered by today's permit and the discharger should (1) submit the appropriate application forms (Forms 1 and 2C) to obtain permit coverage or (2) discontinue the discharge.

### 2. Releases of Reportable Quantities of Hazardous Substances and Oil

Today's permit provides that the discharge of hazardous substances or oil from a facility must be eliminated or minimized in accordance with the storm water pollution plan developed for the facility. Where a permitted storm water discharge contains a hazardous substance or oil in an amount equal to or in excess of a reporting quantity established under 40 CFR part 110, 40 CFR part 117, or 40 CFR part 302, during a 24-hour period, today's permit requires the following actions:

- The permittee must notify the National Response Center (NRC) (800-424-8802; or in Region 4, 404-562-8702) in accordance with the requirements of 40 CFR part 110, 40 CFR part 117, and 40 CFR part 302, as soon as they have knowledge of the discharge;
- The permittee must modify the storm water pollution prevention plan for the facility within 14 calendar days of knowledge of the release to provide (1) a description of the release, (2) the date of the release and (3) the circumstances leading to the release. In addition, the permittee must modify the plan, as appropriate, to identify measures to prevent the reoccurrence of such releases and to respond to such releases.

- Within 14 calendar days of the knowledge of the release, the permittee must submit to EPA (1) a written description of the release (including the type and estimated amount of material released), (2) the date that such release occurred, (3) the circumstances leading to the release, and (4) any steps to be taken to modify the storm water pollution prevention plan for the facility.

Where a discharge of a hazardous substance or oil in excess of reporting quantities is caused by a non-storm water discharge (e.g., a spill of oil into a separate storm sewer), the spill is not authorized by this permit. The discharger must report the spill as

required under 40 CFR part 110. In the event of a spill, the requirements of section 311 of the CWA and otherwise applicable provisions of sections 301 and 402 of the CWA continue to apply.

This approach is consistent with the requirements for reporting releases of hazardous substances and oil—requirements that make a clear distinction between hazardous substances typically found in storm water discharges and those associated with spills that are not considered part of a normal storm water discharge (see 40 CFR 117.12(d)(2)(i)).

### C. Unpaved Rural Roads

Part IV of the permit and its conditions are intended to eliminate, prevent or minimize the discharge of pollutants to waters of the U.S. from the construction of unpaved roads. EPA believes that the discharge of storm water runoff from the construction of unpaved roads could be a significant source of pollutants to waters of the United States. Therefore, the discharge of storm water from the construction of unpaved roads greater than five (5) acres is not exempt from the requirements of 40 CFR 122.26(a)(1)(ii) and (b)(14)(x) under the Intermodal Surface Transportation Efficiency Act of 1991. This action is in accordance with section 402(p)(2)(E) of the Clean Water Act (1987, as amended). If five (5) acres equals 217,800 ft<sup>2</sup> and area equals length times width, then the approximate length of road equal to five (5) acres would be 217,800 ft<sup>2</sup> divided by the road width. For example, assuming a road construction area width of 25 feet, five (5) acres of road would be approximately 1.65 miles.

The principle component of the Part IV requirements for facilities in the State of Florida is consistency with the requirements set forth in State Water Policy (Chapter 62-40, FAC), the applicable storm water or environmental resource permitting requirements of the FDEP or appropriate FWMD, and the guidelines contained in the Florida Development Manual: A Guide to Sound Land and Water Management (FDEP, 1988) and any subsequent amendments. All relevant portions of the pollution prevention plan requirements of Part V of the permit shall be applied to discharges of storm water from unpaved roads.

### D. Storm Water Pollution Prevention Plan Requirements

The pollution prevention plans required by today's permit focuses on two major tasks: (1) Providing a site description that identifies sources of pollution to storm water discharges

<sup>14</sup> These discharges are consistent with the allowable classes of non-storm water discharges to municipal separate storm sewer systems (40 CFR 122.26(d)(iv)(D)).



associated with industrial activity from the facility and (2) identifying and implementing appropriate measures to reduce pollutants in storm water discharges to ensure compliance with the terms and conditions of this permit.

In developing this permit, the Agency reviewed a significant number of existing State and local sediment and erosion control and storm water management requirements. State and local data were reviewed for a wide range of climates and varying types of construction activities.

#### 1. Contents of the Plan

Storm water pollution prevention plans must include a site description; a description of controls that will be used at the site (e.g., erosion and sediment controls, storm water management measures); a description of maintenance and inspection procedures; and a description of pollution prevention measures for any non-storm water discharges that exist.

a. *Site Description.* Storm water pollution prevention plans must be based on an accurate understanding of the pollution potential of the site. The first part of the plan requires an evaluation of the sources of pollution at a specific construction site. The plan must identify potential sources of pollution that may reasonably be expected to affect the quality of storm water discharges from the construction site. In addition, the source identification components for pollution prevention plans must provide a description of the site and the construction activities. This information is intended to provide a better understanding of site runoff and major pollutant sources. At a minimum, plans must include the following:

- A description of the nature of the construction activity. This would typically include a description of the ultimate use of the project (e.g., low-density residential, shopping mall, highway).
- A description of the intended sequence of major activities that disturb soils for major portions of the site (e.g., grubbing, excavation, grading).
- Estimates of the total area of the site and the total area of the site that is expected to be disturbed by excavation, grading, or other activities. Where the construction activity is to be staged, it may be appropriate to describe areas of the site that will be disturbed at different stages of the construction process.
- Estimates of the runoff coefficient of the site after construction activities are completed as well as existing data describing the quality of any discharge

from the site or the soil. The runoff coefficient is defined as the fraction of total rainfall that will appear at the conveyance as runoff. Runoff coefficients can be estimated from site plan maps, which provide estimates of the area of impervious structures planned for the site and estimates of areas where vegetation will be precluded or incorporated. Runoff coefficients are one tool for evaluating the volume of runoff that will occur from a site when construction is completed. These coefficients assist in evaluating pollutant loadings, potential hydraulic impacts to receiving waters, and flooding impacts. They are also used for sizing of post-construction storm water management measures.

- A site map indicating drainage patterns and approximate slopes anticipated after major grading activities, areas of soil disturbance; an outline of areas that will not be disturbed; the location of major structural and nonstructural controls identified in the plan; the location of areas where stabilization practices are expected to occur; the location of surface waters (including wetlands); and locations where storm water is discharged to a surface water. Site maps should also include other major features and potential pollutant sources, such as the location of impervious structures and the location of soil piles during the construction process.

- The name of the receiving water(s), and areal extent of wetland acreage at the site.

b. *Controls to Reduce Pollutants.* The storm water pollution prevention plan must describe and ensure the implementation of practices that will be used to reduce the pollutants in storm water discharges from the site and assure compliance with the terms and conditions of the permit. Permittees are required to develop a description of four classes of controls appropriate for inclusion in the facility's plan, and implement controls identified in the plan in accordance with the plan. The description of controls must address (1) erosion and sediment controls, (2) storm water management, (3) a specified set of other controls, and (4) any applicable procedures and requirements of State and local sediment and erosion plans or storm water management plans.

The pollution prevention plan must clearly describe the intended sequence of major activities and when, in relation to the construction process, the control will be implemented. Good site planning and preservation of mature vegetation are primary control techniques for controlling sediment in storm water discharges during

construction activities as well as for developing a strategy for storm water management that controls pollutants in storm water discharges after the completion of construction activities. Properly staging major earth disturbing activities can also dramatically decrease the costs of sediment and erosion controls. The description of the intended sequence of major activities will typically describe the intended staging of activities on different parts of the site.

Permittees must develop and implement four classes of controls in the pollution prevention plan, each of which is discussed below.

i. *Erosion and Sediment Controls.* The requirements for erosion and sediment controls for construction activities in this permit have three goals: (1) To divert upslope water around disturbed areas of the site; (2) to limit the exposure of disturbed areas to the shortest duration possible; and (3) to remove sediment from storm water before it leaves the site. Erosion and sediment controls include both stabilization practices and structural practices.

*Stabilization Practices.* Pollution prevention plans must include a description of interim and permanent stabilization practices, including site-specific scheduling of the implementation of the practices. The plans should ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized as quickly as possible. Stabilization practices are the first line of defense for preventing erosion; they include temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetative buffer strips, and other appropriate measures. Temporary stabilization practices are often cited as the single most important factor in reducing erosion at construction sites.<sup>15</sup>

Stabilization also involves preserving and protecting selected trees that were on the site prior to development. Mature trees have extensive canopy and root systems, which help to hold soil in place. Shade trees also keep soil from drying rapidly and becoming susceptible to erosion. Measures taken to protect trees can vary significantly, from simple measures such as installing tree fencing around the drip line and installing tree armoring, to more complex measures such as building retaining walls and tree wells.

<sup>15</sup> "New York Guidelines for Urban Erosion and Sediment Control", USDA, Soil Conservation Service, March 1988.

Since stabilization practices play such an important role in preventing erosion, it is critical that they are rapidly employed in appropriate areas. This permit provides that, except in three situations, stabilization measures be initiated on disturbed areas as soon as practicable, but no more than 14 days after construction activity on a particular portion of the site has temporarily or permanently ceased. The three exceptions to this requirement are the following:

- Where construction activities will resume on a portion of the site within 21 days from when the construction activities ceased.
- Where the initiation of stabilization measures is precluded by snow cover, in which case, stabilization measures must be initiated as soon as practicable.

**Structural Practices.** The pollution prevention plan must include a description of structural practices to the degree economically attainable, to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site. Structural controls are necessary because vegetative controls cannot be employed at areas of the site that are continually disturbed and because a finite time period is required before vegetative practices are fully effective. Options for such controls include silt fences, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, sediment traps, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins. Structural measures should be placed on upland soils to the degree possible.

For sites with more than 10 disturbed acres at one time that are served by a common drainage location, a temporary or permanent sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures (such as suitably sized dry wells or infiltration structures), must be provided where economically attainable until final stabilization of the site has been accomplished. Flows from offsite areas and flows from onsite areas that are either undisturbed or have undergone final stabilization may be diverted around both the sediment basin and the disturbed area. The requirement to provide 3,600 cubic feet of storage area per acre drained does not apply to such diverted flows.

For the drainage locations which serve more than 10 disturbed acres at one time and where a sediment basin providing storage or equivalent controls for 3,600 cubic feet per acre drained is

not economically attainable, smaller sediment basins or sediment traps should be used. At a minimum, silt fences, or equivalent sediment controls are required for all sideslope and downslope boundaries of the construction area. Diversion structures should be used on upland boundaries of disturbed areas to prevent runoff from entering disturbed areas.

For drainage locations serving 10 or less acres, smaller sediment basins or sediment traps should be used and at a minimum, silt fences, or equivalent sediment controls are required for all sideslope and downslope boundaries of the construction area. Alternatively, the permittee may provide a sediment basin providing storage for 3,600 cubic feet of storage per acre drained. Diversion structures should be used on upland boundaries of disturbed areas to prevent runoff from entering disturbed areas.

ii. **Storm Water Management.** The plan must include a description of "storm water management" measures.<sup>16</sup> This permit addresses only the installation of storm water management measures and not the ultimate operation and maintenance of such structures after the construction activities have been completed and the site has undergone final stabilization. Permittees are responsible only for the installation and maintenance of storm water management measures prior to final stabilization of the site and are not responsible for maintenance after storm water discharges associated with construction activities have been eliminated from the site. However, this does not release a facility from responsibilities to operate and maintain storm water management systems in perpetuity after final stabilization in accordance with the requirements set forth by local environmental permitting actions such as the State of Florida storm water or environmental resource permit issued for the site.

Land development can significantly increase storm water discharge volumes and peak velocities where appropriate storm water management measures are not implemented. In addition, storm water discharges will typically contain higher levels of pollutants, including total suspended solids (TSS), heavy metals, nutrients, and oxygen demanding constituents.<sup>17</sup>

<sup>16</sup> For the purpose of the special requirements for construction activities, the term "storm water management" measures refers to controls that will primarily reduce the discharge of pollutants in storm water from sites after completion of construction activities.

<sup>17</sup> See "Nationwide Urban Runoff Program", EPA, 1984.

Storm water management measures that are installed during the construction process can control the volume of storm water discharged and peak discharge velocities, as well as reduce the amount of pollutants discharged after the construction operations have been completed. Reductions in peak discharge velocities and volumes can also reduce pollutant loads, as well as reduce physical impacts such as stream bank erosion and stream bed scour. Storm water management measures that mitigate changes to predevelopment runoff characteristics assist in protecting and maintaining the physical and biological characteristics of receiving streams and wetlands.

Structural measures should be placed on upland soils to the degree attainable. The installation of such devices may be subject to section 404 of the CWA if the devices are placed in wetlands (or other waters of the United States).

Options for storm water management measures that are to be evaluated in the development of plans include infiltration of runoff on site; flow attenuation by use of open vegetated swales and natural depressions; storm water retention structures and storm water detention structures (including wet ponds); and sequential systems that combine several practices.

The pollution prevention plan must include an explanation of the technical basis used to select the practices to control pollution where flows exceed predevelopment levels. The explanation of the technical basis for selecting practices should address how a number of factors were evaluated, including the pollutant removal efficiencies of the measures, the costs of the measure, site specific factors that will affect the application of the measures, the economic achievability of the measure at a particular site, and other relevant factors.

EPA anticipates that storm water management measures at many sites will be able to provide for the removal of at least 80 percent of total suspended solids (TSS).<sup>18</sup> A number of storm water management measures can be used to achieve this level of control, including properly designed and installed wet ponds, infiltration trenches, infiltration basins, sand filter system, manmade storm water wetlands, and multiple pond systems. The pollutant removal efficiencies of various storm water management measures can be estimated

<sup>18</sup> TSS can be used as an indicator parameter to characterize the control of other pollutants, including heavy metals, oxygen demanding pollutants, and nutrients, commonly found in storm water discharges.

from a number of sources, including "Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices," U.S. EPA, 1992, and "A Current Assessment of Urban Best Management Practice," prepared for U.S. EPA by Metropolitan Washington Council of Governments, March 1992. Proper selection of a technology depends on site factors and other conditions.

In selecting storm water management measures, the permittee should consider the impacts of each method on other water resources, such as ground water. Although storm water pollution prevention plans primarily focus on storm water management, EPA encourages facilities to avoid creating ground water pollution problems. For example, if the water table is unusually high in an area or soils are especially sandy and porous, an infiltration pond may contaminate a ground water source unless special preventive measures are taken. Under EPA's July 1991 Ground Water Protection Strategy, States are encouraged to develop Comprehensive State Ground Water Protection Programs (CSGWPP). Efforts to control storm water should be compatible with State ground water objectives as reflected in CSGWPPs.

The evaluation of whether the pollutant loadings and the hydrologic conditions (the volume of discharge) of flows exceed predevelopment levels can be based on hydrologic models which consider conditions such as the natural vegetation which is typical for the area.

Increased discharge velocities can greatly accelerate erosion near the outlet of onsite structural measures. To mitigate these effects, this permit requires that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive velocity flow from the structure to a water course. Velocity dissipation devices maintain and protect the natural physical and biological characteristics and functions of the watercourse, e.g., hydrologic conditions, such as the hydroperiod and hydrodynamics, that were present prior to the initiation of construction activities.

iii. *Other Controls.* Other controls to be addressed in storm water pollution prevention plans for construction activities require that no non-storm water solid materials, including building material wastes shall be discharged at the site, except as authorized by a Section 404 permit.

This final permit requires that offsite vehicle tracking of sediments and the generation of dust be minimized. This

can be accomplished by measures such as providing gravel or paving at access entrance and exit drives, parking areas, and unpaved roads on the site carrying significant amounts of traffic (e.g., more than 25 vehicles per day); providing entrance wash racks or stations for trucks; and/or providing street sweeping.

In addition, this permit requires that the plan shall ensure and demonstrate compliance with applicable State and/or local sanitary sewer, septic system, and waste disposal regulations.<sup>19</sup>

iv. *State and Local Controls.* Many municipalities and States have developed sediment and erosion control requirements for construction activities. A significant number of municipalities and States have also developed storm water management controls. This general permit requires that storm water pollution prevention plans for facilities that discharge storm water associated with industrial activity from construction activities include procedures and requirements of State and local sediment and erosion control plans or storm water management plans. Permittees are required to provide a certification that their storm water pollution prevention plan reflects requirements related to protecting water resources that are specified in State or local sediment and erosion plans or storm water management plans.<sup>20</sup> In addition, permittees are required to amend their storm water pollution prevention plans to reflect any change in a sediment and erosion site plan or site permit or storm water management site plan or site permit approved by State or local officials for which the

<sup>19</sup> In rural and suburban areas that are served by septic systems, malfunctioning septic systems can contribute pollutants to storm water discharges. Malfunctioning septic tanks may be a more significant surface runoff pollution problem than a ground water problem. This is because a malfunctioning septic system is less likely to cause ground water contamination where a bacterial mat in the soil retards the downward movement of wastewater. Surface malfunctions are caused by clogged or impermeable soils, or when stopped up or collapsed pipes force untreated wastewater to the surface. Surface malfunctions can vary in degree from occasional damp patches on the surface to constant pooling or runoff of wastewater. These discharges have high bacteria, nitrate, and nutrient levels and can contain a variety of household chemicals. This permit does not establish new criteria for septic systems, but rather addresses existing State or local criteria.

<sup>20</sup> Operators of storm water discharges from construction activities which, based on an evaluation of site specific conditions, believe that State and local plans do not adequately represent BAT and BCT requirements for the facility may request to be excluded from the coverage of the general permit by submitting to the Director an individual application with a detailed explanation of the reasons supporting the request, including any supporting documentation showing that certain permit conditions are not appropriate.

permittee receives written notice. Where such amendments are made, the permittee must provide a recertification that the storm water pollution prevention plan has been modified. This provision does not apply to provisions of master plans, comprehensive plans, nonenforceable guidelines, or technical guidance documents, but rather to site-specific State or local permits or plans.

c. *Maintenance.* Erosion and sediment controls can become ineffective if they are damaged or not properly maintained. Maintenance of controls has been identified as a major part of effective erosion and sediment programs. Plans must contain a description of prompt and timely maintenance and repair procedures addressing all erosion and sediment control measures (e.g., sediment basins, traps, silt fences), vegetation, and other measures identified in the site plan to ensure that such measures are kept in good and effective operating condition.

d. *Inspections.* Procedures in a plan must provide that specified areas on the site are inspected by qualified personnel provided by the discharger a minimum of once every seven calendar days and within 24 hours after any storm event of greater than 0.25 inches. Areas of the site that must be observed during such inspections include disturbed areas, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site. Where sites have been temporarily or finally stabilized, the inspection must be conducted at least once every month.

