The State of Florida Wetland Program Plan 2013-2016

3nd Edition February, 2013

Prepared by the Florida Department of Environmental Protection (DEP) for the Environmental Protection Agency (EPA)

Enhancing State and Tribal Programs (ESTP) Initiative for Wetland Programs

Introduction

Florida currently has a comprehensive wetland program that encompasses the four core elements of regulation, voluntary restoration and protection, monitoring and assessment, and water quality standards. Florida's program regulates most land alterations (including land clearing, development, stormwater, dredging and filling, mining, beach nourishment and re-nourishment, and other activities that affect water quality and quantity (draining and flooding) of uplands, wetlands, and other surface waters, including isolated wetlands. Activities and uses of its state-owned submerged lands require additional, applicable proprietary authorizations, but these authorizations are issued or denied concurrently with the decision to issue or deny an individually-processed regulatory permit. Florida also has separate authority to regulate trimming and alteration of mangroves. As such, the scope of Florida's program extends beyond that of merely a "wetland" program or one limited only to regulation of dredging, filling, and discharges within wetlands or surface waters.

Florida's statewide regulatory Environmental Resource Permit (ERP) program is authorized under part IV of Chapter 373, F.S. It operates independently of the federal dredge and fill programs under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. However, the ERP program does incorporate Florida's responsibilities for issuing, denying, or waiving water quality certifications under Section 401 of the Clean Water Act, which are provided to the U.S. Army Corps of Engineers (USACE) as part of the issued or denied ERP decision document for the USACE to issue or deny the separately required federal permit. It also integrates the responsibilities for providing a coastal zone consistency concurrence directly as part of the decision to issue or deny an ERP; which also is provided to the USACE. Only the USACE delineates wetlands in Florida using the federal methodology (1987 Corps Manual); all state, regional, and local agencies use the methodology adopted under Section 373.4211 of the Florida Statutes (F.S.), and Chapter 62-340.F.A.C., to delineate the landward extent of wetlands and other surface waters. The ERP program is implemented by the Florida Department of Environmental Protection (DEP), five regional water management districts (WMDs), and delegated local governments (currently limited to Broward County)[1]; the divisions of responsibilities of the agencies are described in Operating and Delegation Agreements incorporated by reference in Chapter 62-113 of the Florida of the Florida Administrative Code (F.A.C.). Many counties and some municipalities throughout Florida also implement separate, local programs covering such areas as stormwater quality and quantity, lake water quality, dredging and filling, trimming and alteration of mangroves, and other environmental activities. A detailed overview of the program is available at http://www.dep.state.fl.us/water/wetlands/docs/erp/overview.pdf. Additional information on the background and history of Florida's programs is contained in Appendix 1.

[1] Throughout the rest of this document, references to DEP and the WMDs will also constitute references to local governments delegated to implement the ERP program under section 373.441, F.S., as applicable.

Components of water quality standards in Florida include anti-degradation policies, specific water classifications, and specific narrative and numeric criteria. Florida does not presently have separate water quality standards for wetlands — the standards applicable to wetlands are the same as for other surface waters of the state, as defined in Section 403.031(13), F.S., and are contained in Rule 62-4.242, F.A.C., and Chapter 62-302, F.A.C. Florida's Integrated Water Resource Monitoring Network (IWRM) monitors and assesses chemical, physical and biological ground and surface water quality through a multi-tiered monitoring network. The Status and Trend Monitoring Programs assess water quality on a statewide and regional (tier I) scale. Basin- and stream-specific (tier II) monitoring for the Total Maximum Daily Load (TMDL) Program addresses impaired waters in individual basins and stream segments in order to develop and implement TMDLs for impaired waters that do not meet water quality standards. Site-specific (tier III) monitoring includes intensive surveys for TMDLs, monitoring to establish or revise water quality standards, monitoring to evaluate site-specific alternative criteria, and fifth-year inspections for wastewater facilities under the National Pollutant Discharge Elimination System Program (NPDES). These monitoring programs are also used to produce Florida's integrated 305(b) and 303(d) reports to US EPA. This monitoring network is primarily focused on fresh groundwaters and lentic and lotic surface waters. However, other water resources, including wetlands, are monitored when resources and management priorities make such efforts practicable. [Recent wetland monitoring efforts, future goals]

