

COORDINATION AGREEMENT  
BETWEEN THE U.S. ARMY CORPS OF ENGINEERS  
(JACKSONVILLE DISTRICT)  
AND THE  
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OR DULY AUTHORIZED DESIGNEE  
STATE PROGRAMMATIC GENERAL PERMIT

**I. PREAMBLE:** Under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403), the Jacksonville District, U.S. Army Corps of Engineers (Corps) has regulatory jurisdiction over all work and structures in navigable waters of the United States. Additionally, under Section 404 of the Clean Water Act (33 USC 1344), the Corps has regulatory jurisdiction over the deposition of dredged or fill material in all waters of the United States. Under both authorizations the Corps has authority to issue general permits on a statewide basis for specific categories of work.

The State of Florida, Department of Environmental Protection (DEP), or its duly authorized designee (Designee), has regulatory authority over activities occurring in waters in the State of Florida under Chapter 373 Florida Statutes.

**II. PURPOSE:** The Corps and the DEP, in conjunction with the U.S. Fish and Wildlife Service (FWS), the National Marine Fisheries Service (NMFS), the U.S. Environmental Protection Agency (EPA), and the Florida Fish and Wildlife Conservation Commission (FWC), have developed a State Programmatic General Permit (SPGP) for use in the State of Florida. The SPGP has undergone several revisions which we have designated SPGP I, SPGP II, SPGP III, SPGP III-R1, and SPGP IV. This coordination agreement will cover the implementation of the SPGP IV and is applicable in all counties within the State of Florida except Monroe County and those counties within the jurisdiction of the Northwest Florida Water Management District (Leon, Wakulla, Franklin, Gadsden, Liberty, Gulf, Calhoun, Jackson, Holmes, Washington, Bay, Walton, Okaloosa, Santa Rosa, and Escambia Counties, and the approximate western one-half of Jefferson County). The purpose of this coordination agreement is to facilitate the processing of requests for authorization under the SPGP IV.

### III. PROCEDURES:

#### A. DEP or Designee Procedures:

1. Upon receipt of a joint application or a request to verify an exemption, the DEP or Designee will review the project to determine whether or not the project is a candidate for review under the SPGP IV and, whether the project falls under the "green," "yellow," or "red" categories.

**a. Green:** Projects that are considered "green" will be processed by the DEP or Designee.

**b. Yellow:** Projects under this category require review by the Federal commenting agencies. The Corps and the Federal resource agencies will meet to discuss the project. A combined Federal position will be forwarded to the DEP or Designee.

**c. Red:** The DEP or Designee and the Corps review the project separately.

2. When using the various tools to evaluate a project's potential effects to a Federally listed species, if the DEP or Designee is led to the conclusion that the project may adversely affect a Federally listed threatened or endangered species or its designated critical habitat, the application shall automatically be placed in the red category. A list of Federally threatened or endangered species by county may be found at <http://northflorida.fws.gov/>. Manatees, beach mice, wood storks, bald eagles, Gulf sturgeon, and Johnson's seagrass will be considered separately under the paragraphs below. In the event additional information indicates that a "no effect" determination was made in error, the FWS and the NMFS retain the right to request the Corps to initiate consultation on the project.

3. The dichotomous key titled, ***Guidance to the Corps of Engineers, Jacksonville District, and the State of Florida, Regarding "May Affect" Determinations for the Manatee in Florida***, will be used to determine potential impacts to the West Indian manatee. Pertinent information related to the manatee may be found at [http://www.saj.usace.army.mil/permit/Endangered Species/end species index.htm](http://www.saj.usace.army.mil/permit/Endangered%20Species/end%20species%20index.htm). Assuming that there are no other Federally listed species issues, projects that key out to "no effect" to manatees will not require further coordination with FWS and will be placed

in the "green" category. Projects, except multi-slip projects, that key to "may affect, not likely to adversely affect" manatees will not require further coordination with FWS, and will be placed in the "green" category. If the key requires the inclusion of the "Standard Manatee Conditions for In-water Work," dated July 2005

([http://www.saj.usace.army.mil/permit/Endangered Species/end species index](http://www.saj.usace.army.mil/permit/Endangered%20Species/end%20species%20index)), to achieve a "may affect, not likely to adversely affect" manatees, the Standard Manatee Conditions shall be attached to the authorization letter as Special Conditions of the permit. All projects that key to "may affect" manatees, and multi-slip projects that key to "may affect, not likely to adversely affect" manatees will require the Corps to re-consult with the FWS and will automatically be considered in the "red" category.