Disturbed areas and areas used for storage of materials that are exposed to precipitation must be inspected for evidence of, or the potential for, pollutants entering the runoff from the site. Erosion and sediment control measures identified in the plan must be observed to ensure that they are operating correctly. Observations can be made during wet or dry weather conditions. Where discharge locations or points are accessible, they must be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters. This can be done by inspecting receiving waters to see whether any signs of erosion or sediment are associated with the discharge location. Locations where vehicles enter or exit the site must be inspected for evidence of offsite sediment tracking.

Based on the results of the inspection, the site description and the pollution prevention measures identified in the plan must be revised as soon as possible after an inspection that reveals

inadequacies. The inspection and plan review process must provide for timely implementation of any changes to the plan within 7 calendar days following the inspection.

An inspection report that summarizes the scope of the inspection, name(s) and qualifications of personnel conducting the inspection, the dates of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken must be retained as part of the storm water pollution prevention plan for at least three years after the date of inspection. The report must be signed in accordance with the signatory requirements in the Standard Conditions section of this permit.

Diligent inspections are necessary to ensure adequate implementation of onsite sediment and erosion controls, particularly in the later stages of construction when the volume of runoff is greatest and the storage capacity of the sediment basins has been reduced.<sup>21</sup>

*e. Non-Storm Water Discharges.* The final issued permit may authorize storm water discharges from construction activities that are mixed with discharges from firefighting activities, fire hydrant flushings, waters used to wash vehicles or control dust in accordance with efforts to minimize offsite sediment tracking, potable water sources including waterline flushings, irrigation drainage from watering vegetation, routine exterior building washdown that does not use detergents, pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used, air conditioning condensate, springs, and foundation or footing drains where flows are not contaminated with process materials such as solvents, provided the non-storm water component of the discharge is specifically identified in the pollution prevention plan. In addition, the plan must identify and ensure the implementation of appropriate pollution prevention measures for each of the non-storm water component(s) of the discharge.<sup>22</sup>

EPA believes that where these classes of non-storm water discharges are identified in a pollution prevention plan and where appropriate pollution prevention measures are evaluated, identified, and implemented, they

generally pose low risks to the environment. The Agency also notes that it can request individual permit applications for such discharges where appropriate. The Agency is not requiring that flows from fire-fighting activities be identified in plans because of the emergency nature of such discharges coupled with their low probability and the unpredictability of their occurrence.

## 2. Deadlines for Plan Preparation and Compliance

The final issued permit will establish the following deadlines for storm water pollution prevention plan development and compliance:

- The plan must be completed prior to the submittal of an NOI to be covered under this permit and updated as appropriate.
- For construction activities that have begun on or before the effective date of this permit, except the plan shall provide for compliance with the terms and schedule of the plan beginning on the effective date of this permit.
- For construction activities that have begun after the effective date of this permit, the plan must provide for compliance with the terms and schedule of the plan beginning with the initiation of construction activities.

## 3. Signature and Plan Review

Signature and plan review requirements are as follows:

- The plan must be signed by all permittees for a site in accordance with the signatory requirements in the Standard Permit Conditions section of the permit, and must be retained on site at the facility that generates the storm water discharge.
- The permittee must make plans available, upon request, to EPA, and State or local agency approved sediment and erosion plans, grading plans, or storm water management plans. In the case of a storm water discharge associated with industrial activity that discharges through a municipal separate storm sewer system with an NPDES permit, permittees must make plans available to the municipal operator of the system upon request.

- EPA may notify the permittee at any time that the plan does not meet one or more of the minimum requirements. Within 7 days of such notification from EPA (or as otherwise requested by EPA), the permittee must make the required changes to the plan and submit to EPA a written certification that the requested changes have been made.

## 4. Keeping Plans Current

The permittee must amend the plan whenever there is a change in design, construction, operation, or maintenance, that has a significant effect on the potential for the discharge of pollutants to waters of the United States or to municipal separate storm sewer systems. The plan must also be amended if it proves to be ineffective in eliminating or significantly minimizing pollutants in the storm water discharges from the construction activity. In addition, the plan shall be amended to identify any new contractor and/or subcontractor that will implement a measure of the storm water pollution prevention plan. Amendments to the plan will be reviewed by EPA as described above.

## 5. Additional Requirements

This permit authorizes a storm water discharge associated with industrial activity from a construction site that is mixed with a storm water discharge from an industrial source other than construction, only under the following conditions:

- The industrial source other than construction is located on the same site as the construction activity; and
- Storm water discharges from where the construction activities are occurring are in compliance with the terms of this permit.

## 6. Contractors

The storm water pollution prevention plan must clearly identify for each measure identified in the plan, the contractor(s) and/or subcontractor(s) that will implement the measure. All contractors and subcontractors identified in the plan must sign a copy of the certification statement presented below before conducting any professional service at the site identified in the pollution prevention plan:

"I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification."

All certifications must be included in the storm water pollution prevention plan.

## E. Retention of Records

The permittee is required to retain records or copies of all reports required by this permit, including storm water pollution prevention plans and records of all data used to complete the NOI to be covered by the permit, for a period of at least three years from the date of

<sup>21</sup> "Performance of Current Sediment Control Measures at Maryland Construction Sites", January 1990, Metropolitan Washington Council of Governments.

<sup>22</sup> This is consistent with the allowable types of non-storm water discharges to municipal separate storm sewer systems (40 CFR 122.26(d)(2)(iv)(A)).

final stabilization. This period may be extended by request of the Director.

#### F. Notice of Termination

A discharger may submit a Notice of Termination (NOT) to EPA in two sets of circumstances: (1) After a site has undergone final stabilization and the facility no longer discharges storm water associated with industrial activity from a construction site and (2) when the permittee has transferred operational control to another permittee and is no longer an operator for the site. NOTs must be submitted using the form provided by the Director (or a photocopy thereof). A copy of the NOT form is in Appendix B and can be photocopied for use. NOTs will assist EPA in tracking the status of the discharger.

Today's permit define final stabilization for the purpose of submitting an NOT as occurring when all soil disturbing activities are completed and a uniform perennial vegetative cover with a density of 70 percent for the unpaved areas and areas not covered by permanent structures has been established or equivalent stabilization measures have been employed. Equivalent stabilization measures include permanent measures other than establishing vegetation, such as the use of rip-rap, gabions, and/or geotextiles.

A copy of the NOT, and instructions for completing the NOT, are provided in Appendix B of today's document. The NOT form requires the following information:

- The mailing address of the construction site for which the notification is submitted. Where a mailing address for the site is not available, the location of the approximate center of the site must be described in terms of the latitude and longitude to the nearest 15 seconds, or

the section, township, and range to the nearest quarter.

- The site owner's name, address, and telephone number.
- The name, address, and telephone number of the operator addressed by the NOT, and operator status as a Federal, State, private, public, or other entity.
- The NPDES permit for the storm water discharge identified by the NOT.
- The following certification:

"I certify under penalty of law that disturbed soils at the identified facility have been finally stabilized and temporary erosion and sediment control measures have been removed or will be removed at an appropriate time, or that all storm water discharges associated with construction activities from the identified site that are authorized by an NPDES general permit have been eliminated or that I am no longer the operator of the construction activity. I understand that by submitting this notice of termination, that I am no longer authorized to discharge storm water by the general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit."

Notices of Termination are to be sent to the following address: Storm Water Notice of Termination (4203), 401 M Street, S.W., Washington, DC 20460.

The NOT must be signed by the appropriate individual in accordance with the signatory requirements of 40 CFR 122.22. A description of these signatory requirements is provided in the instructions accompanying the NOT (see Appendix B).

Submittal of a NOT, by itself, does not relieve permittees from the obligations of the permit, such as the requirement to stabilize the site. Appropriate enforcement actions may still be taken for permit violations where a permittee submits a NOT but the permittee has not transferred operational control to another permittee or the site has not undergone final stabilization.

#### G. Regional Offices

Notices of Intent to be authorized to discharge under this permit should be sent to: Storm Water Notice of Intent (4203), 401 M Street, SW., Washington, DC 20460.

Other submittals of information required under this permit or individual permit applications should be sent to the appropriate EPA Regional Office: United States EPA, Region IV, Water Management Division, (SWPFB-15), Surface Water Permits Section, 100 Alabama Street, S.W., Atlanta, GA 30303-3104, Contact: Floyd Wellborn, (404) 562-9296.

#### H. Special Conditions in Specified States

Section 401 of the CWA provides that no Federal license or permit, including NPDES permits, to conduct any activity that may result in any discharge into navigable waters shall be granted until the State in which the discharge originates certifies that the discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of the CWA.

#### VII. Cost Estimates

The two major costs associated with pollution prevention plans for construction activities include the costs of sediment and erosion controls (see Table 1) and the costs of storm water management measures (see Table 2). Today's permit provide flexibility in developing controls for construction activities. Typically, most construction sites will employ several types of sediment and erosion controls and storm water management controls, but not all the controls listed in Tables 1 and 2. In general, sites that disturb a large area will incur higher pollution prevention costs.

TABLE 1.—SEDIMENT AND EROSION CONTROL COSTS

Temporary seeding .....	\$1.00 per square foot.
Permanent seeding .....	1.00 per square foot.
Mulching .....	1.25 per square foot.
Sod stabilization .....	4.00 per square foot.
Vegetative buffer strips .....	1.00 per square foot.
Protection of trees .....	30.00 to \$200.00 per tree set.
Earth dikes .....	5.50 per linear foot.
Silt fences .....	6.00 per linear foot.
Drainage swales-grass .....	3.00 per square yard.
Drainage swales-sod .....	4.00 per square yard.
Drainage swales-asphalt .....	35.00 per square yard.
Drainage swales-concrete .....	65.00 per square yard.
Check dams-rock .....	100 per dam.
Check dams-covered straw bales .....	50 per dam.
Level spreader-earthen .....	4.00 per square yard.
Level spreader-concrete .....	65.00 per square yard.
Subsurface drain .....	2.25 per linear foot.

TABLE 1.—SEDIMENT AND EROSION CONTROL COSTS—Continued

Pipe slope drain .....	5.00 per linear foot.
Temporary storm drain diversion .....	variable.
Storm drain inlet protection .....	300 per inlet.
Rock outlet protection .....	45 per square yard.
Sediment traps .....	500 to \$7,000 per trap.
Temporary sediment basins .....	5,000 to \$50,000 per basin.
Sump pit .....	500 to \$7,000.
Entrance stabilization .....	1,500 to \$5,000 per entrance.
Entrance wash rack .....	2,000 per rack.
Temporary waterway crossing .....	500 to \$1,500.
Wind breaks .....	2.50 per linear foot.

Practices such as sod stabilization and tree protection increase property values and satisfy consumer aesthetic needs.

Sources: "Means Site Work Cost Data," 9th edition, 1990, R.S. Means Company. "Sediment and Erosion Control, An Inventory of Current Practices," prepared by Kamber Engineering for U.S. EPA, April 1990.

TABLE 2.—ANNUALIZED COSTS OF SEVERAL STORM WATER MANAGEMENT OPTIONS FOR CONSTRUCTION SITES

Option	Annualized cost for 9-acre developed area	Annualized cost for 20-acre developed area
Wet Ponds .....	\$5,872	\$9,820
Dry Ponds .....	3,240	5,907
Dry Ponds with Extended Detention .....	3,110	5,413
Infiltration Trenches .....	4,134	6,359

Estimates based on methodology presented in "Cost of Urban Runoff Quality Controls," Wiegand, C., Schueler, T., Chittenden, W., and Jellick, D., Urban Runoff Quality-Impact and Quality Enhancement Technology, Proceedings of an Engineering Foundation Conference, ASCE, 1986, edited by B. Urbonas and L.A. Roesner.

Costs are presented in 1992 dollars and were reviewed by the Office of Management and Budget during the previous issuance of this permit, September 25, 1992. Annualized costs are based on a 10 year period and 10 percent discount rate. Estimates include a contingency cost of 25 percent of the construction cost and operation and maintenance costs of 5 percent of the construction cost. Land costs are not included.

### VIII. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under UMRA section 202, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, UMRA section 205 generally requires

EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of UMRA section 205 do not apply when they are inconsistent with applicable law. Moreover, UMRA section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes an explanation with the final rule why the alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under UMRA section 203 a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating and advising small governments on compliance with the regulatory requirements.

#### A. UMRA Section 202 and the Construction General Permit

UMRA section 202 requires a written statement containing certain assessments, estimates and analyses prior to the promulgation of certain general notices of proposed rulemaking (2 U.S.C. 1532). UMRA section 421(10) defines "rule" based on the definition of

rule in the Regulatory Flexibility Act. Section 601 of the Regulatory Flexibility Act defines "rule" to mean any rule for which an agency publishes a general notice of proposed rulemaking pursuant to section 553 of the Administrative Procedure Act. EPA does not propose to issue NPDES general permits based on APA section 553. Instead, EPA relies on publication of general permits in the **Federal Register** in order to provide "an opportunity for a hearing" under CWA section 402(a), 33 U.S.C. 1342(a). Nonetheless, EPA has evaluated permitting alternatives for regulation of storm water discharges associated with construction activity. The general permit that EPA proposes to re-issue would be virtually the same NPDES general permit for construction that many construction operators have used over the past five years. Furthermore, general permits provide a more cost and time efficient alternative for the regulated community to obtain NPDES permit coverage than that provided through individually drafted permits.

#### B. UMRA Section 203 and the Construction General Permit

Agencies are required to prepare small government agency plans under UMRA section 203 prior to establishing any regulatory requirement that might significantly or uniquely affect small governments. "Regulatory requirements" might, for example, include the requirements of this NPDES general permit for discharges associated with construction activity, especially if

a municipality sought coverage under one of the general permit. EPA envisions that some municipalities—those with municipal separate storm sewer systems serving a population over 100,000—may elect to seek coverage under this general permit. For many municipalities, however, a permit application is not required until August 7, 2001, for a storm water discharge associated with construction activity where the construction site is owned or operated by a municipality with a population of less than 100,000. (See 40 CFR 122.26(e)(1)(ii)&(g)).

In any event, any such permit requirements would not significantly affect small governments because most State laws already provide for the control of sedimentation and erosion in a similar manner as today's general permit. Permit requirements also would not uniquely affect small governments because compliance with the permit's conditions affects small governments in the same manner as any other entity seeking coverage under the permit. Thus, UMRA section 203 would not apply.

#### **IX. Paperwork Reduction Act**

EPA has reviewed the requirements imposed on regulated facilities in this final general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* EPA did not prepare an Information Collection Request (ICR) document for today's permit because the information collection requirements in this permit have already been approved by the Office of Management and Budget (OMB) in submissions made for the NPDES permit program under the provisions of the Clean Water Act.

#### **X. Regulatory Flexibility Act**

Under the Regulatory Flexibility Act, U.S.C. 601 *et. seq.*, EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of rules on small entities. No Regulatory Flexibility Analysis is required, however, where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Today's permit provides small entities with an application option that is less burdensome than individual applications or participating in a group application. The other requirements have been designed to minimize significant economic impacts of the rule on small entities and does not have a significant impact on industry. In addition, the permit reduces significant administrative burdens on regulated sources. Accordingly, I hereby certify pursuant to the provisions of the

Regulatory Flexibility Act, that this permit will not have a significant impact on a substantial number of small entities.

#### **XI. Responses to Comments**

The following is a summary of the issues identified by EPA that were raised regarding the general permit for storm water from construction activities and EPA's response to those issues.

Comments were submitted wanting language added to the permit to require applicants to conduct a cultural resource assessment to determine if permitted activities will impact areas which have been previously undisturbed other than by agriculture. EPA believes that it would not be feasible to review all applications for an assessment due to the volume of applicants and the short time requirement, prior to construction, that a facility must submit a Notice of Intent (NOI) to receive coverage under the general permit. Under the previous permit, there were 2844 NOIs submitted and the permit only requires an NOI to be submitted two (2) days prior to construction beginning. However, EPA maintains a database tracking system of all NOI submittals. Copies of this database are available upon request. One could then screen the database based on the location of the facility in relation to an area of concern. The permit only allows coverage under the general permit for facilities which do not affect property that is listed or proposed to be listed in the National Historic Register. Should screening of the database identify a facility that is not eligible for coverage under the general permit in accordance with Part I.B.3.g., EPA would require the facility to apply for an individual permit.

Comments were submitted requesting that the requirements for utility companies to apply for general permit coverage be taken out of Parts I.B.3. and II.B of the permit. The references to utility companies have been deleted from Part I.B.3. in today's permit. Although utility companies in Region 4 will not be required to obtain coverage under the above referenced permit by virtue of the fact that they are a utility company, it should be noted that if the utility company has day to day operational control of the construction site. They would be required to submit an NOI under the provisions of Part II.B.2.

One Indian tribe submitted comments requesting deletion of the requirement for facilities to obtain a Florida Department of Environmental Protection (FDEP) or a Florida Water Management District (FWMD) permit (see Part

II.A.2.). Since the tribes are not under the jurisdiction of either the FDEP nor the FWMD, this provision is not applicable. Today's permit exempts facilities on Indian country lands from that permit requirement.

One commenter requested the name, number and address of the Historic Preservation Officer for the State of Florida. The name, address and phone number of the State Historic Preservation Officer (SHPO) for the State of Florida is the Director, Division of Historical Resources, Florida Department of State, R. A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399-0250, 850/487-2333.