Florida directly or indirectly supports a number of voluntary wetland, waterbody and/or watershed stewardship programs. These include NRCS Wetlands Reserve Program, Lakewatch, Adopt-a-Watershed and others. The Florida Friendly Landscaping (FFL) program is grant supported with federal section 319 funds administered by the Department as well as state and local funds through several Water Management Districts, the University of Florida, and many local governments. In addition to the funded positions the FFL program relies heavily on the UF/IFAS extension volunteer Master Gardener Program to provide outreach to the state's residents about FFL practices to protect and restore waterbodies. The Florida Lakewatch program is another UF effort that has paid staff and an extensive volunteer component that provides valuable data and public education about the state's aquatic resources. More information on the Lakewatch program may be found at http://lakewatch.ifas.ufl.edu/. The Florida Sea Grant program is another partnership effort between the Florida Board of Education, National Oceanic and Atmospheric Administration, and the UF/IFAS Extension service. Sea Grant focuses on research, education and extension to promote a sustainable coastal economy and environment. There are also numerous local organizations such as the Choctawhatchee Basin Alliance (CBA), Bay Environmental Study Team (BEST), Friends of Lake Toho with varying levels of interaction and support from DEP and other state agencies.

Overall Goal Statement and Time Frame

While Florida is one of the nation's leaders in wetland and surface water protection, more remains to be done. The state of the economy over the past few years has resulted in cutbacks in many state programs, and forced all of government to become smarter, more efficient, and more effective at promoting the prosperity of its citizens. Details of this wetland program plan are addressed with respect to the US EPA "Core Elements of an Effective State and Tribal Wetlands Program Framework." As such, it is by no means a comprehensive list of all the activities already underway within the program. Nor does it encompass all of the future developments and activities relating to wetlands regulation and protection being contemplated by the state. Instead it outlines major program development initiatives that Florida, in cooperation with other public and private entities, will *actively* pursue over the next four years (2013-2016) to improve its wetland program. Many of these initiatives reflect Florida's overall goals of maximizing efficiency, enhancing protection of valuable resources, and promoting consistency and transparency in the regulatory process. The actions that follow are ambitious; some may not be accomplished on time, and undoubtedly many new needs will be identified after this plan is finalized. Some of the specific objectives are contingent upon outside factors such as legislative action and the outcome of potential rulemaking challenges. Finally, we cannot predict what future circumstances may intervene that will affect these priorities. As such, this plan must be considered a living and constantly evolving document, but as currently drafted will guide Florida and EPA to prioritize the most critical components to further improve and enhance our wetlands and other surface waters.

In addition to the specific objectives listed within each core element, this plan also highlights additional ongoing and possible future initiatives and activities, which are beyond the scope of this plan. An appendix is included that provides additional details regarding the overall history and development Florida's existing wetlands, surface water, and submerged lands management programs.

Core Elements and Schedules

1. Monitoring and Assessment

Overall Goals: Florida's monitoring and assessment goals are to provide statewide data and information on the important chemical, physical, and pertinent biological characteristics of wetlands in Florida. The information generated is to be the basis for reporting and advising relevant Departmental and other governmental agencies on the status and trends of Florida's water quality. Objectives to support these goals include strengthening monitoring and assessment of wetlands, incorporating monitoring data into decision making, and developing objective and scientifically defensible tools to assess wetland functions.

Objective 1.1: Develop a Florida Wetlands Integrity Dataset

Develop a multi-metric Florida Wetlands Integrity Dataset (FWID) that approximates the locations, extents, and condition of wetlands and other surface waters (WOSW) throughout Florida. FWID resolution will be scaled to account for the condition of individual WOSW bodies as well as cumulative ecological integrity at the level of the watershed and landscape. Project organization will follow a three-phased approach that moves from application of remote sensing data to a professional judgment based ecosystem model (Phase 1), to model calibration using field assessed reference sites (Phase 2), and then concluding with model refinement and scenario evaluation (Phase 3). Conceptual model development during Phase 1 and field assessment during Phase 2 will be based on Florida's established WOSW delineation procedures and the Florida Uniform Mitigation and Assessment Methodology (UMAM). In addition to model fine-tuning, Phase 3 will include ecological forecasting focused to projected changes in land use, climate, and regulatory policy. The FWID will be used to monitor wetland condition, anticipate ecological trends, guide project planning, and to identify opportunities for habitat restoration and enhancement. *Florida may be submitting a specific proposal under this objective for the 2013 Wetland Program Development Grant.*