4. The joint U.S. Army Corps of Engineers'/National Marine Fisheries Service's "**Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat,**" dated August 2001,

([http://www.saj.usace.army.mil/permit/Endangered Species/end species index](http://www.saj.usace.army.mil/permit/Endangered%20Species/end%20species%20index)) may be used to ameliorate adverse impacts of dock or other minor piling-supported structure construction to submerged aquatic vegetation. Applications for dock or other minor piling-supported structure construction in submerged aquatic vegetation that do not adhere to these guidelines will be designated "red." Dock or other minor piling-supported structure construction everywhere in the State of Florida must comply with the above, and additionally, because of concerns about adverse impacts to Johnson's seagrass (*Halophila johnsonii*), dock or other minor piling-supported structure construction in the lagoon (as well as canal) systems on Florida's east coast from Sebastian Inlet (Brevard County) south to and including central Biscayne Bay (Miami-Dade County) must also comply with the construction guidelines titled "**Key for Construction Conditions for Docks or Other Minor Structures Constructed in or Over Johnson's seagrass (*Halophila johnsonii*) National Marine Fisheries Service/U.S. Army Corps of Engineers,**" dated February 2002."

([http://www.saj.usace.army.mil/permit/Endangered Species/end species index](http://www.saj.usace.army.mil/permit/Endangered%20Species/end%20species%20index))

5. The maps and table attached to the SPGP IV will be used to determine whether a project is proposed in Anastasia Island or Southeastern beach mouse habitat or within 2,500 feet of an

active nesting colony of the Wood stork. The State's eagle nest locator database (<http://www.myfwc.com/eagle/eaglenests/Default.asp>) or other suitable State database will be used to confirm whether any eagle nests are within 1,500 feet of the project. If the project is within 750 feet of the nest, project will be designated "red." If the project is within 750 -1,500 feet of the nest, the applicant incorporates the special conditions ([www.fws.gov/northflorida](http://www.fws.gov/northflorida) also attached to the SPGP IV), and the project meets all the other SPGP requirements and does not have any other Federally listed species impacts, the project will be designated "green."

6. The maps attached to the SPGP IV will be used to determine if a maintenance dredging project is located in Gulf sturgeon designated critical habitat. If the maintenance dredging project is within Gulf sturgeon designated critical habitat, the project is automatically designated "red."

*Note: The above information may be subject to revision at any time. It is our intention that the most recent version of any of these attachments will be utilized during the evaluation of the permit application.*

7. Projects which fall under the "yellow" category will be marked "Yellow" and, within 5 calendar days from receipt of the application, will be forwarded to the Corps field office which has the responsibility for reviewing projects in the respective county in which the project is proposed (SEE ATTACHMENT), and will be handled by the Corps in accordance with paragraph III.B.2, below.

8. Final Action or Actions by the DEP or Designee:

a. For projects which qualify for the "green" category, and are authorized or verified by the DEP or Designee, notification will be sent to the applicant. Accompanying the DEP or Designee authorization or verification, will be language noting that the project is also authorized under the SPGP IV. Language in the notification shall read as follows:

"Your proposed activity as outlined on your application and attached drawings **qualifies** for Federal authorization pursuant to the State Programmatic General Permit IV, and a **SEPARATE permit** or authorization will **not** be required from the Corps. Please note that the Federal authorization expires on [Date of SPGP

Expiration]. You, as permittee, are required to adhere to all attached General Conditions, and to all Specific conditions that may apply to your project, if attached."