One commenter suggested that EPA's requirement to consider impacts to threatened resources is overly broad and ambiguous. The commenter expressed a concern over being responsible for an entire watershed. A facility discharging to a watershed with many contributors of pollution would not be solely responsible for impacts downstream from the discharge point where the other sources have contributed to the impact. However, the facility would be held responsible for their particular contribution to a downstream impact. In the case of the Endangered Species Act, the permit does specifically limit the consideration of impact on species to the immediate area or vicinity of the discharge authorized by the permit and the Best Management Practices (BMPs) required by the permit (see Appendix C, step 2). The flexibility of "immediate area or vicinity" is intentional. Any more specific definition of the area of effects would be inappropriate due to the variation and complexity of conditions (e.g. size, slope, soil, etc.) from site to site. This language is intended to encourage coordination with local resource protection agencies and not to provide a cutoff distance beyond which a facility is absolved from responsibility. In the case of the National Historic Preservation Act, the language reflects the Act itself. EPA believes that an addition to this language in this case would compromise the intent of NHPA consultation requirements of the permit.

One commenter said that EPA, Region 4, has created a burden since they are issuing a separate permit from HQ therefore requiring a single company with multiple facilities in different states to potentially keep up with many different permits. A concern was also expressed regarding burdens on facilities which potentially adversely affect protected resources since consultants will have to be hired and potential changes to industrial processes



will have to be made. As in the previous national permit, different requirements for facilities in different states will be incorporated in a reissued national permit due to the Clean Water Act section 401 certification of the permit by each state. Therefore, consolidation of the Region 4 permit into the national permit will not eliminate the differences in permit requirements on a state by state basis. The requirements to consult on the potential adverse effects on protected resources comes from the ESA and the NHPA requirement for consistency with the Acts in all federal actions, such as a permit. The NPDES permit simply makes the permittee aware that the NPDES permit cannot and does not authorize or require an activity that would violate the ESA or the NHPA. A facility adversely affecting a protected resource would only be ineligible for coverage under the general permit. An individual permit would still be an option and the specific requirements would have to be determined at that time.

## XII. Section 401 Certification

Certification of the proposed permit was requested from the State of Florida by letter dated June 23, 1997. The Florida Department of Environmental Protection (FDEP) issued certification of the proposed permit with conditions via a letter dated August 18, 1997. Certification of the proposed permit was requested from the Miccosukee Tribe of Indians of Florida by letter dated June 23, 1997. Certification of the proposed permit is deemed waived in accordance with the provisions of 40 CFR 124.53(c). Certification of the proposed permit was requested from the Seminole Tribe of Florida by letter dated June 23, 1997. The Seminole Tribe of Florida provided certification of the proposed permit via a letter dated December 18, 1997.

## XIII. Official Signatures

Accordingly, I hereby certify pursuant to the provisions of the Regulatory Flexibility Act, that this permit will not have a significant impact on a substantial number of small entities.

**Authority:** Clean Water Act, 33 USC 1251 *et seq.*

Dated: February 17, 1998.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

## Appendix A

From the effective date of this permit, applicants are to use the existing Notice of Intent form (EPA 3510-9, published in the March 6, 1998 **Federal Register**, 63 FR 11253) referenced in this Addendum to obtain permit coverage. According to the provisions in Part II.B. of this permit,

applicants are reminded that they are certifying that they meet all eligibility requirements of Part I.B. of this permit and are informing the Director of their intent to be covered by, and comply with, those terms and conditions. These conditions include certifications that the applicant's storm water discharges and storm water-related discharge activities will not adversely affect listed endangered or threatened species, their critical habitat, or places either listed or eligible for listing on the National Register of Historic Places.

## Appendix B

From the effective date of this permit, permittees are to use the existing Notice of Termination form (EPA Form 3510-7) contained in this Addendum until they are instructed by the Director (EPA) to use a revised version. Permittees are to complete, sign and submit the form in accordance with Part VII.G of the permit when terminating permit coverage at a construction project when one or more of the conditions contained in Part IX have been met.

## Appendix C—Endangered Species Guidance

### I. Instructions

A list of species that EPA has determined may be affected by the activities covered by the construction general permit will be included in the final issued permit. These species will be listed by county. In order to get construction general permit coverage, applicants must:

- Indicate in box provided on the NOI whether any species listed in this Appendix are in proximity to the facility, and
- Certify pursuant to Section I.B.3.e. of the construction general permit that their storm water discharges, and BMPs constructed to control storm water runoff, are not likely, and will not be likely to adversely affect species identified in Addendum H of this permit.

To do this, please follow steps 1 through 4 below.

Step 1: Review the County Species List Below To Determine if Any Species Are Located in the Discharging Facility County

If the facility is within one (1) mile of the county line, a review of the bordering county's list must be made as well to determine the presence of species. If no species are listed in a facility's county, or adjacent county as mentioned in the previous sentence, or if a facility's county is not found on the list, an applicant is eligible for construction general permit coverage and may indicate in the NOI that no species are found in proximity and provide the necessary certification. If species are located in the county, or in the adjacent county as mentioned above, follow step 2 below. Where a facility is located in more than one county, the lists for all counties should be reviewed.

Step 2: Determine if Any Species May Be Found "In Proximity" to the Facility

A species is in proximity to a facility's storm water discharge when the species is:

- Located in the path or immediate area through which or over which contaminated point source storm water flows from industrial activities to the point of discharge into the receiving water.

- Located in the immediate vicinity of, or nearby, the point of discharge into receiving waters.

- Located in the area of a site where storm water BMPs are planned or are to be constructed.

The area in proximity to be searched/surveyed for listed species will vary with the size of the facility, the nature and quantity of the storm water discharges, and the type of receiving waters. Given the number of facilities potentially covered by the construction general permit, no specific method to determine whether species are in proximity is required for permit coverage under the construction general permit. Instead, applicants should use the method or methods which best allow them to determine to the best of their knowledge whether species are in proximity to their particular facility. These methods may include:

- *Conducting visual inspections:* This method may be particularly suitable for facilities that are smaller in size, facilities located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no nature habitat; and facilities that discharge directly into municipal storm water collection systems. For other facilities, a visual survey of the facility site and storm water drainage areas may be insufficient to determine whether species are likely to be located in proximity to the discharge.

- *Contacting the nearest State Wildlife Agency or U.S. Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) offices.* Many endangered and threatened species are found in well-defined areas or habitats. That information is frequently known to state or federal wildlife agencies. FWS has offices in every state. NMFS has regional offices in: Gloucester, Massachusetts; St. Petersburg, Florida; Long Beach, California; Portland, Oregon; and Juneau, Alaska.

- *Contacting local/regional conservation groups.* These groups inventory species and their locations and maintain lists of sightings and habitats.

- *Conducting a formal biological survey.* Larger facilities with extensive storm water discharges may choose to conduct biological surveys as the most effective way to assess whether species are located in proximity and whether there are likely adverse effects.

If no species are in proximity, an applicant is eligible for construction general permit coverage and may indicate that in the NOI and provide the necessary certification. If listed species are found in proximity to a facility, applicants must follow step 3 below.

Step 3: Determine if Species Could Be Adversely Affected by the Facility's Storm Water Discharges or by BMPs To Control Those Discharges

*Scope of Adverse Effects:* Potential adverse effects from storm water include:

- *Hydrological.* Storm water may cause siltation, sedimentation or induce other changes in the receiving waters such as temperature, salinity or pH. These effects will vary with the amount of storm water discharged and the volume and condition of the receiving water. Where a storm water discharge constitutes a minute portion of the

total volume of the receiving water, adverse hydrological effects are less likely.

- *Habitat*. Storm water may drain or inundate listed species habitat.
- *Toxicity*. In some cases, pollutants in storm water may have toxic effects on listed species.

The scope of effects to consider will vary with each site. Applicants must also consider the likelihood of adverse effects on species from any BMPs to control storm water. Most adverse impacts from BMPs are likely to occur from the construction activities.

Using earlier ESA authorizations for construction general permit eligibility: In some cases, a facility may be eligible for construction general permit coverage because actual or potential adverse effects were addressed or discounted through an earlier ESA authorization. Examples of such authorization include:

- An earlier ESA section 7 consultation for that facility.
- A section 10(a) permit issued for the facility.
- An area-wide Habitat Conservation Plan applicable to that facility.
- A clearance letter from the Services (which discounts the possibility of an adverse impacts from the facility).

In order for applicants to use an earlier ESA authorization to meet eligibility requirements: (1) The authorization must adequately address impacts for storm water discharges and BMPs from the facility on endangered and threatened species, (2) it must be current because there have been no subsequent changes in facility operations or circumstances which might impact species in ways not considered in the earlier authorization, and (3) the applicant must comply with any requirements from those authorizations to avoid or mitigate adverse effects to species. Applicants who wish to pursue this approach should carefully review documentation for those authorizations ensure that the above conditions are met.

If adverse effects are not likely, an applicant is eligible for construction general permit coverage and may indicate in the NOI that species are found in proximity and provide the necessary certification. If adverse effects are likely, follow step 4 below.

#### Step 4: Determine if Measures Can Be Implemented To Avoid Any Adverse Effects

If an applicant determines that adverse effects are likely, it can receive coverage if appropriate measures are undertaken to avoid or eliminate any actual or potential

adverse affects prior to applying for permit coverage. These measures may involve relatively simple changes to facility operations such as re-routing a storm water discharge to bypass an area where species are located.

At this stage, applicants may wish to contact the FWS and/or NMFS to see what appropriate measures might be suitable to avoid or eliminate adverse impacts to species.

If applicants adopt these measures, they must continue to abide by them during the course of permit coverage.

If appropriate measures are not available, the applicant is not eligible at that time for coverage under the construction general permit. Applicants should contact the appropriate EPA regional office about either:

- Entering into Section 7 consultation in order to obtain construction general permit coverage, or
- Obtaining an individual NPDES storm water permit.

### FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING

Scientific name	Common name	Status
<b>ALABAMA</b>		
<b>Escambia County</b>		
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<i>Pseudemys alabamensis</i> .....	Turtle, Alabama redbelly .....	E
Birds:		
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Fish:		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T
<b>FLORIDA</b>		
<b>Alachua County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Bear, Florida Black .....	C
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
Crustaceans:		
<i>Palaemonetes cummingsi</i> .....	Shrimp, Squirrel Chimney Cave (or Florida Cave) .....	T
<b>Baker County</b>		
Mammals:		
<i>Myotis grisescens</i> .....	Bat, Gray .....	E
<i>Ursus americanus floridanus</i> .....	Bear, Florida Black .....	C
Birds:		
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<b>Bay County</b>		
Fish:		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta caretta</i> .....	Loggerhead turtle .....	T
<i>Chelonia mydas mydas</i> .....	Green turtle .....	E
<i>Dermochelys coriacea</i> .....	Leatherback turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Eretmochelys imbricata</i> .....	Hawksbill turtle .....	E
<i>Lepidochelys kempi</i> .....	Atlantic ridley .....	E
Birds:		
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Falco peregrinus tundrius</i> .....	Arctic peregrine falcon .....	E(S/A)
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
Mammals:		
<i>Peromyscus polionotus allopkyrs</i> (critical habitat in this County) .....	Choctawhatchee beach mouse .....	E
<i>Peromyscus polionotus peninsularis</i> .....	St. Andrew beach mouse .....	C
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
<i>Euphorbia telephioides</i> .....	Telephus spurge .....	T
<i>Macbridea alba</i> .....	White birds-in-a-nest .....	T
<i>Paronychia chartacea</i> .....	Papery whitlow-wort .....	T
<i>Pinguicula ionantha</i> .....	Godfrey's (violet) butterwort .....	T
<b>Bradford County</b>		
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<b>Brevard County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Bear, Florida Black .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
<i>Peromyscus polionotus niveiventris</i> .....	Mouse, Southeastern Beach .....	T
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Charadrius melodus</i> .....	Plover, Piping .....	T
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Nerodia clarkii</i> (=fasciata) taeniata .....	Snake, Atlantic Salt Marsh .....	T
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<i>Chelonia mydas</i> .....	Turtle, Green Sea .....	E
<i>Eretmochelys imbricata</i> .....	Turtle, Hawksbill Sea .....	E
<i>Dermochelys coriacea</i> .....	Turtle, Leatherback Sea .....	E
<i>Caretta caretta</i> .....	Turtle, Loggerhead Sea .....	T
Plants:		
<i>Warea carteri</i> .....	Carter's Mustard .....	E
<i>Dicerandra cornutissima</i> .....	Mint, Longspurred .....	E
<b>Broward County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta</i> .....	Loggerhead sea turtle .....	T
<i>Chelonia mydas</i> .....	Green sea turtle .....	E
<i>Dermochelys coriacea</i> .....	Leatherback sea turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill sea turtle .....	E
<i>Lepidochelys kempii</i> .....	Kemp's (=Atlantic) ridley sea turtle .....	E
Birds:		
<i>Ammodramus maritima</i> .....	Cape Sable seaside sparrow .....	E
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Dendroica kirtlandii</i> .....	Kirtland's warbler .....	E
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<i>Polyborus</i> (=Caracara) <i>plancus audubonii</i> .....	Audubon's crested caracara .....	T
<i>Rostrhamus sociabilis plumbeus</i> .....	Everglade snail kite .....	E/CH
<i>Sterna dougallii</i> .....	Roseate tern .....	T
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		
<i>Felis concolor</i> .....	Mountain lion .....	T(S/A)
<i>Felis concolor coryi</i> .....	Florida panther .....	E

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
Family Arecaceae		
<i>Jacquemontia reclinata</i> .....	Beach jacquemontia .....	E
<b>Calhoun County</b>		
Fish:		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
Birds:		
<i>Falco peregrinus tundrius</i> .....	Arctic peregrine falcon .....	E(S/A)
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
<i>Spigelia gentianoides</i> .....	Gentian pinkroot .....	E
<b>Charlotte County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta</i> .....	Loggerhead sea turtle .....	T
<i>Chelonia mydas</i> .....	Green sea turtle .....	E
<i>Dermochelys coriacea</i> .....	Leatherback sea turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill sea turtle .....	E
<i>Lepidochelys kempii</i> .....	Kemp's (=Atlantic) ridley sea turtle .....	E
Birds:		
<i>Aphelocoma coerulescens coerulescens</i> .....	Florida scrub jay .....	T
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<i>Polyborus (=Caracara) plancus audubonii</i> .....	Audubon's crested caracara .....	T
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E/CH
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
Family Anonaceae		
<i>Deeringothamnus pulchellus</i> .....	Beautiful pawpaw .....	E
Family Convolvulaceae		
<i>Bonamia grandiflora</i> .....	Florida bonamia .....	T
<b>Citrus County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Bear, Florida Black .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Rostrhamus sociabilis plumbeus</i> .....	Kite, Everglade Snail .....	E/CH
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<i>Chelonia mydas</i> .....	Turtle, Green Sea .....	E
<i>Dermochelys coriacea</i> .....	Turtle, Leatherback .....	E
<i>Caretta caretta</i> .....	Turtle, Loggerhead Sea .....	T
Fish:		
<i>Acipenser oxyrhynchus desotoi</i> .....	Sturgeon, Gulf .....	T
Plants:		
<i>Verbena tampensis</i> .....	Vervain, Tampa .....	C
<b>Clay County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Bear, Florida Black .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
Fish:		
<i>Acipenser brevirostrum</i> .....	Sturgeon, Shortnose .....	E
Plants:		
<i>Rhododendron chapmanii</i> .....	Rhododendron, Chapman's .....	E
<b>Collier County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta</i> .....	Loggerhead sea turtle .....	T
<i>Chelonia mydas</i> .....	Green sea turtle .....	E
<i>Crocodylus acutus</i> .....	American crocodile .....	E
<i>Dermochelys coriacea</i> .....	Leatherback sea turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill sea turtle .....	E
<i>Lepidochelys kempii</i> .....	Kemp's (=Atlantic) ridley sea turtle .....	E
Birds:		
<i>Ammodramus maritima</i> .....	Cape Sable seaside sparrow .....	E/CH
<i>Aphelocoma coerulescens coerulescens</i> .....	Florida scrub jay .....	T
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<i>Polyborus (=Caracara) plancus audubonii</i> .....	Audubon's crested caracara .....	T
<i>Rostrhamus sociabilis plumbeus</i> .....	Everglade snail kite .....	E
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		
<i>Felis concolor</i> .....	Mountain lion .....	T(S/A)
<i>Felis concolor coryi</i> .....	Florida panther .....	E
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E/CH
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
Family Apiaceae:		
<i>Eryngium cuneifolium</i> .....	Snakeroot .....	E
<b>Columbia County:</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
Fish:		
<i>Acipenser oxyrhynchus desotoi</i> .....	Sturgeon, Gulf .....	T
<b>Dade County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta</i> .....	Loggerhead sea turtle .....	T
<i>Chelonia mydas</i> .....	Green sea turtle .....	E
<i>Crocodylus acutus</i> .....	American crocodile .....	E/CH
<i>Dermochelys coriacea</i> .....	Leatherback sea turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill sea turtle .....	E
<i>Lepidochelys kempii</i> .....	Kemp's (=Atlantic) ridley sea turtle .....	E
Birds:		
<i>Ammodramus maritima</i> .....	Cape Sable seaside sparrow .....	E/CH
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Dendroica kirtlandii</i> .....	Kirtland's warbler .....	E
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Rostrhamus sociabilis plumbeus</i> .....	Everglade snail kite .....	E/CH
<i>Sterna dougallii</i> .....	Roseate tern .....	T
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Eumops glaucinus floridanus</i> .....	Florida Mastiff bat .....	C
<i>Felis concolor</i> .....	Mountain lion .....	T(S/A)
<i>Felis concolor coryi</i> .....	Florida panther .....	E
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E/CH
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
Family Convolvulaceae		
<i>Jacquemontia reclinata</i> .....	Beach jacquemontia .....	E
Family Euphorbiaceae		
<i>Euphorbia deltoidea</i> var. <i>deltoidea</i> .....	Deltoid spurge .....	E
<i>Euphorbia garberi</i> .....	Garber's spurge .....	T
Family Fabaceae		
<i>Amorpha crenulata</i> .....	Crenulate lead plant .....	E
<i>Galactia smallii</i> .....	Small's milkpea .....	E
Family Polygalaceae		
<i>Polygala smallii</i> .....	Tiny polygala .....	E
<b>Desoto County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
Birds:		
<i>Ammodramus savannarum floridanus</i> .....	Florida grasshopper sparrow .....	E
<i>Aphelocoma coerulescens coerulescens</i> .....	Florida scrub jay .....	T
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<i>Polyborus (=Caracara) plancus audubonii</i> .....	Audubon's crested caracara .....	T
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		
<i>Felis concolor</i> .....	Mountain lion .....	T(S/A)
<i>Felis concolor coryi</i> .....	Florida panther .....	E
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E/CH
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<b>Dixie County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<i>Chelonia mydas</i> .....	Turtle, Green Sea .....	E
<i>Dermochelys coriacea</i> .....	Turtle, Leatherback Sea .....	E
<i>Caretta caretta</i> .....	Turtle, Loggerhead Sea .....	T
Fish:		
<i>Acipenser oxyrhynchus desotoi</i> .....	Sturgeon, Gulf .....	T
<b>Duval County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Bear, Florida Black .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Charadrius melodus</i> .....	Plover, Piping .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<i>Chelonia mydas</i> .....	Turtle, Green Sea .....	E
<i>Eretmochelys imbricata</i> .....	Turtle, Hawksbill Sea .....	E
<i>Dermochelys coriacea</i> .....	Turtle, Leatherback Sea .....	E
<i>Caretta caretta</i> .....	Turtle, Loggerhead Sea .....	T
Fish:		
<i>Acipenser brevirostrum</i> .....	Sturgeon, Shortnose .....	E
<b>Escambia County</b>		
Fish:		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T
Amphibians and Reptiles:		