Activity	2013	2014	2015	2016
1. Phase 1 – collection of remote sensing data; development of initial model	X	X		
2. Phase 2 – model calibration against reference sites		X	X	
3. Phase 3 – model refinement and application to regulatory and management decisions (e.g. identification of high-priority conservation, restoration and mitigation sites)			X	X

2. Regulation

Overall Goals: Florida's regulatory program goals are to avoid and minimize net loss in wetland and other surface water functions, to preserve wetland and other surface water functions, and to mitigate unavoidable and unauthorized losses by replacing lost and degraded functions through enhancement, restoration, creation, and preservation of healthy wetlands and other surface waters. Objectives supporting this goal are intended to promote efficient administration of regulatory efforts by streamlining regulatory processes and operating under consistent procedures; evaluate regulatory activities to ensure environmental results; ensure consistency throughout the Department and delegated programs; continue development of Florida's strong regulatory program by strengthening regulation, policies, and guidance documents.

Objective 2.1: Complete Rulemaking and Implementation of Statewide Environmental Resource Permitting (SWERP)

Currently, between DEP and Florida's five water management districts, at least five different versions of the ERP rules are in place statewide. In April 2012, Governor Rick Scott signed law directing DEP, in cooperation with the water management districts, to develop a statewide ERP (SWERP) rule (Chapter 62-330, F.A.C.). This extensive rulemaking effort is one of the Department's highest priorities, and has been underway for nearly a year. Reducing the number and complexity of the rules will make it easier for everyone to understand and apply what is expected of them during the ERP regulatory process, and will improve predictability and consistency in permitting decisions. The new statewide rules will rely primarily on the existing rules, but will reconcile regional differences. They will establish uniform environmental criteria, conditions for issuance of permits, and administrative procedures. They will not raise or lower environmental standards, or significantly change the existing stormwater treatment and attenuation criteria currently established within each of the water management districts (refer to Statewide Stormwater rulemaking, below). The new SWERP rules are nearing completion, and are expected to go into effect in the summer of 2013, contingent upon possible rule challenges. Implementation will require additional training for agency staff, as well as outreach and education for the regulated community and the general public.

Activity	2013	2014	2015	2016
1. Complete development of SWERP rules for adoption by DEP, WMDs, and delegated local programs; publish Notice of Proposed Rule and address potential rule challenges from outside parties;	X			
2. Implement rules; conduct staff training and public outreach	X	X		

Objective 2.2: Statewide Stormwater Rulemaking

Florida recognizes that nutrients and other pollutants in stormwater contribute to impairment of the state's ground and surface waters, including wetlands. As mentioned previously, SWERP rulemaking will not significantly change the existing stormwater design criteria that are currently established within each of Florida's five water management districts, as part of the larger ERP program. With the upcoming implementation of SWERP, as well as Florida's recently-developed numeric nutrient criteria, DEP anticipates that rulemaking will be necessary to update the state's stormwater treatment and attenuation requirements. This would most likely include technology and performance based rules for all types of development, including redevelopment and retrofits of existing systems. The statewide rules would include provisions for the use of differing treatment methods, technologies and best management practices to account for regional variation in climate, hydrology and geomorphology across the state. Like SWERP, statewide stormwater rulemaking would require legislative authority, and would most likely be performed primarily by DEP and implemented by the WMDs and delegated local programs without further rulemaking. Perhaps even more so than SWERP, this would be an enormous and time-consuming rulemaking effort that will affect many stakeholders, require extensive technical, legal and economic analysis, and will likely encounter challenges from outside interests.