Additionally, the DEP or Designee will attach a copy of the Corps General Conditions to the notification for the verified SPGP IV, and where applicable, the DEP or Designee will also attach the above construction or species guidelines to the notification for the verified SPGP IV.

b. For actions which are authorized by the DEP or Designee but do not meet the criteria of "green" for the SPGP IV, notification will be sent to the applicant, as part of the DEP or Designee authorization or verification, that the project is not authorized under the SPGP IV. Language in the notification shall read as follows:

"Your proposed activity as outlined on your application and attached drawings **does not qualify** for Federal authorization pursuant to the State Programmatic General Permit and a **SEPARATE permit** or authorization will be required from the Corps. A copy of your permit application has been forwarded to the Corps for review. The Corps will issue their authorization directly to you or contact you if additional information is needed. If you have not heard from the Corps within 30 days from the date your application was received at the local Department of Environmental Protection Office, contact the Corps at \_\_\_\_\_ for status and further information. **Failure to obtain Corps authorization prior to construction could subject you to federal enforcement action by that agency.**"

c. If the DEP or Designee deny the State regulatory authorization for a project, then a copy of the denial and the Corps' copy of the joint application will be forwarded to the Corps, within 5 calendar days of the denial, for final Federal action.

B. Corps Procedures:

1. Projects that are determined to be "red" will be evaluated by the Corps through the Federal permitting process.

2. Projects that are determined to be "yellow" by the DEP or Designee will be handled in the following manner.

a. The FWS, the EPA, and the NMFS, as appropriate, will be contacted by the Corps' project manager to discuss the project. The Corps will, on a regular basis, invite the appropriate agencies to attend a meeting to discuss all projects determined to be yellow. The meeting may be held via conference call. The goal of this meeting is to formulate a Combined Federal Position (CFP) which will be provided to the DEP or Designee in writing. A CFP on a "yellow" project will be transmitted to the DEP or Designee within 15 calendar days from the receipt of the project in the Corps field office. The CFP may be transmitted to the DEP or Designee on a sheet titled "SPGP IV Combined Federal Position" or via e-mail. If no CFP is received by the DEP or Designee within 15 calendar days from the receipt of the project in the Corps field office, the DEP or Designee will automatically designate the project as "green."

b. If the CFP is that the project should be designated "red," the Corps will notify the DEP or Designee via e-mail or telephone, as soon as possible and process the project as outlined in paragraph III.B.1.

c. If special conditions need to be added, the Corps will notify the DEP or Designee and will supply a copy of those conditions within 15 calendar days from the receipt of the project in the Corps' field office. Inclusion of these special conditions in the authorization would result in the project being designated "green." These conditions would be included as part of the Federal authorization.

d. If the CFP is that there are no objections, the project will be designated "green," and the process outlined in paragraph III.A.8. will be followed.

#### **IV. MONITORING:**

The DEP will furnish to the Jacksonville District office a report of the projects evaluated under the SPGP IV on a quarterly basis in a mutually agreed upon format. Where Designees are the administering entity, then the Designees will furnish the information to the DEP, and the DEP will forward it to the Corps as part of the DEP report.

**V. COORDINATION WITH OTHER FEDERAL AGENCIES**

A. When the SPGP IV is issued, at least 30 days prior to its implementation in each DEP district and/or Designee locale, the Corps, the FWS, and the NMFS personnel may meet with DEP and/or Designee personnel to familiarize them with: the Endangered Species Act, the threatened and endangered species issues within each DEP district, the protocols utilized in contacting the appropriate personnel concerning threatened and endangered species issues, and issues surrounding essential fish habitat.

B. Once the implementation is underway, the FWS, the NMFS, and the Corps may meet with the DEP and/or Designee on a regular interval to evaluate whether the issued permits are in compliance with the respective Federal regulations. Initially the meetings will be scheduled as needed, and the interval will be adjusted accordingly as the implementation proceeds. The meetings may be conducted telephonically if everyone agrees.

C. All parties acknowledge that under Condition 4 in the Further Information Section of the General Conditions of the SPGP IV, threatened and endangered species and essential fish habitat issues are included as part of the public interest. Should any threatened and/or endangered species or essential fish habitat issues arise, it may be necessary to suspend the SPGP IV, or specific sections of it, in all or portions of the authorized geographic areas, until they can be resolved.

*Colleen M. Castille*

Colleen M. Castille, Secretary  
Florida Department of  
Environmental Protection

*Robert M. Carpenter*

Robert M. Carpenter  
Colonel, U.S. Army  
District Engineer

*June 12, 2006*  
Date

*July 24, 2006*  
Date