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta caretta</i> .....	Loggerhead turtle .....	T
<i>Chelonia mydas mydas</i> .....	Green turtle .....	E
<i>Dermochelys coriacea</i> .....	Leatherback turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill turtle .....	E
<i>Lepidochelys kemp</i> .....	Atlantic ridley .....	E
Birds:		
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Falco peregrinus tundrius</i> .....	Arctic peregrine falcon .....	E(S/A)
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
Mammals:		
<i>Peromyscus polionotus trissyllepsis</i> .....	Perdido Key beach mouse .....	E/CH
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<b>Flagler County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Birds:		
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<i>Chelonia mydas</i> .....	Turtle, Green Sea .....	E
<i>Eretmochelys imbricata</i> .....	Turtle, Hawksbill Sea .....	E
<i>Dermochelys coriacea</i> .....	Turtle, Leatherback Sea .....	E
<i>Caretta caretta</i> .....	Turtle, Loggerhead Sea .....	T
<b>Franklin County</b>		
Fish:		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta caretta</i> .....	Loggerhead turtle .....	T
<i>Chelonia mydas mydas</i> .....	Green turtle .....	E
<i>Dermochelys coriacea</i> .....	Leatherback turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill turtle .....	E
<i>Lepidochelys kemp</i> .....	Atlantic ridley .....	E
Birds:		
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Falco peregrinus tundrius</i> .....	Arctic peregrine falcon .....	E(S/A)
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
Mammals:		
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
<i>Euphorbia telephioides</i> .....	Telephus spurge .....	T
<i>Harperocallis flava</i> .....	Harper's beauty .....	E
<i>Macbridea alba</i> .....	White birds-in-a-nest .....	T
<i>Pinguicula ionantha</i> .....	Godfrey's (violet) butterwort .....	T
<i>Scutellaria floridana</i> .....	Florida skullcap .....	T
<b>Gadsden County</b>		
Fish:		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
Birds:		
<i>Falco peregrinus tundrius</i> .....	Arctic peregrine falcon .....	E(S/A)
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E



## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<b>Mammals:</b>		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<b>Plants</b>		
<i>Rhododendron chapmanii</i> .....	Chapman's rhododendron .....	E
<i>Schwalbea americana</i> .....	American chaffseed .....	E
<i>Silene polypetala</i> .....	Fringed campion .....	E
<i>Spigelia gentianoides</i> .....	Gentian pinkroot .....	E
<i>Torreya taxifolia</i> .....	Florida torreya .....	E
<b>Gilchrist County</b>		
<b>Fish:</b>		
<i>Acipenser oxyrhynchus desotoi</i> .....	Sturgeon, Gulf .....	T
<b>Glades County</b>		
<b>Amphibians and Reptiles:</b>		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<b>Birds:</b>		
<i>Ammodramus savannarum floridanus</i> .....	Florida grasshopper sparrow .....	E
<i>Aphelocoma coerulescens coerulescens</i> .....	Florida scrub jay .....	T
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<i>Polyborus (=Caracara) plancus audubonii</i> .....	Audubon's crested caracara .....	T
<i>Rostrhamus sociabilis plumbeus</i> .....	Everglade snail kite .....	E/CH
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
<b>Mammals:</b>		
<i>Felis concolor</i> .....	Mountain lion .....	T(S/A)
<i>Felis concolor coryi</i> .....	Florida panther .....	E
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<b>Plants:</b>		
Family Arecaceae		
<i>Cucurbita okeechobeensis</i> ssp. <i>okeechobeensis</i> .....	Okeechobee gourd .....	E
<b>Gulf County</b>		
<b>Fish:</b>		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T
<b>Amphibians and Reptiles:</b>		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta caretta</i> .....	Loggerhead turtle .....	T
<i>Chelonia mydas mydas</i> .....	Green turtle .....	E
<i>Dermochelys coriacea</i> .....	Leatherback turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill turtle .....	E
<i>Lepidochelys kempi</i> .....	Atlantic ridley .....	E
<b>Birds:</b>		
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Falco peregrinus tundrius</i> .....	Arctic peregrine falcon .....	E(S/A)
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<b>Mammals:</b>		
<i>Peromyscus polionotus peninsularis</i> .....	St. Andrew beach mouse .....	C
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<b>Plants:</b>		
<i>Euphorbia telephoides</i> .....	Telephus spurge .....	T
<i>Macbridea alba</i> .....	White birds-in-a-nest .....	T
<i>Pinguicula ionantha</i> .....	Godfrey's (violet) butterwort .....	T
<i>Rhododendron chapmanii</i> .....	Chapman's rhododendron .....	E
<i>Scutellaria floridana</i> .....	Florida skullcap .....	T
<b>Hamilton County</b>		
<b>Mammals:</b>		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<b>Birds:</b>		
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
<b>Reptiles:</b>		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<b>Fish:</b>		
<i>Acipenser oxyrhynchus desotoi</i> .....	Sturgeon, Gulf .....	T

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<b>Hardee County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
Birds:		
<i>Aphelocoma coerulescens coerulescens</i> .....	Florida scrub jay .....	T
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<i>Polyborus (=Caracara) plancus audubonii</i> .....	Audubon's crested caracara .....	T
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		
<i>Felis concolor</i> .....	Mountain lion .....	T(S/A)
<i>Felis concolor coryi</i> .....	Florida panther .....	E
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
Family Convolvulaceae		
<i>Bonamia grandiflora</i> .....	Florida bonamia .....	T
Family Rosaceae		
<i>Prunus geniculata</i> .....	Scrub plum .....	E
<b>Hendry County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
Birds:		
<i>Aphelocoma coerulescens coerulescens</i> .....	Florida scrub jay .....	T
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<i>Polyborus (=Caracara) plancus audubonii</i> .....	Audubon's crested caracara .....	T
<i>Rostrhamus sociabilis plumbeus</i> .....	Everglade snail kite .....	E/CH
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		
<i>Felis concolor</i> .....	Mountain lion .....	T(S/A)
<i>Felis concolor coryi</i> .....	Florida panther .....	E
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<b>Hernando County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<i>Chelonia mydas</i> .....	Turtle, Green Sea .....	E
<i>Dermochelys coriacea</i> .....	Turtle, Leatherback Sea .....	E
<i>Caretta caretta</i> .....	Turtle, Loggerhead Sea .....	T
Fish:		
<i>Acipenser oxyrhynchus desotoi</i> .....	Sturgeon, Gulf .....	T
Plants:		
<i>Nolina brittoniana</i> .....	Beargrass, Britton's .....	E
<i>Campanula robinsiae</i> .....	Bellflower, Brooksville .....	E
<i>Justicia cooleyi</i> .....	Water-willow, Cooley's .....	E
<b>Highlands County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eumeces egregius lividus</i> .....	Blue-tailed mole skink .....	T
<i>Neoseps reynoldsi</i> .....	Sand skink .....	T
Birds:		
<i>Ammodramus savannarum floridanus</i> .....	Florida grasshopper sparrow .....	E
<i>Aphelocoma coerulescens coerulescens</i> .....	Florida scrub jay .....	T
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<i>Polyborus (=Caracara) plancus audubonii</i> .....	Audubon's crested caracara .....	T
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		
<i>Felis concolor</i> .....	Mountain lion .....	T(S/A)
<i>Felis concolor coryi</i> .....	Florida panther .....	E
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
Family Agavaceae		
<i>Nolina brittoniana</i> .....	Britton's beargrass .....	E
Family Apiaceae		
<i>Eryngium cuneifolium</i> .....	Snakeroot .....	E
Family Asteraceae		
<i>Chrysopsis floridana</i> .....	Florida golden aster .....	E
<i>Liatris ohlingerae</i> .....	Scrub blazing star .....	E
Family Brassicaceae		
<i>Warea carteri</i> .....	Carter's mustard .....	E
Family Caryophyllaceae		
<i>Paronychia chartacea</i> .....	Papery whitlow-wort .....	T
Family Convolvulaceae		
<i>Bonamia grandiflora</i> .....	Florida bonamia .....	T
Family Fabaceae		
<i>Clitoria fragrans</i> .....	Pigeon wing .....	T
<i>Crotalaria avonensis</i> .....	Avon Park harebells .....	E
Family Hypericaceae		
<i>Hypericum cumulicola</i> .....	Highlands scrub hypericum .....	E
Family Lamiaceae		
<i>Conradina brevifolia</i> .....	Short-leaved rosemary .....	E
<i>Dicerandra frutescens</i> .....	Scrub mint .....	E
<i>Dicerandra christmanii</i> .....	Garrett's mint .....	E
Family Oleaceae		
<i>Chionanthus pygmaeus</i> .....	Pygmy fringetree .....	E
Family Polygalaceae		
<i>Polygala lewtonii</i> .....	Lewton's polygala .....	E
Family Polygonaceae		
<i>Eriogonum longifolium</i> var. <i>gnaphalifolium</i> .....	Scrub buckwheat .....	T
<i>Polygonella basiramia</i> .....	Wireweed .....	E
<i>Polygonella myriophylla</i> .....	Sandlace .....	E
Family Rhamnaceae		
<i>Ziziphus celata</i> .....	Florida ziziphus .....	E
Family Rosaceae		
<i>Prunus geniculata</i> .....	Scrub plum .....	E
<i>Cladonia perforata</i> .....	Florida perforate cladonia (Deer moss) .....	E
<b>Hillsborough County</b>		
Mammals:		
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	E
<i>Charadrius melodus</i> .....	Plover, Piping .....	E
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<i>Chelonia mydas</i> .....	Turtle, Green Sea .....	E
<i>Dermochelys coriacea</i> .....	Turtle, Leatherback .....	E
<i>Caretta caretta</i> .....	Turtle, Loggerhead Sea .....	T
Fish:		
<i>Acipenser oxyrhynchus desotoi</i> .....	Sturgeon, Gulf .....	T
Plants:		
<i>Chrysopsis floridana</i> = <i>Heterotheca</i> .....	Aster, Florida Golden .....	E
<b>Holmes County</b>		
Fish:		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
Birds:		
<i>Falco peregrinus tundrius</i> .....	Arctic peregrine falcon .....	E(S/A)
<i>Mycteria americana</i> .....	Wood stork .....	E

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
Mammals:		
<i>Myotis grisescens</i> .....	Gray bat .....	E
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<b>Indian River County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta</i> .....	Loggerhead sea turtle .....	T
<i>Chelonia mydas</i> .....	Green sea turtle .....	E
<i>Dermochelys coriacea</i> .....	Leatherback sea turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill sea turtle .....	E
<i>Lepidochelys kempi</i> .....	Kemp's (=Atlantic) ridley sea turtle .....	E
<i>Nerodia fasciata taeniata</i> .....	Atlantic salt marsh snake .....	T
Birds:		
<i>Aphelocoma coerulescens coerulescens</i> .....	Florida scrub jay .....	T
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Dendroica kirtlandii</i> .....	Kirtland's warbler .....	E
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Polyborus (=Caracara) plancus audubonii</i> .....	Audubon's crested caracara .....	T
<i>Rostrhamus sociabilis plumbeus</i> .....	Everglade snail kite .....	E/CH
<i>Sterna dougalli dougalli</i> .....	Roseate tern .....	T
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		
<i>Peromyscus polionotus niveiventris</i> .....	Southeastern beach mouse .....	T
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E/CH
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
Family Cactaceae		
<i>Cereus eriophorus</i> var. <i>fragrans</i> .....	Fragrant wool-bearing cereus .....	E
Family Lamiaceae		
<i>Dicerandra immaculata</i> .....	Lakela's mint .....	E
<b>Jackson County</b>		
Fish:		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
Birds		
<i>Falco peregrinus tundrius</i> .....	Arctic peregrine falcon .....	E(S/A)
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
Mammals:		
<i>Myotis grisescens</i> .....	Gray bat .....	E
<i>Myotis sodalis</i> .....	Indiana bat .....	E
Plants:		
<i>Silene polypetala</i> .....	Fringed campion .....	E
<i>Spigelia gentianoides</i> .....	Gentian pinkroot .....	E
<i>Torreya taxifolia</i> .....	Florida torreya .....	E
<b>Jefferson County</b>		
Fish:		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta caretta</i> .....	Loggerhead turtle .....	T
<i>Chelonia mydas mydas</i> .....	Green turtle .....	E
<i>Dermochelys coriacea</i> .....	Leatherback turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill turtle .....	E
<i>Lepidochelys kempi</i> .....	Atlantic ridley .....	E
Birds:		
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Falco peregrinus tundrius</i> .....	Arctic peregrine falcon .....	E(S/A)
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
Mammals:		
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
<i>Ribes echinellum</i> .....	Miccosukee gooseberry .....	T
<b>Layfayette County</b>		
Birds:		
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
Fish:		
<i>Acipenser oxyrhynchus desotoi</i> .....	Sturgeon, Gulf .....	T
<b>Lake County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Bear, Florida Black .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Rostrhamus sociabilis plumbeus</i> .....	Kite, Everglade Snail .....	E
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Neoseps reynoldsi</i> .....	Skink, Sand .....	T
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
Plants:		
<i>Nolina brittoniana</i> .....	Beargrass, Britton's .....	E
<i>Bonamia grandiflora</i> .....	Bonamia, Florida .....	T
<i>Chionanthus pygmaeus</i> .....	Fringetree, Pygmy .....	E
<i>Prunus geniculata</i> .....	Plum, Scrub .....	E
<i>Polygala lewtonii</i> .....	Polygala, Lewton's .....	E
<i>Warea amplexifolia</i> .....	Warea, Wide-leaf .....	E
<i>Paronychia chartacea</i> = <i>Nyachia pulvinata</i> .....	Whitlow-wort, Papery .....	T
<i>Eriogonum longifolium</i> var. <i>g.</i> = <i>Eriogonum floridanum</i> .....	Wild Buckwheat, Scrub .....	T
<i>Clitoria fragrans</i> .....	Wings, Pigeon .....	T
<b>Lee County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta</i> .....	Loggerhead sea turtle .....	T
<i>Chelonia mydas</i> .....	Green sea turtle .....	E
<i>Crocodylus acutus</i> .....	American crocodile .....	E
<i>Dermochelys coriacea</i> .....	Leatherback sea turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill sea turtle .....	E
<i>Lepidochelys kempii</i> .....	Kemp's (=Atlantic) ridley sea turtle .....	E
Birds:		
<i>Aphelocoma coerulescens coerulescens</i> .....	Florida scrub jay .....	T
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<i>Polyborus</i> (=Caracara) <i>plancus audubonii</i> .....	Audubon's crested caracara .....	E
<i>Rostrhamus sociabilis plumbeus</i> .....	Everglade snail kite .....	E
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		
<i>Felis concolor</i> .....	Mountain lion .....	T(S/A)
<i>Felis concolor coryi</i> .....	Florida panther .....	E
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E/CH
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
Family Anonaceae		
<i>Deeringothamnus pulchellus</i> .....	Beautiful pawpaw .....	E
<b>Leon County</b>		
Fish:		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
Birds:		
<i>Falco peregrinus tundrius</i> .....	Arctic peregrine falcon .....	E(S/A)
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
Mammals:		
<i>Myotis grisescens</i> .....	Gray bat .....	E
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
<i>Schwalbea americana</i> .....	American chaffseed .....	E
<b>Levy County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Bear, Florida Black .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	ECH
<i>Microtus pennsylvanicus dukecampbelli</i> .....	Vole, Florida Salt Marsh .....	E
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<i>Chelonia mydas</i> .....	Turtle, Green Sea .....	E
<i>Dermochelys coriacea</i> .....	Turtle, Leatherback Sea .....	E
<i>Caretta caretta</i> .....	Turtle, Loggerhead Sea .....	T
Fish:		
<i>Acipenser oxyrhynchus desotoi</i> .....	Sturgeon, Gulf .....	T
<b>Liberty County</b>		
Fish:		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
Birds:		
<i>Falco peregrinus tundrius</i> .....	Arctic peregrine falcon .....	E(S/A)
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
<i>Conradina glabra</i> .....	Apalachicola rosemary .....	E
<i>Harperocallis flava</i> .....	Harper's beauty .....	E
<i>Macbridea alba</i> .....	White birds-in-a-nest .....	T
<i>Pinguicula ionantha</i> .....	Godfrey's (violet) butterwort .....	T
<i>Rhododendron chapmanii</i> .....	Chapman's rhododendron .....	E
<i>Scutellaria floridana</i> .....	Florida skullcap .....	T
<i>Spigelia gentianoides</i> .....	Gentian pinkroot .....	E
<i>Torreya taxifolia</i> .....	Florida torreya .....	E
<b>Madison County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Bear, Florida Black .....	C
Birds:		
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
Fish:		
<i>Acipenser oxyrhynchus desotoi</i> .....	Sturgeon, Gulf .....	T
<b>Manatee County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Bear, Florida Black .....	C
<i>Trichechus manatus lotirostris</i> .....	Manatee, West Indian .....	E/CH
Birds:		
<i>Polyborus plancu audubonii</i> .....	Caracara, Audubon's Crested .....	T
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Charadrius melodus</i> .....	Plover, Piping .....	T
<i>Aphelocoma coerulescens</i> .....	Scub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<i>Chelonia mydas</i> .....	Turtle, Green Sea .....	E
<i>Dermochelys coriacea</i> .....	Turtle, Leatherback Sea .....	E