Activity	2013	2014	2015	2016
1. Solicit legislative authorization to commence development of uniform statewide stormwater rules	X	X		
2. Establish workgroups and technical advisory committee; initiate rule development		X	X	
3. Complete development of rules for adoption by DEP, WMDs, and delegated local programs; publish Notice of Proposed Rule and address potential rule challenges from outside parties				X
4. Implement rules; conduct staff training and public outreach				X

Objective 2.3: Amendments to Florida's Uniform Mitigation Assessment Method (UMAM) Rules

Florida's Uniform Mitigation Assessment Method (UMAM) rules (Chapter 62-345, F.A.C.) establish methods to determine the amount of mitigation needed to offset adverse impacts to wetlands and other surface waters and to award and deduct mitigation bank credits. The Department recognizes that existing UMAM rules are difficult to apply in certain circumstances, particularly to submerged, benthic habitats. It is also believed that rule improvements could be made that would improve the transparency and consistency of staff assessments for individual projects. Refinements may also improve the functional assessment and protection of particular categories of wetlands, such as short-hydroperiod wetlands or those that do not routinely inundate.

Activity	2013	2014	2015	2016
1. Identification priorities for UMAM rule amendments, based on assessment of ecological outcomes under existing rules, evaluation of other assessment methods, and engagement of stakeholder groups		X		
2. Establish workgroups and technical advisory committee; initiate rule development		X	X	
3. Complete development of rules for adoption by DEP, WMDs, and delegated local programs; publish rule notice and address potential rule challenges from outside parties			X	
4. Implement rules; conduct staff training and public outreach			X	

Objective 2.4: Development of a Professional Wetland Delineator Certification Program

In Florida, the delineation of wetlands and other surface waters by state and local governmental entities must be performed in accordance with the rules in Chapter 62-340, F.A.C. Those rules are also frequently used by permit applicants, private environmental consultants and others who interact with those state and local agencies. Proper application of these procedures requires considerable training, experience and scientific judgment, and the state's delineation experts often observe improper application of those rules. There is currently not a standardized, statewide program for the training and certification of the proper application of those rules. DEP believes that a professional wetland delineator certification program would promote the competent application of the existing delineation rules by applicants, consultants and agency staff. It is anticipated that this program would not preclude the application of Florida's delineation methods by those who do not possess the certification, but that it would establish administrative, procedural and/or economic incentives for those who do. Rulemaking would be needed to establish minimum qualifications, initial and recurring testing requirements, fees, and procedures for oversight, auditing, suspension and revocation of certifications. With this in mind, DEP's Division of Water Resource Management has recently restructured itself to facilitate the creation and stewardship of such a program. This rulemaking effort would require legislative authority, and would most likely be performed primarily by DEP, in coordination with the WMDs.

Activity	2013	2014	2015	2016
1. Solicit legislative authorization to commence development of a professional wetland delineator certification program;	X			
2. Develop rules; publish Notice of Proposed Rule and address potential rule challenges from outside parties	X	X		
3. Develop certification program; implement rule		X	X	
4. Monitor and assess program effectiveness			X	X

Objective 2.5: Expansion of Online Permit Application and Management Systems (e-Permitting)

Florida's DEP and five water management districts all use the same Joint Application Form for ERP permits, but each agency currently uses its own databases and other systems to receive, track and administer applications and permits. For the most part, these systems were developed organically and independently by each agency over time, with little regard to interaction or data exchange. They vary immensely in their underlying software, architecture, sophistication and basic functions. For example, DEP maintains separate systems to perform each of the following tasks:

- manage applications, and track project timeclocks and other events
- assist with compliance and enforcement of issued permits
- store and archive digital documents and facilitate their online viewing and retrieval
- receive and process online applications for a limited subset of simple authorizations (exemptions and general permits)

While those systems do interact with one another, they were developed at different times, using different technologies. Generally speaking, the systems used by the water management districts are more sophisticated than those used by DEP. Several of the districts have developed systems that allow for truly seamless online submittal and tracking of permit applications. Currently there is essentially no integration of systems between agencies. Florida recognizes the need to update its systems to provide a greater level of efficiency and customer service, and to reduce costs (incurred both by applicants and the agencies) associated with the production and handling of cumbersome "paper" applications. Furthermore, with the imminent implementation of unified Statewide ERP rules, Florida recognizes an ideal time to modernize these systems. DEP envisions that this will require development of a truly enterprise-based, centralized system architecture, as well as intensive and time-consuming work to integrate legacy data and systems across the agencies. Due to the enormity of this task, DEP may require legislative authorization and funding to spearhead these efforts. Some "interim" improvements will likely also be made, as DEP continues to expand its existing, limited capability to receive and process electronic notices and applications, and its ongoing transition to "paperless" processes. *Florida may be submitting a specific proposal under this objective for the 2013 Wetland Program Development Grant.*