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Caretta caretta</i> .....	Turtle, Loggerhead Sea .....	T
Fish:		
<i>Acipenser oxyrhynchus desotoi</i> .....	Sturgeon, Gulf .....	T
<b>Marion County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Bear, Florida Black .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Rostrhamus sociabilis plumbeus</i> .....	Kite, Everglade Snail .....	E
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Neoseps reynoldsi</i> .....	Skink, Sand .....	T
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
Plants:		
<i>Bonamia grandiflora</i> .....	Bonamia, Florida .....	T
<i>Dicerandra cornutissima</i> .....	Mint, Longspurred .....	E
<i>Polygala lewtonii</i> .....	Polygala, Lewton's .....	E
<i>Eriogonum longifolium</i> var. <i>g.</i> = <i>Eriogonum floridanum</i> .....	Wild Buckwheat, Scrub .....	T
<b>Martin County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta</i> .....	Loggerhead sea turtle .....	T
<i>Chelonia mydas</i> .....	Green sea turtle .....	E
<i>Dermochelys coriacea</i> .....	Leatherback sea turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill sea turtle .....	E
<i>Lepidochelys kempii</i> .....	Kemp's (=Atlantic) ridley sea turtle .....	E
Birds:		
<i>Aphelocoma coerulescens coerulescens</i> .....	Florida scrub jay .....	T
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Dendroica kirtlandii</i> .....	Kirtland's warbler .....	E
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<i>Polyborus</i> (=Caracara) <i>plancus audubonii</i> .....	Audubon's crested caracara .....	T
<i>Rostrhamus sociabilis plumbeus</i> .....	Everglade snail kite .....	E
<i>Sterna dougalli dougalli</i> .....	Roseate tern .....	T
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E/CH
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
Family Anonaceae		
<i>Asimina tetramera</i> .....	Four-petal pawpaw .....	E
Family Cladoniaceae		
<i>Cladonia perforata</i> .....	Florida perforate cladonia .....	E
Family Convolvulaceae		
<i>Jacquemontia reclinata</i> .....	Beach jacquemontia .....	E
<b>Monroe County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta</i> .....	Loggerhead sea turtle .....	T
<i>Chelonia mydas</i> .....	Green sea turtle .....	E
<i>Crocodylus acutus</i> .....	American crocodile .....	E/CH
<i>Dermochelys coriacea</i> .....	Leatherback sea turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill sea turtle .....	E
<i>Lepidochelys kempii</i> .....	Kemp's (=Atlantic) ridley sea turtle .....	E
<i>Nerodia fasciata taeniata</i> .....	Atlantic salt marsh snake .....	T
Birds:		
<i>Ammodramus maritima</i> .....	Cape Sable seaside sparrow .....	E/CH
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Dendroica kirtlandii</i> .....	Kirtland's warbler .....	E
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Polyborus</i> (=Caracara) <i>plancus audubonii</i> .....	Audubon's crested caracara .....	T



## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Rostrhamus sociabilis plumbeus</i> .....	Everglade snail kite .....	E
<i>Sterna dougallii</i> .....	Roseate tern .....	T
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		
<i>Felis concolor</i> .....	Mountain lion .....	T(S/A)
<i>Felis concolor coryi</i> .....	Florida panther .....	E
<i>Neotoma floridana smalli</i> .....	Key Largo woodrat .....	E
<i>Odocoileus virginianus clavium</i> .....	Key deer .....	E
<i>Oryzomys argentatus</i> .....	Silver rice rat .....	E/CH
<i>Peromyscus gossypinus allapaticola</i> .....	Key Largo cotton mouse .....	E
<i>Sylvilagus palustris hefneri</i> .....	Lower keys marsh rabbit .....	E
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E/CH
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Invertebrates:		
<i>Orthalicus reses</i> .....	Stock Island tree snail .....	T
<i>Heracles (=Papilio) aristodemus ponceanus</i> .....	Schaus swallowtail butterfly .....	E
Plants:		
Family Cactaceae		
<i>Pilosocereus robinii</i> .....	Key tree-cactus .....	E
Family Euphorbiaceae		
<i>Euphorbia garberi</i> .....	Garber's spurge .....	T
<b>Nassau County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
Birds:		
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<i>Chelonia mydas</i> .....	Turtle, Green Sea .....	E
<i>Eretmochelys imbricata</i> .....	Turtle, Hawksbill Sea .....	E
<i>Dermochelys coriacea</i> .....	Turtle, Leatherback Sea .....	E
<i>Caretta caretta</i> .....	Turtle, Loggerhead Sea .....	T
<b>Okaloosa County</b>		
Fish:		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T
<i>Etheostoma okaloosae</i> .....	Okaloosa darter .....	E
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta caretta</i> .....	Loggerhead turtle .....	T
<i>Chelonia mydas mydas</i> .....	Green turtle .....	E
<i>Dermochelys coriacea</i> .....	Leatherback turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill turtle .....	E
<i>Lepidochelys kempi</i> .....	Atlantic ridley .....	E
Birds:		
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Falco peregrinus tundrius</i> .....	Arctic peregrine falcon .....	E(S/A)
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
Mammals:		
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
<i>Cladonia perforata</i> .....	Perforate reindeer lichen .....	E
<b>Okeechobee County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
Birds:		
<i>Ammodramus savannarum floridanus</i> .....	Florida grasshopper sparrow .....	E
<i>Aphelocoma coerulescens coerulescens</i> .....	Florida scrub jay .....	T
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Polyborus (=Caracara) plancus audubonii</i> .....	Audubon's crested caracara .....	T
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
Family Convolvulaceae		
<i>Bonamia grandiflora</i> .....	Florida bonamia .....	T
Family Cucurbitaceae		
<i>Cucurbita okeechobeensis</i> .....	Okeechobee gourd .....	E
Family Polygonaceae		
<i>Eriogonum longifolium</i> var. <i>gnaphalifolium</i> .....	Scrub buckwheat .....	T
<b>Orange County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Birds:		
<i>Polyborus plancus audubonii</i> .....	Caracara, Audubon's Crested .....	T
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Rostrhamus sociabilis plumbeus</i> .....	Kite, Everglade Snail .....	E
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Neoseps reynoldsi</i> .....	Skink, Sand .....	T
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
Plants:		
<i>Nolina brittoniana</i> .....	Bear-grass, Britton's .....	E
<i>Bonamia grandiflora</i> .....	Bonamia, Florida .....	T
<i>Lupinus aridorum</i> .....	Lupine, Scrub .....	E
<i>Deeringothamnus pulchellus</i> .....	Pawpaw, Beautiful .....	E
<i>Polygonella myriophylla</i> .....	Sandlace .....	E
<i>Paronychia chartacea</i> = <i>Nyachia pulvinata</i> .....	Whitlow-wort, Papery .....	T
<i>Eriogonum longifolium</i> var. <i>g.</i> = <i>Eriogonum floridanum</i> .....	Wild Buckwheat, Scrub .....	T
<b>Osceola County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
Birds:		
<i>Ammodramus savannarum floridanus</i> .....	Florida grasshopper sparrow .....	E
<i>Aphelocoma coerulescens coerulescens</i> .....	Florida scrub jay .....	T
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<i>Polyborus</i> (=Caracara) <i>plancus audubonii</i> .....	Audubon's crested caracara .....	T
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
Family Agavaceae		
<i>Nolina brittoniana</i> .....	Scrub beargrass .....	E
Family Convolvulaceae		
<i>Bonamia grandiflora</i> .....	Florida bonamia .....	T
Family Fabaceae		
<i>Clitoria fragrans</i> .....	Pigeon wing .....	T
Family Oleaceae		
<i>Chionanthus pygmaeus</i> .....	Pygmy fringetree .....	E
Family Polygalaceae		
<i>Polygala lewtonii</i> .....	Lewton's polygala .....	E
Family Polygonaceae		
<i>Eriogonum longifolium</i> var. <i>gnaphalifolium</i> .....	Scrub buckwheat .....	T
<i>Polygonella myriophylla</i> .....	Sandlace .....	E
<b>Palm Beach County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta</i> .....	Loggerhead sea turtle .....	T
<i>Chelonia mydas</i> .....	Green sea turtle .....	E
<i>Dermochelys coriacea</i> .....	Leatherback sea turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill sea turtle .....	E
<i>Lepidochelys kempii</i> .....	Kemp's (=Atlantic) ridley sea turtle .....	E
<i>Nerodia fasciata taeniata</i> .....	Atlantic salt marsh snake .....	T
Birds:		
<i>Aphelocoma coerulescens coerulescens</i> .....	Florida scrub jay .....	T
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Dendroica kirtlandii</i> .....	Kirtland's warbler .....	E
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<i>Polyborus (=Caracara) plancus audubonii</i> .....	Audubon's crested caracara .....	T
<i>Rostrhamus sociabilis plumbeus</i> .....	Everglade snail kite .....	E/CH
<i>Sterna dougallii</i> .....	Roseate tern .....	T
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
<b>Mammals:</b>		
<i>Felis concolor</i> .....	Mountain lion .....	T(S/A)
<i>Felis concolor coryi</i> .....	Florida panther .....	E
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E/CH
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<b>Plants:</b>		
Family Anonaceae		
<i>Asimina tetramera</i> .....	Four-petal pawpaw .....	E
Family Convolvulaceae		
<i>Jacquemontia reclinata</i> .....	Beach jacquemontia .....	E
Family Cucurbitaceae		
<i>Cucurbita okeechobeensis</i> .....	Okeechobee gourd .....	E
<b>Pasco County</b>		
<b>Mammals:</b>		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
<b>Birds:</b>		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Charadrius melodus</i> .....	Plover, Piping .....	T
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
<b>Reptiles:</b>		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<i>Chelonia mydas</i> .....	Turtle, Green Sea .....	E
<i>Eretmochelys imbricata</i> .....	Turtle, Hawksbill Sea .....	E
<i>Lepidochelys kempii</i> .....	Turtle, Kemp's Ridley Sea .....	E
<i>Dermochelys coriacea</i> .....	Turtle, Leatherback Sea .....	E
<i>Caretta caretta</i> .....	Turtle, Loggerhead Sea .....	T
<b>Fish:</b>		
<i>Acipenser oxyrhynchus desotoi</i> .....	Sturgeon, Gulf .....	T
<b>Pinellas County</b>		
<b>Mammals:</b>		
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
<b>Birds:</b>		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Charadrius melodus</i> .....	Plover, Piping .....	T
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
<b>Reptiles:</b>		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<i>Chelonia mydas</i> .....	Turtle, Green Sea .....	E
<i>Lepidochelys kempii</i> .....	Turtle, Kemp's Ridley Sea .....	E
<i>Dermochelys coriacea</i> .....	Turtle, Leatherback Sea .....	E
<i>Caretta caretta</i> .....	Turtle, Loggerhead Sea .....	T
<b>Fish:</b>		
<i>Acipenser oxyrhynchus desotoi</i> .....	Sturgeon, Gulf .....	T
<b>Plants:</b>		
<i>Chrysopsis floridana</i> = <i>Heterotheca floridana</i> .....	Aster, Florida Golden .....	E
<b>Polk County</b>		
<b>Amphibians and Reptiles:</b>		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eumeces egregius lividus</i> .....	Blue-tailed mole skink .....	T
<i>Neoseps reynoldsi</i> .....	Sand skink .....	T
<b>Birds:</b>		
<i>Ammodramus savannarum floridanus</i> .....	Florida grasshopper sparrow .....	E
<i>Aphelocoma coerulescens coerulescens</i> .....	Florida scrub jay .....	T
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<i>Polyborus (=Caracara) plancus audubonii</i> .....	Audubon's crested caracara .....	T
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
Family Agavaceae		
<i>Nolina brittoniana</i> .....	Britton's beargrass .....	E
Family Asteraceae		
<i>Liatris ohlingerae</i> .....	Scrub blazing star .....	E
Family Brassicaceae		
<i>Warea amplexifolia</i> .....	Clasping warea .....	E
<i>Warea carteri</i> .....	Carter's mustard .....	E
Family Caryophyllaceae		
<i>Paronychia chartacea</i> .....	Papery whitlow-wort .....	T
Family Convolvulaceae		
<i>Bonamia grandiflora</i> .....	Florida bonamia .....	T
Family Fabaceae		
<i>Clitoria fragrans</i> .....	Pigeon wing .....	T
<i>Crotalaria avonensis</i> .....	Avon Park harebells .....	E
<i>Lupinus aridorum</i> .....	Scrub lupine .....	E
Family Hypericaceae		
<i>Hypericum cumulicola</i> .....	Highlands scrub hypericum .....	E
Family Lamiaceae		
<i>Conradina brevifolia</i> .....	Short-leaved rosemary .....	E
Family Oleaceae		
<i>Chionanthus pygmaeus</i> .....	Pygmy fringetree .....	E
Family Polygalaceae		
<i>Polygala lewtonii</i> .....	Lewton's polygala .....	E
Family Polygonaceae		
<i>Eriogonum longifolium</i> var. <i>gnaphalifolium</i> .....	Scrub buckwheat .....	T
<i>Polygonella basiramia</i> .....	Wireweed .....	E
<i>Polygonella myriophylla</i> .....	Sandlace .....	E
Family Rhamnaceae		
<i>Ziziphus celata</i> .....	Florida ziziphus .....	E
Family Rosaceae		
<i>Prunus geniculata</i> .....	Scrub plum .....	E
<i>Cladonia perforata</i> .....	Florida perforate cladonia (Deer moss) .....	E
<b>Putnam County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
Plants:		
<i>Conradina etonia</i> .....	Rosemary, Etonia .....	E
Fish:		
<i>Acipenser brevirostrum</i> .....	Sturgeon, Shortnose .....	E
<b>Sarasota County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta</i> .....	Loggerhead sea turtle .....	T
<i>Chelonia mydas</i> .....	Green sea turtle .....	E
<i>Dermochelys coriacea</i> .....	Leatherback sea turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill sea turtle .....	E
<i>Lepidochelys kempii</i> .....	Kemp's (=Atlantic) ridley sea turtle .....	E
Birds:		
<i>Aphelocoma coerulescens coerulescens</i> .....	Florida scrub jay .....	T
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E/CH

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<b>Santa Rosa County</b>		
Fish:		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta caretta</i> .....	Loggerhead turtle .....	T
<i>Chelonia mydas mydas</i> .....	Green turtle .....	E
<i>Dermochelys coriacea</i> .....	Leatherback turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill turtle .....	E
<i>Lepidochelys kempi</i> .....	Atlantic ridley .....	E
Birds:		
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Falco peregrinus tundrius</i> .....	Arctic peregrine falcon .....	E(S/A)
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
Mammals:		
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<b>Seminole County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<b>St. Johns County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
<i>Peromyscus polionotus phasma</i> .....	Mouse, Anastasia Island Beach .....	E
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Charadrius melodus</i> .....	Plover, Piping .....	T
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Mycteria americana</i> .....	Stork, Wood .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<i>Chelonia mydas</i> .....	Turtle, Green Sea .....	E
<i>Eretmochelys imbricata</i> .....	Turtle, Hawksbill Sea .....	E
<i>Dermochelys coriacea</i> .....	Turtle, Leatherback Sea .....	E
<i>Caretta caretta</i> .....	Turtle, Loggerhead Sea .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<b>St. Lucie County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta</i> .....	Loggerhead sea turtle .....	T
<i>Chelonia mydas</i> .....	Green sea turtle .....	E
<i>Dermochelys coriacea</i> .....	Leatherback sea turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill sea turtle .....	E
<i>Lepidochelys kempii</i> .....	Kemp's (=Atlantic) ridley sea turtle .....	E
Birds:		
<i>Aphelocoma coerulescens coerulescens</i> .....	Florida scrub jay .....	T
<i>Campephilus principalis principalis</i> .....	Ivory-billed woodpecker .....	E
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Dendroica kirtlandii</i> .....	Kirtland's warbler .....	E
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<i>Polyborus (=Caracara) plancus audubonii</i> .....	Audubon's crested caracara .....	T
<i>Rostrhamus sociabilis plumbeus</i> .....	Everglade snail kite .....	E/CH
<i>Sterna dougalli dougalli</i> .....	Roseate tern .....	T

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Vermivora bachmanii</i> .....	Bachman's warbler .....	E
Mammals:		
<i>Peromyscus polionotus niveiventris</i> .....	Southeastern beach mouse .....	T
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E/CH
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
Family Anonaceae:		
<i>Asimina tetramera</i> .....	Four-petal pawpaw .....	E
Family Cactaceae:		
<i>Cereus eriophorus</i> var. <i>fragrans</i> .....	Fragrant prickly-apple .....	E
Family Lamiaceae:		
<i>Dicerandra frutescens</i> .....	Scrub mint .....	E
<i>Dicerandra immaculata</i> .....	Lakela's mint .....	E
<b>Sumter County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Rostrhamus sociabilis plumbeus</i> .....	Kite, Everglade Snail .....	E
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<b>Suwanee County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
Fish:		
<i>Acipenser oxyrhynchus desotoi</i> .....	Sturgeon, Gulf .....	T
<b>Taylor County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian E/CH.	
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Charadrius melodus</i> .....	Plover, Piping .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<i>Chelonia mydas</i> .....	Turtle, Green Sea .....	E
<i>Dermochelys coriacea</i> .....	Turtle, Leatherback Sea .....	E
<i>Caretta caretta</i> .....	Turtle, Loggerhead Sea .....	T
Fish:		
<i>Acipenser oxyrhynchus desotoi</i> .....	Sturgeon, Gulf .....	T
<b>Union County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Birds:		
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T
<b>Volusia County</b>		
Mammals:		
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<i>Trichechus manatus latirostris</i> .....	Manatee, West Indian .....	E/CH
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Eagle, Bald .....	T
<i>Rostrhamus sociabilis plumbeus</i> .....	Kite, Everglade Snail .....	E
<i>Charadrius melodus</i> .....	Plover, Piping .....	T
<i>Aphelocoma coerulescens</i> .....	Scrub-jay, Florida .....	T
<i>Mycteria americana</i> .....	Stork, Wood .....	E
<i>Picoides borealis</i> .....	Woodpecker, Red-cockaded .....	E
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Snake, Eastern Indigo .....	T

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Chelonia mydas</i> .....	Turtle, Green Sea .....	E
<i>Eretmochelys imbricata</i> .....	Turtle, Hawksbill Sea .....	E
<i>Dermochelys coriacea</i> .....	Turtle, Leatherback Sea .....	E
<i>Caretta caretta</i> .....	Turtle, Loggerhead Sea .....	T
Plants:		
<i>Deeringothamus rugelii</i> .....	Pawpaw, Rugel's .....	E
<b>Wakulla County</b>		
Fish:		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta caretta</i> .....	Loggerhead turtle .....	T
<i>Chelonia mydas mydas</i> .....	Green turtle .....	E
<i>Dermochelys coriacea</i> .....	Leatherback turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill turtle .....	E
<i>Lepidochelys kemp</i> .....	Atlantic ridley .....	E
Birds:		
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Falco peregrinus tundrius</i> .....	Arctic peregrine falcon .....	E(S/A)
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
Mammals:		
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
<b>Walton County</b>		
Fish:		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T
<i>Etheostoma okaloosae</i> .....	Okaloosa darter .....	E
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Caretta caretta caretta</i> .....	Loggerhead turtle .....	T
<i>Chelonia mydas mydas</i> .....	Green turtle .....	E
<i>Dermochelys coriacea</i> .....	Leatherback turtle .....	E
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Eretmochelys imbricata</i> .....	Hawksbill turtle .....	E
<i>Lepidochelys kemp</i> .....	Atlantic ridley .....	E
Birds:		
<i>Charadrius melodus</i> .....	Piping plover .....	T
<i>Falco peregrinus tundrius</i> .....	Arctic peregrine falcon .....	E(S/A)
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
Mammals:		
<i>Peromyscus polionotus allophrys</i> .....	Choctawhatchee beach mouse .....	E/CH
<i>Trichechus manatus latirostris</i> .....	West Indian manatee .....	E
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
<i>Thalictrum cooley</i> .....	Cooley's meadowrue .....	E
<b>Washington County</b>		
Amphibians and Reptiles:		
<i>Alligator mississippiensis</i> .....	American alligator .....	T(S/A)
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
Birds:		
<i>Falco peregrinus tundrius</i> .....	Arctic peregrine falcon .....	E(S/A)
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
<i>Mycteria americana</i> .....	Wood stork .....	E
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
Mammals:		
<i>Myotis grisescens</i> .....	Gray bat .....	E
<i>Ursus americanus floridanus</i> .....	Florida black bear .....	C
Plants:		
<i>Paronychia chartacea</i> .....	Papery whitlow-wort .....	T
<i>Spigelia gentianoides</i> .....	Gentian pinkroot .....	E
<b>MISSISSIPPI</b>		
<b>Statewide on potential habitat</b>		
<i>Potamilus carfax</i> .....	Fat pocketbook .....	E
Birds:		
<i>Haliaeetus leucocephalus</i> .....	Bald eagle .....	T
Fish:		
<i>Acipenser oxyrinchus desotoi</i> .....	Gulf sturgeon .....	T



## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Scaphirhynchus albus</i> .....	Pallid sturgeon .....	E
Plants:		
<i>Isoetes louisianensis</i> .....	Louisiana quillwort .....	DE
<b>Attala County</b>		
Mammals:		
<i>Ursus americanus luteolus</i> .....	Louisiana black bear .....	T
<b>Jackson County</b>		
Birds:		
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<i>Pelecanus occidentalis</i> .....	Brown Pelican .....	E
<i>Grus canadensis pulla</i> .....	Mississippi sandhill crane .....	E
<i>Charadrius melodus</i> .....	Piping plover .....	T
Reptiles:		
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
<i>Gopherus polyphemus</i> .....	Gopher tortoise .....	T
<i>Graptemys flavimaculata</i> .....	Yellow-blotched map turtle .....	T
<i>Caretta caretta</i> .....	Loggerhead turtle .....	T
<i>Lepidochelys kempii</i> .....	Kemp's (=Atlantic) ridley sea turtle .....	E
Mammals:		
<i>Ursus americanus luteolus</i> .....	Louisiana black bear .....	T
<b>Jones County</b>		
Reptiles:		
<i>Gopherus polyphemus</i> .....	Gopher tortoise .....	T
<i>Graptemys flavimaculata</i> .....	Yellow-blotched map turtle .....	T
<i>Drymarchon corais couperi</i> .....	Eastern indigo snake .....	T
Birds:		
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
Mammals:		
<i>Ursus americanus luteolus</i> .....	Louisiana black bear .....	T
<b>Leake County</b>		
Mammals:		
<i>Ursus americanus luteolus</i> .....	Louisiana black bear .....	T
Reptiles:		
<i>Graptemys oculifera</i> .....	Ringed map turtle .....	T
<b>Neshobo County</b>		
Mammals:		
<i>Ursus americanus luteolus</i> .....	Louisiana black bear .....	T
Reptiles:		
<i>Graptemys oculifera</i> .....	Ringed map turtle .....	T
<b>Newton County</b>		
Mammals:		
<i>Ursus americanus luteolus</i> .....	Louisiana black bear .....	T
<b>Winston County</b>		
Birds:		
<i>Picoides borealis</i> .....	Red-cockaded woodpecker .....	E
<b>NORTH CAROLINA</b>		
<b>Graham County</b>		
Mammals:		
<i>Glaucomys sabrinus coloratus</i> .....	Carolina northern flying squirrel .....	E
Plants:		
<i>Spiraea virginiana</i> .....	Virginia spiraea .....	T
<i>Gymnoderma lineare</i> .....	Rock gnome lichen .....	E
Mollusk:		
<i>Alasmodonta raveneliana</i> .....	Appalachian elktoe .....	E
<b>Jackson County</b>		
Birds:		
<i>Falco peregrinus</i> .....	Peregrine falcon .....	E
Mammals:		
<i>Glaucomys sabrinus coloratus</i> .....	Carolina northern flying squirrel .....	E
<i>Myotis sodalis</i> .....	Indiana bat .....	E
Plants:		
<i>Helonias bullata</i> .....	Swamp pink .....	T
<i>Gymnoderma lineare</i> .....	Rock gnome lichen .....	E
<i>Isotria medeoloides</i> .....	Small-whorled pogonia .....	T
Mollusk:		
<i>Alasmodonta raveneliana</i> .....	Appalachian elktoe .....	E
<b>Swain County</b>		
Mammals:		
<i>Glaucomys sabrinus coloratus</i> .....	Carolina northern flying squirrel .....	E

## FEDERALLY LISTED THREATENED AND ENDANGERED SPECIES AND CANDIDATES FOR FEDERAL LISTING—Continued

Scientific name	Common name	Status
<i>Myotis sodalis</i> .....	Indiana bat .....	E
<i>Felis concolor couguar</i> .....	Eastern cougar .....	E
Plants:		
<i>Gymnoderma lineare</i> .....	Rock gnome lichen .....	E
Fish:		
<i>Cyprinella monacha</i> .....	Spotfin chub .....	T
Mollusk:		
<i>Mesodon clarki nantahala</i> .....	Noonday snail .....	T
<i>Pegias fabula</i> .....	Little-wing pearlymussel .....	E
<i>Alasmidonta raveneliana</i> .....	Appalachian elktoe .....	E
Spiders:		
<i>Microhexura montivaga</i> .....	Spruce-fir moss spider .....	E

\*E=Endangered—T=Threatened—C=Candidate—CH=Critical Habitat—(S/A)=due to similar appearance.

## Final NPDES General Permit for Storm Water Discharges From Construction Activities

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### Preface

The Clean Water Act (CWA) provides that storm water discharges associated with industrial activity from a point source (including discharges through a municipal separate storm sewer system) to waters of the United States are unlawful, unless authorized by a National Pollutant Discharge Elimination System (NPDES) permit. The terms "storm water discharge associated with industrial activity", "point source" and "waters of the United States" are critical to determining whether a facility is subject to this requirement. Complete definitions of these terms are found in the definition section (Part X) of this permit.

### Part I. Coverage Under This Permit

#### A. Permit Area

The permit, except the parts listed below, covers all areas administered by EPA, Region 4:

- All Indian Country Lands within the State of Alabama, except Part IV and Part V.D.2.a.(1), NPDES Permit No. ALR10\*##I
- State of Florida, excluding Indian lands, NPDES Permit No. FLR10\*###
- All Indian Country Lands within the State of Florida, except Part IV and Part V.D.2.a.(1), NPDES Permit No. FLR10\*##I
- All Indian Country Lands within the State of Mississippi, except Part IV and Part V.D.2.a.(1), NPDES Permit No. MSR10\*##I
- All Indian Country Lands within the State of North Carolina, except Part IV

and Part V.D.2.a.(1), NPDES Permit No. NCR10\*##I

#### B. Eligibility

1. This permit may authorize all discharges identified in the pollution prevention plan of storm water associated with industrial activity from construction sites, (those sites or common plans of development or sale, including unpaved roads, that will result in the disturbance of five or more acres total land area or less than five acres if the Director designates the site),<sup>23</sup> (henceforth referred to as storm water discharges from construction activities) occurring after the effective date of this permit (including discharges occurring after the effective date of this permit where the construction activity was initiated before the effective date of this permit), except for discharges identified under paragraph I.B.3.

2. This permit may authorize storm water discharges from construction sites that are mixed with storm water discharges associated with industrial activity from industrial sources other than construction, where:

- a. the industrial source other than construction is located on the same site as the construction activity;
- b. storm water discharges associated with industrial activity from the areas of the site where construction activities are occurring are in compliance with the terms of this permit; and
- c. storm water discharges associated with industrial activity from the areas of the site where industrial activity other than construction are occurring (including storm water discharges from dedicated asphalt plants and dedicated concrete plants at the construction site)

<sup>23</sup> On June 4, 1992, the United State Court of Appeals for the Ninth Circuit remanded the exemption for construction sites of less than five acres to the EPA for further rulemaking. (Nos. 90-70671 and 91-70200). Section 402(p)(2)(E) of the Clean Water Act shall be used as a bases for any designations.

are in compliance with the terms, including applicable NOI or application requirements, of a different NPDES general permit or individual permit authorizing such discharges.

3. *Limitations on Coverage.* The following storm water discharges from construction sites are not authorized by this permit:

a. storm water discharges associated with industrial activity that originate from the site after construction activities have been completed and the site has undergone final stabilization;

b. discharges that are mixed with sources of non-storm water, other than discharges identified in Part III.A of this permit which are in compliance with Part V.D.5 (non-storm water discharges) of this permit;

c. storm water discharges associated with construction activity that are subject to an existing NPDES individual or general permit or which are issued a permit in accordance with paragraph VII.N (requiring an individual permit or an alternative general permit) of this permit. Such discharges may be authorized under this permit after an existing permit expires, provided the existing permit did not establish numeric limitations for such discharges;

d. storm water discharges from construction sites that the Director (EPA) has determined to be or may reasonably be expected to be causing or contributing to a violation of a water quality standard;

e. storm water discharges from construction sites if the discharges may adversely affect a listed or proposed to be listed endangered or threatened species or its critical habitat;

(1) a discharge of storm water associated with construction activity may be covered under this permit only if the applicant certifies that they meet at least one of the following criteria. Failure to continue to meet one of these criteria during the term of the permit will result in the storm water discharges associated with construction ineligible for coverage under this permit.

(a) the storm water discharge(s), and the construction and implementation of Best Management Practices (BMPs) to control storm water runoff, are not likely to adversely affect species identified in Appendix C of this permit or critical habitat for a listed species; or

(b) the applicant's activity has received previous authorization under Section 7 or section 10 of the Endangered Species Act and that authorization addressed storm water discharges and/or BMPs to control storm water runoff (e.g., developer included impact of entire project in consultation over a wetlands dredge and

fill permit under Section 7 of the Endangered Species Act); or

(c) the applicant's activity was considered as part of a larger, more comprehensive assessment of impacts on endangered species under Section 7 or Section 10 of the Endangered Species Act that which accounts for storm water discharges and BMPs to control storm water runoff (e.g., where an area-wide habitat conservation plan and Section 10 permit is issued which addresses impacts from construction activities including those from storm water, or a National Environmental Policy Act (NEPA) review is conducted which incorporates ESA Section 7 procedures); or

(d) consultation under Section 7 of the Endangered Species Act is conducted for the applicant's activity which results in either a no jeopardy opinion or a written concurrence on a finding of not likely to adversely affect; or

(e) the applicant's activity was considered as part of a larger, more comprehensive site-specific assessment of impacts on endangered species by the owner or other operator of the site and that permittee certified eligibility under item (a), (b), (c), or (d) above (e.g. owner was able to certify no adverse impacts for the project as a whole under item (a), so the contractor can then certify under item (e)).

(2) All applicants must follow the procedures provided at Appendix C of this permit when applying for permit coverage.

(3) The applicant must comply with any terms and conditions imposed under the eligibility requirements of paragraphs (1)(a), (b), (c), (d), or (e) above to ensure that storm water discharges or BMPs to control storm water runoff are protective of listed endangered and threatened species and/or critical habitat. Such terms and conditions must be incorporated in the applicant's storm water pollution prevention plan.

(4) For the purposes of conducting consultation to meet the eligibility requirements of paragraph (1)(d) above, applicants are designated as non-Federal representatives. See 50 CFR 402.08. However, applicants who choose to conduct consultation as a non-Federal representative must notify EPA and the appropriate Office of the Fish and Wildlife Service office in writing of that decision.

(5) This permit does not authorize any "taking" (as defined under Section 9 of the Endangered Species Act) of endangered or threatened species.

(6) This permit does not authorize any storm water discharges, nor require any

BMPs to control storm water runoff, that are likely to jeopardize the continued existence of any species that are listed as endangered or threatened under the Endangered Species Act or result in the adverse modification or destruction of habitat that is designated as critical under the Endangered Species Act.

f. discharges of storm water associated with industrial activity from construction sites not specifically identified in the pollution prevention plan in accordance with Part V of this permit. Such discharges not identified in the plan are subject to the upset and bypass rules in Part VII of this permit.

g. storm water discharges that would affect a property that is listed or is eligible for listing in the National Historic Register maintained by the Secretary of Interior may be in violation of the National Historic Preservation Act. A discharge of storm water associated with construction activity may be covered under this permit only if the applicant certifies that either:

(1) the storm water discharge(s), and the construction and implementation of BMPs to control storm water runoff, do not affect a property that is listed or is eligible for listing in the National Historic Register maintained by the Secretary of Interior; or,

(2) the applicant consults with the State Historic Preservation Officer (SHPO) or the Tribal Historic Preservation Officer (THPO) on the potential for adverse effects which results in a no effect finding; or

(3) the applicant has obtained and is in compliance with a written agreement between the applicant and the SHPO or THPO that outlines all measures to be undertaken by the applicant to mitigate or prevent adverse effects to the historic property; or

(4) the applicant agrees to implement and comply with the terms of a written agreement between another owner/operator (e.g., subdivision developer, property owner, etc.) and the SHPO or THPO that outlines all measures to be undertaken by operators on the site to mitigate or prevent adverse effects to the historic property; or

(5) the applicant's activity was considered as part of a larger, more comprehensive site-specific assessment of effects on historic properties by the owner or other operator of the site and that permittee certified eligibility under item (1), (2), (3), or (4) above.

#### C. Authorization

1. A discharger must submit a Notice of Intent (NOI) in accordance with the requirements of Part II of this permit, using an NOI form provided by the Director (or a photocopy thereof), in

order for storm water discharges from construction sites to be authorized to discharge under this general permit.<sup>24</sup>

2. Where a new operator is selected after the submittal of an NOI under Part II, a new NOI must be submitted by the operator in accordance with Part II, using an NOI form provided by the Director (or a photocopy thereof).

3. Unless notified by the Director to the contrary, dischargers who submit an NOI in accordance with the requirements of this permit are authorized to discharge storm water from construction sites under the terms and conditions of this permit 2 days after the date that the NOI is postmarked. The Director may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information (see Part VII.L of this permit).

#### *Part II. Notice of Intent Requirements*

##### *A. Deadlines for Notification.*

1. Except as provided in paragraphs II.A.2, II.A.3, II.A.4, and II.A.5, individuals who intend to obtain coverage under this general permit for storm water discharges from a construction site (where disturbances associated with the construction project commence before the effective date of this permit), including unpaved rural roads, shall submit a Notice of Intent (NOI) in accordance with the requirements of this Part within 30 days of the effective date of this permit;

2. Individuals who intend to obtain coverage under this general permit for storm water discharges from a construction site, including unpaved rural roads, where disturbances associated with the construction project commence after April 3, 1998, shall submit an NOI in accordance with the requirements of this Part, at least 2 days prior to the commencement of construction activities (e.g. the initial disturbance of soils associated with clearing, grading, excavation activities, or other construction activities). Prior to submitting this NOI, except for owners of facilities located within Indian country, as defined in 18 USC 1151, the owner of a storm water management system must receive a State of Florida storm water or environmental resource permit from either the Florida Department of Environmental Protection (FDEP) or a Florida Water Management District (FWMD);

3. For storm water discharges from construction sites, including unpaved rural roads, where the operator changes

(including projects where an operator is selected after an NOI has been submitted under Parts II.A.1 or II.A.2), an NOI in accordance with the requirements of this Part shall be submitted at least 2 days prior to when the operator commences work at the site; and

4. EPA will accept an NOI in accordance with the requirements of this Part after the dates provided in Parts II.A.1, 2 or 3 of this permit. EPA shall, in such instances, use its discretion in initiating any appropriate enforcement actions.

5. Applicants who have submitted a completed NOI for coverage under the administratively continued previous general permit, issued September 25, 1992 (57 FR 44412), or applicants who have submitted a completed NOI for coverage under the general permit after its expiration shall automatically receive coverage under today's permit. If the applicant cannot certify that they meet all applicable eligibility requirements of Part I.B of today's permit or cannot be covered by, or comply with, the terms and conditions of this permit, then the applicant shall notify the Director, in accordance with the requirements of Part IX of this permit, within 90 days of the effective date of this permit.

##### *B. Contents of Notice of Intent.*

Operators must use EPA's current NOI form [EPA Form 3510-9 which replaces EPA Form 3510-6] to apply for permit coverage. (Note: the revised NOI form was published in the March 6, 1998 **Federal Register**, 63 FR 11253). By completing and signing the current NOI form to obtain permit coverage, operators are certifying that they meet all applicable eligibility requirements of Part I.B of today's permit and are informing the Director of their intent to be covered by, and comply with, the terms and conditions of this permit. The Notice of Intent shall be signed in accordance with Part VII.G of this permit by all of the entities identified in Part II.B.2. The NOI shall include the following information:

1. The mailing address, and location (including the county) of the construction site for which the notification is submitted. Where a mailing address for the site is not available, the location of the approximate center of the site must be described in terms of the latitude and longitude to the nearest 15 seconds, or the section, township and range to the nearest quarter section;

2. The name, address and telephone number of the operator(s) with day to day operational control that have been

identified at the time of the NOI submittal, and operator status as a Federal, State, private, public or other entity. Where multiple operators have been selected at the time of the initial NOI submittal, NOIs must be attached and submitted in the same envelope. When an additional operator submits an NOI for a site with an existing NPDES permit, the NOI for the additional operators must indicate the number for the existing NPDES permit;

3. The location of the first outfall in latitude and longitude to the nearest 15 seconds and the name of the receiving water(s) into which that outfall discharges, or if the discharge is through a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water(s). (All other outfalls must be listed in the pollution prevention plan as required by Part V.);

4. The permit number of any NPDES permit(s) for any discharge(s) (including any storm water discharges or non-storm water discharges) from the site;

5. An indication of whether the owner or operator has existing quantitative data which describes the concentration of pollutants in storm water discharges (existing data should not be included as part of the NOI); and

6. An estimate of project start date and completion dates, estimates of the number of acres of the site on which soil will be disturbed, and a certification that a storm water pollution prevention plan has been prepared for the site in accordance with Part V of this permit. (A copy of the plans or permits should not be included with the NOI submission). For activities located in the State of Florida, the applicant shall submit a narrative statement certifying that the storm water pollution prevention plan for the facility provides compliance with approved State of Florida issued permits, erosion and sediment control plans and storm water management plans. The applicant shall also submit a copy of the cover page of the State permit issued by FDEP or a FWMD to the facility for the storm water discharges associated with construction activity.

7. A certification that a storm water pollution prevention plan, including both construction and post-construction controls, has been prepared for the site in accordance with Part IV of this permit, and such plan provides compliance with approved State/Tribal and/or local sediment and erosion plans or permits and/or storm water management plans or permits in accordance with Part IV.D.2.d of this permit. (A copy of the plans or permits should not be included with the NOI

<sup>24</sup> A copy of the approved NOI form is provided in Appendix A of this notice.

submission). The applicant shall also submit a copy of the cover page of the State permit issued by FDEP or a FWMD to the facility for the storm water discharges associated with construction activity.

8. Whether, based on the instructions in Appendix C, any species identified in Appendix C are in proximity to the storm water discharges covered by this permit or the BMPs to be used to comply with permit conditions.

9. Under which section(s) of Part I.B.3.e.(1)(Endangered Species) and Part I.B.3.f. (Historical Preservation) the applicant is certifying eligibility.

10. The following certifications shall be signed in accordance with Part VI.G.

"I certify under penalty of law that I have read and understand the Part I.B. eligibility requirements for coverage under the general permit for storm water discharges from construction activities, including those requirements relating to the protection of endangered species identified in Appendix C."

"To the best of my knowledge the discharges covered under this permit, and the construction and operation of BMPs to control storm water runoff, are not likely to adversely affect any species identified in Appendix C of this permit, or are otherwise eligible for coverage under this permit, in accordance with Part I.B.3.e of the permit, due to previous authorization under the Endangered Species Act, or agreement to implement protective measures required by the Director as a condition of eligibility."

"I further certify, to the best of my knowledge, that such discharges, and construction of BMPs to control storm water runoff, do not have an effect on properties listed or eligible for listing on the National Register of Historic Places under the National Historic Preservation Act, or are otherwise eligible for coverage, in accordance with Part I.B.3.f. of the permit, due to a previous agreement under the National Historic Preservation Act."

"I understand that continued coverage under this storm water general permit is contingent upon maintaining eligibility as provided for in Part I.B."

#### C. Where to Submit.

1. Facilities which discharge storm water associated with industrial activity must use an NOI form provided by the Director (or photocopy thereof). Currently, applicants may use the NOI form published in the September 29, 1995 **Federal Register** (60 FR 51265). The final version of the NOI form proposed in the June 2, 1997 **Federal Register** (62 FR 29785) shall be used when published in the **Federal Register**. Forms are also available by calling (404)562-9296. NOIs must be signed in accordance with Part VII.G of this permit. NOIs are to be submitted to the Director of the NPDES program in care

of the following address: Storm Water Notice of Intent (4203) 401 M Street, S.W. Washington, DC 20460

2. A copy of the NOI or other indication that storm water discharges from the site are covered under an NPDES permit, and a brief description of the project shall be posted at the construction site in a prominent place for public viewing (such as alongside a building permit).

#### D. Additional Notification

Facilities which are operating under approved State or local sediment and erosion plans, grading plans, or storm water management plans shall also submit signed copies of the Notice of Intent to the State or local agency approving such plans in accordance with the deadlines in Part II.A of this permit (or sooner where required by State or local rules). Facilities which discharge storm water associated with construction activities to a municipal separate storm water system within Broward, Dade, Duval, Escambia, Hillsborough, Lee, Leon, Manatee, Orange, Palm Beach, Pasco, Pinellas, Polk, Sarasota or Seminole Counties shall submit a copy of the NOI to the operator of the municipal separate storm sewer system. Included within these counties, the Florida Department of Transportation (FDOT), incorporated municipalities, and Chapter 298 Special Districts shall also be notified where they own or operate a municipal separate storm sewer system receiving storm water discharges associated with construction activity covered by this permit.

#### E. Permit Renewal

If this general permit is not reissued prior to its expiration date, all facilities desiring to retain continued coverage shall submit another NOI form prior to the expiration of this permit. This submittal shall also satisfy the notification requirement to be covered under the reissued permit.

#### Part III. Special Conditions, Management Practices, and Other Non-Numeric Limitations

##### A. Prohibition on Non-storm Water Discharges

1. Except as provided in paragraph I.B.2 and III.A.2, all discharges covered by this permit shall be composed entirely of storm water.

2. a. Except as provided in paragraph III.A.2.(b), discharges of material other than storm water must be in compliance with a NPDES permit (other than this permit) issued for the discharge.

b. The following non-storm water discharges may be authorized by this

permit provided the non-storm water component of the discharge is in compliance with paragraph V.D.5 and the storm water management system is designed to accept these discharges and provide treatment of the non-storm water component sufficient to meet Florida water quality standards: discharges from fire fighting activities; fire hydrant flushings; waters used to spray off loose solids from vehicles (waste waters from a more thorough cleaning, including the use of detergents or other cleaners is not authorized by this part) or control dust in accordance with Part V.D.2.c.(2); potable water sources including waterline flushings; irrigation drainage; routine external building washdown which does not use detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; springs; and foundation or footing drains where flows are not contaminated with process materials such as solvents. Discharges resulting from ground water dewatering activities at construction sites are not covered by this permit. Applicants in the State of Florida seeking coverage for these discharges must contact the Florida Department of Environmental Protection.

##### B. Releases in Excess of Reportable Quantities.

1. The discharge of hazardous substances or oil in the storm water discharge(s) from a facility shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the facility. This permit does not relieve the permittee of the reporting requirements of 40 CFR part 117 and 40 CFR part 302. Where a release containing a hazardous substance in an amount equal to or in excess of a reporting quantity established under either 40 CFR 117 or 40 CFR 302, occurs during a 24 hour period:

a. The permittee is required to notify the National Response Center (NRC) (800-424-8802 or for Region 4, 404-562-8702) in accordance with the requirements of 40 CFR 117 and 40 CFR 302 as soon as he or she has knowledge of the discharge;

b. The permittee shall submit within 14 calendar days of knowledge of the release a written description of: the release (including the type and estimate of the amount of material released), the date that such release occurred, the circumstances leading to the release, and steps to be taken in accordance with Part III.B.3 of this permit to EPA Region

4 Office at the address provided in Part VI.C (addresses) of this permit; and

c. The storm water pollution prevention plan required under Part V of this permit must be modified within 14 calendar days of knowledge of the release to: provide a description of the release, the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate.

2. *Spills.* This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

#### *Part IV. Unpaved Rural Roads*

##### **A. Applicability**

The provisions of this part are applicable to the construction of roads, except roads constructed and associated with silviculture and agricultural activities as defined by 40 CFR Part 122, that disturb five (5) acres or more and will remain unpaved after construction is complete.

##### **B. Construction**

In the State of Florida, construction of unpaved rural roads where the possibility of a point source discharge to surface waters exists, must all erosion and sediment controls and storm water management practices as needed to be consistent with the requirements set forth in State Water Policy (Chapter 62-40, FAC), the applicable storm water or environmental resource permitting requirements of the FDEP or appropriate FWMD, and the guidelines contained in the Florida Development Manual: A Guide to Sound Land and Water Management (FDEP, 1988) and any subsequent amendments.

##### **C. Notice of Termination**

Where a site has been finally stabilized and all storm water discharges from construction activities that are authorized by this permit are eliminated (see Part IX.A.5. for the definition of eliminated), or where the operator of all storm water discharges at a facility changes, the operator of the facility may submit a Notice of Termination that is signed in accordance with Part VII.G of this permit.

#### *Part V. Storm Water Pollution Prevention Plans*

A storm water pollution prevention plan shall be developed for each construction site covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with

good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction site. In addition, the plan shall describe and ensure the implementation of practices which will be used to reduce the pollutants in storm water discharges associated with industrial activity at the construction site and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.

##### **A. Deadlines for Plan Preparation and Compliance**

The plan shall:

1. Be completed (including certifications required under Part V.E) prior to the submittal of an NOI to be covered under this permit and updated as appropriate;

2. The plan shall provide for compliance with the terms and schedule of the plan beginning with the initiation of construction activities.

##### **B. Signature and Plan Review**

1. The plan shall be signed in accordance with Part VII.G, and be retained on-site at the facility which generates the storm water discharge in accordance with Part V (retention of records) of this permit.

2. The permittee shall submit plans to the State agency which issued the storm water or environmental resource permit referenced in Part II.B.6. and shall make plans available upon request to the Director; a State or local agency approving sediment and erosion plans, grading plans, or storm water management plans; or in the case of a storm water discharge associated with industrial activity which discharges through a municipal separate storm sewer system with an NPDES permit, to the municipal operator of the system.

3. The Director may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this Part. Such notification shall identify those provisions of the permit which are not being met by the plan, and identify which provisions of the plan requires modifications in order to meet the minimum requirements of this Part. Within 7 days of such notification from the Director, (or as otherwise provided by the Director), or authorized representative, the permittee shall make the required changes to the plan and shall submit to the Director a written

certification that the requested changes have been made.

##### **C. Keeping Plans Current**

The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the waters of the United States, including the addition of or change in location of storm water discharge points, and which has not otherwise been addressed in the plan or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part V.D.2 of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with construction activity. In addition, the plan shall be amended to identify any new contractor and/or subcontractor that will implement a measure of the storm water pollution prevention plan (see Part V.E). Amendments to the plan shall be prepared, dated, and kept as separate documents from the original plan. The amendments to the plan may be reviewed by EPA in the same manner as Part V.B above. Amendments to the plan must be submitted to the State agency which issued the State storm water or environmental resource permit.

##### **D. Contents of Plan**

The storm water pollution prevention plan shall include the following items:

1. *Site Description.* Each plan shall provide a description of pollutant sources and other information as indicated:

a. A description of the nature of the construction activity;

b. A description of the intended sequence of major activities which disturb soils for major portions of the site (e.g. grubbing, excavation, grading);

c. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by excavation, grading, or other activities;

d. An estimate of the runoff coefficient of the site before, during and after construction activities are completed using "C" from the Rational Method, and existing data describing the soil or the quality of any discharge from the site and an estimate of the size of the drainage area for each outfall;

e. A site map indicating drainage patterns and approximate slopes anticipated after major grading activities, areas of soil disturbance, an outline of areas which may not be disturbed, the location of major structural and nonstructural controls

identified in the plan, the location of areas where stabilization practices are expected to occur, surface waters (including wetlands), and locations where storm water is discharged to a surface water; and,

f. The location in terms of latitude and longitude, to the nearest 15 seconds, of each outfall, the name of the receiving water(s) for each outfall and the amount of any wetland acreage at the site.

2. **Controls.** Each plan shall include a description of appropriate controls and measures that will be implemented at the construction site. The plan will clearly describe for each major activity identified in Part V.D.1.b appropriate control measures and the timing during the construction process that the measures will be implemented. (For example, perimeter controls for one portion of the site will be installed after the clearing and grubbing necessary for installation of the measure, but before the clearing and grubbing for the remaining portions of the site. Perimeter controls will be actively maintained until final stabilization of those portions of the site upward of the perimeter control. Temporary perimeter controls will be removed after final stabilization). All controls shall be consistent with the requirements set forth in the State Water Policy of Florida (Chapter 62-40, Florida Administrative Code), the applicable storm water or environmental resource permitting requirements of the FDEP or appropriate FWMD, and the guidelines contained in the Florida Development Manual: A Guide to Sound Land and Water Management (FDEP, 1988) and any subsequent amendments. The description and implementation of controls shall address the following minimum components:

a. **Erosion and Sediment Controls.** (1) **Stabilization Practices.** A description of interim and permanent stabilization practices, including site-specific scheduling of the implementation of the practices. Site plans should ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized. Stabilization practices may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures. A record of the dates when major grading activities occur, when construction activities temporarily or permanently cease on a portion of the site and when stabilization measures are initiated shall be included in the plan. Stabilization measures shall be initiated as soon as

practicable, but in no case more than 14 days, in portions of the site where construction activities have temporarily or permanently ceased.

(2) **Structural Practices.** A description of structural practices, to divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site; and in the State of Florida, in accordance with the requirements set forth in Section 62-40, 420, FAC, and the applicable storm water or environmental resource regulations of the FDEP or appropriate FWMD. Such practices may include silt fences, earth dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins. Structural practices should be placed on upland soils unless a State of Florida wetland resource management permit or environmental resource permit issued pursuant to Chapters 373 or 403, FS, and applicable regulations of the FDEP or FWMD authorize otherwise. The installation of these devices may be subject to Section 404 of the CWA.

(a) For common drainage locations that serve an area with more than 10 disturbed acres at one time, a temporary (or permanent) sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures, shall be provided where attainable until final stabilization of the site. The 3,600 cubic feet of storage area per acre drained does not apply to flows from offsite areas and flows from onsite areas that are either undisturbed or have undergone final stabilization where such flows are diverted around both the disturbed area and the sediment basin. For drainage locations which serve more than 10 disturbed acres at one time and where a temporary sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent controls is not attainable, smaller sediment basins and/or sediment traps should be used. At a minimum, silt fences, or equivalent sediment controls are required for all sideslope and downslope boundaries of the construction area.

(b) For drainage locations serving less than 10 acres, sediment basins and/or sediment traps should be used. At a minimum, silt fences or equivalent sediment controls are required for all sideslope and downslope boundaries of the construction area unless a sediment basin providing storage for 3,600 cubic feet of storage per acre drained is provided.

b. **Storm Water Management.** A description of measures that will be installed during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed. In the State of Florida, the description of controls shall be consistent with the requirements set forth in the State Water Policy of Florida (Chapter 62-40, FAC), the applicable storm water or environmental resource permitting regulations of the guidelines contained in the Florida Development Manual: A Guide to Sound Land and Water Management (FDEP, 1988), and any subsequent amendments. Structural measures should be placed on upland soils unless a State of Florida wetland resource management permit or environmental resource permit issued pursuant to Chapters 373 or 403, FS, and applicable regulations of the FDEP or FWMD authorize otherwise. The installation of these devices may be subject to Section 404 of the CWA. This NPDES permit only addresses the installation of storm water management measures, and not the ultimate operation and maintenance of such structures after the construction activities have been completed and the site has undergone final stabilization. Permittees are only responsible for the installation and maintenance of storm water management measures prior to final stabilization of the site, and are not responsible for maintenance after storm water discharges associated with industrial activity have been eliminated from the site. However, all storm water management systems shall be operated and maintained in perpetuity after final stabilization in accordance with requirements set forth in the State of Florida storm water or environmental resource permit issued for the site.

(1) Such practices may include: storm water detention structures (including wet ponds); storm water retention structures; flow attenuation by use of open vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems (which combine several practices). In the State of Florida, pursuant to the requirements of section 62-40.432, FAC, the storm water management system shall be designed to remove at least 80 percent of the average annual load of pollutants which cause or contribute to violations of water quality standards (95 percent if the system discharges to an Outstanding Florida Water). The pollution prevention plan shall include an explanation of the technical basis used to select the practices to control

pollution where flows exceed predevelopment levels.

(2) Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel for the purpose of providing a non-erosive velocity flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g., no significant changes in the hydrological regime of the receiving water). Equalization of the predevelopment and post-development storm water peak discharge rate and volume shall be a goal in the design of the post-development storm water management system.

c. *Other Controls.* (1). *Waste Disposal.* No solid materials, including building materials, shall be discharged to waters of the United States, except as authorized by a Section 404 permit and by a State of Florida wetland resource management permit or environmental resource permit issued pursuant to chapters 373 or 403, FS, and the applicable regulations of the FDEP or FWMD.

(2) Off-site vehicle tracking of sediments and the generation of dust shall be minimized.

(3) The plan shall ensure and demonstrate compliance with applicable State and/or local waste disposal, sanitary sewer or septic system regulations.

(4) The plan shall address the proper application rates and methods for the use of fertilizers and pesticides at the construction site and set forth how these procedures will be implemented and enforced. Nutrients will be applied only at rates necessary to establish and maintain vegetation such that discharges will not cause or contribute to violations of State surface or ground water quality standards.

(5) The plan shall ensure that the application, generation, and migration of toxic substances is limited and that toxic materials are properly stored and disposed.

d. *Approved State or Local Plans.* (1) Facilities which discharge storm water associated with construction activity must include in their storm water pollution prevention plan procedures and requirements specified in applicable sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by State, Tribal or local officials. Permittees shall provide a certification in their storm water pollution prevention plan that their storm water pollution prevention plan reflects requirements applicable to protecting surface water resources in

sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by State, Tribal or local officials. Permittees shall comply with any such requirements during the term of the permit. This provision does not apply to provisions of master plans, comprehensive plans, non-enforceable guidelines or technical guidance documents that are not identified in a specific plan or permit that is issued for the construction site.

(2) Storm water pollution prevention plans must be amended to reflect any change applicable to protecting surface water resources in sediment and erosion site plans or site permits, or storm water management site plans or site permits approved by State or local officials for which the permittee receives written notice. Where the permittee receives such written notice of a change, the permittee shall provide a recertification in the storm water pollution plan that the storm water pollution prevention plan has been modified to address such changes.

(3) Dischargers seeking alternative permit requirements shall submit an individual permit application in accordance with Part VII.L of the permit at the address indicated in Part V.C of this permit for the appropriate Regional Office, along with a description of why requirements in approved State or local plans or permits, or changes to such plans or permits should not be applicable as a condition of an NPDES permit.

3. *Maintenance.* A description of procedures to ensure the timely maintenance of vegetation, erosion and sediment control measures and other protective measures identified in the site plan in good and effective operating conditions.

4. *Inspections.* Qualified personnel (provided by the discharger) shall inspect all points of discharge into waters of the United States or to a municipal separate storm sewer system and all disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, structural control measures, and locations where vehicles enter or exit the site at least once every seven calendar days and within 24 hours of the end of a storm that is 0.25 inches or greater. Where sites have been finally stabilized; such inspection shall be conducted at least once every month.

a. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for,

pollutants entering the storm water system. The storm water management system and erosion and sediment control measures identified in the plan shall be observed to ensure that they are operating correctly. In the State of Florida, where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in meeting the performance standards set forth in State Water Policy (chapter 62-40, FAC) and the applicable storm water or environmental resource permitting regulations of the FDEP or appropriate FWMD. Locations where vehicles enter or exit the site shall be inspected for evidence of offsite sediment tracking.

b. Based on the results of the inspection, the site description identified in the plan in accordance with paragraph V.D.1 of this permit and pollution prevention measures identified in the plan in accordance with paragraph V.D.2 of this permit shall be revised as appropriate, but in no case later than 7 calendar days following the inspection. Such modifications shall provide for timely implementation of any changes to the plan within 7 calendar days following the inspection.

c. A report summarizing the scope of the inspection, name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph V.D.4.b of the permit shall be made and retained as part of the storm water pollution prevention plan for at least three years from the date that the site is finally stabilized. Such reports shall identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G of this permit.

5. *Non-Storm Water Discharges—* Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 of this permit that are combined with storm water discharges associated with construction activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.



## E. Contractors

1. The storm water pollution prevention plan must clearly identify for each measure identified in the plan, the contractor(s) and/or subcontractor(s) that will implement the measure. All contractors and subcontractors identified in the plan must sign a copy of the certification statement in Part V.E.2 of this permit in accordance with Part VII.G of this permit. All certifications must be included in the storm water pollution prevention plan.

2. Certification Statement. All contractors and subcontractors identified in a storm water pollution prevention plan in accordance with Part V.E.1 of this permit shall sign a copy of the following certification statement before conducting any professional service identified in the storm water pollution prevention plan:

I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification.

The certification must include the name and title of the person providing the signature in accordance with Part VII.G of this permit; the name, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

*Part VI. Retention of Records*

A. The permittee shall retain copies of storm water pollution prevention plans and all reports required by this permit, and records of all data used to complete the Notice of Intent to be covered by this permit, for a period of at least three years from the date that the site is finally stabilized. This period may be extended by request of the Director at any time.

B. The permittee shall retain a copy of the storm water pollution prevention plan required by this permit at the construction site from the date of project initiation to the date of final stabilization.

C. Addresses. Except for the submittal of NOIs (Part II.C) and NOTs (Part IX), all written correspondence directed to the U.S. Environmental Protection Agency concerning discharges in the State of Florida or an Indian lands located in Region 4, and subject to coverage under this permit, including the submittal of individual permit applications, shall be sent to the address listed below:

U.S. EPA, Region 4, Surface Water Permits Section, Water Management Division, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303

*Part VII. Standard Permit Conditions*

## A. Duty To Comply

1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

## 2. Penalties for Violations of Permit Conditions.

a. Criminal. (1) Negligent Violations. The CWA provides that any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

(2) Knowing Violations. The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.

(3) Knowing Endangerment. The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$250,000, or by imprisonment for not more than 15 years, or both.

(4) False Statement. The CWA provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act, shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than 2 years, or by both. If a conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or by both. (See Section 309.c.4 of the Clean Water Act).

b. Civil Penalties—The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed \$25,000 per day for each violation.

c. Administrative Penalties—The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty, as follows:

(1) Class I penalty. Not to exceed \$10,000 per violation nor shall the maximum amount exceed \$25,000.

(2) Class II penalty. Not to exceed \$10,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$125,000.

## B. Continuation of the Expired General Permit

This permit expires at midnight 5 years from April 3, 1998. If this general permit is not reissued prior to its expiration date, all facilities desiring to retain continued coverage shall submit another NOI form prior to the expiration of this permit. This submittal shall also satisfy the notification requirement to be covered under the reissued permit. Facilities that have not obtained coverage under this permit by the expiration date of this permit cannot become authorized to discharge under the continued permit.

The authorization to discharge under the continued previous general permit, issued on September 25, 1992 (57 FR 44412), expires 90 days from April 3, 1998.

## C. Need To Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

## D. Duty To Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

## E. Duty To Provide Information

The permittee shall furnish within a reasonable time to the Director; an authorized representative of the Director; a State or local agency approving sediment and erosion plans, grading plans, or storm water management plans; or in the case of a

storm water discharge associated with industrial activity which discharges through a municipal separate storm sewer system with an NPDES permit, to the municipal operator of the system, any information which is requested to determine compliance with this permit or other information.

#### F. Other Information

When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Director, he or she shall promptly submit such facts or information.

#### G. Signatory Requirements

All Notices of Intent, storm water pollution prevention plans, reports, certifications or information either submitted to the Director or the operator of a large or medium municipal separate storm sewer system, or that this permit requires be maintained by the permittee, shall be signed as follows:

1. All Notices of Intent shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

2. All reports required by the permit and other information requested by the Director or authorized representative of the Director shall be signed by a person described above or by a duly authorized representative of that person. A person

is a duly authorized representative only if:

a. The authorization is made in writing by a person described above and submitted to the Director.

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

c. Changes to authorization. If an authorization under paragraph II.B.3. is no longer accurate because a different operator has responsibility for the overall operation of the construction site, a new notice of intent satisfying the requirements of paragraph II.B. must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. Certification. Any person signing documents under paragraph VI.G shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

#### H. Penalties for Falsification of Reports

Section 309(c)(4) of the Clean Water Act provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both.

#### I. Penalties for Falsification of Monitoring Systems

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by

a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

#### J. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the CWA or section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

#### K. Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

#### L. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

#### M. Transfers

Coverage under this permit is not transferable to any person except after notice to the Director. The Director may require termination of permit coverage by the current permittee in accordance with Part IX of this permit; and the subsequent submission a Notice of Intent to receive coverage under the permit by the new applicant in accordance with Part II of this permit.

#### N. Requiring an Individual Permit or an Alternative General Permit

1. The Director may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Director to take action under this paragraph. Where the Director requires a discharger authorized to discharge under this permit to apply for an individual NPDES permit, the Director shall notify the discharger in writing that a permit application is required. This notification shall include a brief

statement of the reasons for this decision, an application form, a statement setting a deadline for the discharger to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications shall be submitted to the appropriate Regional Office indicated in Part V.C of this permit. The Director may grant additional time to submit the application upon request of the applicant. If a discharger fails to submit in a timely manner an individual NPDES permit application as required by the Director under this paragraph, then the applicability of this permit to the individual NPDES permittee is automatically terminated at the end of the day specified by the Director for application submittal.

2. Any discharger authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, the permittee shall submit an individual application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with reasons supporting the request, to the Director at the address for the appropriate Regional Office indicated in Part V.C of this permit. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by the permittee are adequate to support the request.

3. When an individual NPDES permit is issued to a discharger otherwise subject to this permit, or the discharger is authorized to discharge under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director.

#### O. State/Environmental Laws

1. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under

authority preserved by section 510 of the Act.

2. No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

#### P. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the conditions of the permit.

#### Q. Inspection and Entry

The permittee shall allow the Director or an authorized representative of EPA, the State, or, in the case of a construction site which discharges through a municipal separate storm sewer, an authorized representative of the municipal operator or the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment); and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameter at any location on the site.

#### R. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

#### S. Planned Changes

The permittee shall amend the pollution prevention plan as soon as possible identifying any planned physical alterations or additions to the permitted facility.

#### T. Twenty-Four Hour Reporting

(1) the permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause: the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

#### U. Bypass

##### (1) Definitions.

(i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

(ii) Severe property damage means substantial physical damage to property which causes them to become inoperable or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs S(3) and S(4).

##### (3) Notice.

(i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph R. of this section (24-hour notice).

##### (4) Prohibition of bypass.

(i) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) the permittee submitted notices as required under paragraph S(3) of this section.

(ii) The Director may approve an anticipated bypass after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph S(4)(i) of this section.

#### *Part VIII. Reopener Clause*

A. If there is evidence indicating potential or realized impacts on water quality due to any storm water discharge associated with industrial activity covered by this permit, the discharger may be required to obtain individual permit or an alternative general permit in accordance with Part I.C of this permit or the permit may be modified to include different limitations and/or requirements.

B. Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64 and 124.5.

C. This permit may be modified, or alternatively, revoked and reissued, to comply with any applicable provisions of the Phase II storm water regulations once they are issued.

#### *Part IX. Termination of Coverage*

A. Notice of Termination. Where a site has been finally stabilized and all storm water discharges from construction sites that are authorized by this permit are eliminated (see Part IX.A.5. for the definition of eliminated), or where the operator of all storm water discharges at a facility changes, the operator of the facility may submit a Notice of Termination that is signed in accordance with Part VII.G of this permit within 14 days of final stabilization of the site. The Notice of Termination shall include the following information:

1. The mailing address, and location of the construction site for which the notification is submitted. Where a mailing address for the site is not available, the location can be described in terms of the latitude and longitude of

the approximate center of the facility to the nearest 15 seconds, or the section, township and range to the nearest quarter section;

2. The name, address, and telephone number of the operator seeking termination of permit coverage;

3. The NPDES permit number for the storm water discharge identified by this Notice of Termination;

4. An identification of whether the storm water discharges associated with industrial activity have been eliminated or the operator of the discharges has changed; and

5. The following certification signed in accordance with Part VII.G (signatory requirements) of this permit:

I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by a NPDES general permit have otherwise been eliminated or that I am no longer the operator of the facility or construction site. I understand that by submitting this notice of termination, that I am no longer authorized to discharge storm water associated with industrial activity by the general permit, and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this notice of termination does not release an operator from liability for any violations of this permit or the Clean Water Act.

For the purposes of this certification, elimination of storm water discharges associated with construction activity means that all disturbed soils at the identified facility have been finally stabilized and temporary erosion and sediment control measures have been removed or will be removed at an appropriate time, or that all storm water discharges associated with construction activities from the identified site that are authorized by a NPDES general permit have otherwise been eliminated.

B. Where to Submit. Currently, applicants may use the NOT form published in the September 29, 1995 **Federal Register** (60 FR 51265). The final version of the NOT form proposed in the June 2, 1997 **Federal Register** (62 FR 29785) shall be used when published in the **Federal Register**. All Notices of Termination are to be sent, using the form provided by the Director (or a photocopy thereof)<sup>25</sup>, to the following address: Storm Water Notice of Termination (4203), 401 M Street, SW, Washington, DC 20460.

C. Additional Notification. A copy of the Notice of Termination shall be sent

to the State agency which issued the State storm water or environmental resource permit for the site and, if the storm water management system discharges to a municipal separate storm sewer system within Broward, Dade, Duval, Escambia, Hillsborough, Lee, Leon, Manatee, Orange, Palm Beach, Pasco, Pinellas, Polk, Sarasota or Seminole Counties, to the owner of that system. Included within these counties, the Florida Department of Transportation (FDOT), incorporated municipalities, and chapter 298 Special Districts also shall be notified where they own or operate a municipal separate storm sewer system receiving storm water discharges associated with construction activity covered by this permit.

#### *Part X. Definitions*

**Best Management Practices (BMPs)** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**Commencement of Construction**—The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

**CWA** means Clean Water Act or the Federal Water Pollution Control Act.

**Dedicated portable asphalt plant**—A portable asphalt plant that is located on or contiguous to a construction site and that provides asphalt only to the construction site that the plant is located on or adjacent to. The term dedicated portable asphalt plant does not include facilities that are subject to the asphalt emulsion effluent limitation guideline at 40 CFR Part 443.

**Dedicated portable concrete plant**—A portable concrete plant that is located on or contiguous to a construction site and that provides concrete only to the construction site that the plant is located on or adjacent to.

**Director** means the Regional Administrator of the Environmental Protection Agency or an authorized representative.

**Final Stabilization** means that all soil disturbing activities at the site have been completed, and that a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established or equivalent permanent

<sup>25</sup> A copy of the approved NOT form is provided in Appendix A of this notice.

stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

*Flow-weighted composite sample* means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

*Large and Medium municipal separate storm sewer system* means all municipal separate storm sewers that are either: (i) Located in an incorporated place (city) with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census (these cities are listed in Appendices F and G of 40 CFR Part 122); or (ii) located in the counties with unincorporated urbanized populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties (these counties are listed in Appendices H and I of 40 CFR Part 122); or (iii) owned or operated by a municipality other than those described in paragraph (i) or (ii) and that are designated by the Director as part of the large or medium municipal separate storm sewer system.

*NOI* means notice of intent to be covered by this permit (see Part II of this permit).

*NOT* means notice of termination (see Part IX of this permit).

*Operator* means any party associated with the construction project that meets either of the following 2 criteria: (1) The party has operational control over project specifications (including the ability to make modifications in specifications), or (2) the party has day-to-day operational control of those activities at a project site which are necessary to ensure compliance with the storm water pollution prevention plan or other permit conditions (e.g., they are authorized to direct workers at the site to carry out activities identified in the storm water pollution prevention plan or comply with other permit conditions).

*Point Source* means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharges. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

*Runoff coefficient* means the fraction of total rainfall that will appear at the conveyance as runoff.

*Storm Water* means storm water runoff, snow melt runoff, and surface runoff and drainage.

*Storm Water Associated with Industrial Activity* means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program. For the categories of industries identified in paragraphs (i) through (x) of this definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the categories of industries identified in paragraph (xi) of this definition, the term includes only storm water discharges from all areas (except access roads and rail lines) listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. For the purposes of this paragraph, material handling activities include the: storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are Federally or municipally owned or operated that meet the description of the facilities listed in this paragraph (i)-(xi) of this definition) include those facilities designated under 122.26(a)(1)(v). The following categories

of facilities are considered to be engaging in "industrial activity" for purposes of this subsection:

(i) Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) of this definition);

(ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373;

(iii) Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(l) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator;

(iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;

(v) Landfills, land application sites, and open dumps that have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under Subtitle D of RCRA;

(vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;

(vii) Steam electric power generating facilities, including coal handling sites;

(viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment

cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i)–(vii) or (ix)–(xi) of this subsection are associated with industrial activity;

(ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR 503;

(x) Construction activity including clearing, grading and excavation

activities except: operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale;

(xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221–25, (and which are not otherwise included within categories (i)–(x)).<sup>26</sup>

*Waters of the United States* means:

(a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(b) All interstate waters, including interstate “wetlands”;

(c) All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or

natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:

(1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(3) Which are used or could be used for industrial purposes by industries in interstate commerce;

(d) All impoundments of waters otherwise defined as waters of the United States under this definition;

(e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;

(f) The territorial sea; and

(g) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA are not waters of the United States.

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<sup>26</sup> On June 4, 1992, the United States Court of Appeals for the Ninth Circuit remanded the exclusion for manufacturing facilities in category (xi) which do not have materials or activities exposed to storm water to the EPA for further rulemaking. (Nos. 90–70671 and 91–70200).