Activity	2013	2014	2015	2016
1. Continue to expand online notice and application systems and paperless processing procedures	X	X		
2. Solicit legislative authorization and funding, if possible, to support development enterprise systems for statewide e-permitting	X			
3. Establish technical working groups to oversee cross-agency cooperation; establish desired system design and requirements, database architecture and project outcomes	X	X		

4. Develop scope of work; bidding and contractor selection	X		
5. System development, refinement and beta testing	X	X	
6. Complete integration of system and agency databases; go live		X	

Objective 2.6: Assumption of Greater Regulatory Authority Under S. 404 of the Clean Water Act

Florida remains committed to reducing duplicative regulatory processes by pursuing greater assumption of federal authority for environmental review of activities regulated under Section 404 of the Clean Water Act. Currently, such authority is limited to DEP-reviewed activities that qualify under Florida's State Programmatic General Permit (SPGP IV-R1). DEP recently reviewed the regulatory outcomes for 39 separate dredge and fill projects (i.e. projects requiring federal environmental review for activities within wetlands or other surface Waters of the United States) that were authorized under the Corps' SAJ-90 RGP, and their corresponding state ERPs (issued by the St. John's River and South Florida Water Management Districts). The preliminary findings of this investigation support Florida's position that the state's ERP program provides protections that are at least equal to those provided by the federal Section 404 program. These findings have been reviewed by the Jacksonville District Corps office, who has agreed to develop a mechanism for administration of SAJ-90 by SJRWMD. State assumption of the SAJ-90 RGP will provide an ideal opportunity to explore more substantial assumption efforts. The Jacksonville District office also has agreed to work with the WMDs to implement new Coordination Agreements that would allow the WMDs to implement the SPGP IV-R1. Hillsborough County's Environmental Protection Commission has also expressed interest in administration of the SPGP IV-R1. Florida looks forward to continued cooperation with the Corps to improve the regulatory environment for the businesses and residents of Florida.

Activity	2013	2014	2015	2016
1. Draft and execute new Coordination Agreements with Corps (SAJ) to allow WMDs to implement SPGP IV-R1	X	X		
2. Pending Corps' consultation with USFWS regarding SAJ-90, draft and execute new Coordination Agreements between Corps (SAJ) and SJRWMD; begin state implementation of SAJ-90	X	X		
3. Monitor and assess program effectiveness		X	X	X
4. Explore additional opportunities for assumption of S. 404 authority, with appropriate federal oversight	X	X	X	X

Other Program Activities (Regulatory):

- Implement measures to streamline internal and external processes
- Develop mechanisms to implement watershed based permitting
- Work with the U.S. Army Corps of Engineers to streamline the Joint Application process, including updating the application form, developing tools to share applications, and improving communication and data transfer
- Develop more on-line tools in coordination with the Florida Fish and Wildlife Conservation Commission that can identify wildlife corridors and prioritized areas that can enhance and protect critical wildlife habitat
- Explore developing online tools that would assist applicants in determining whether there are wetlands on their property
- Continue to expand use of optical scanning equipment and operate digital processes for posting documents on-line
- Consolidate WMD & DEP databases of conservation easements
- Work with the Florida Fish and Wildlife Conservation Commission to integrate permit application reviews, including on-line tools to assist staff and the public in assessing impacts to manatees and other aquatic and wetland dependent listed species
- Evaluate differences between federal and state methodology for wetland delineations; determine impact of using federal guidelines on Florida residents
- Conduct more programmatic reviews of DEP, WMD, and delegated local government offices to review ERP procedures and products for consistency in processing and evaluations
- Develop incentives for local governments to develop and operate Regional Offsite Mitigation Areas (ROMAs) and provide assistance in the establishment of ROMAs in the early phases
- Identify lands vulnerable to development that are also critical to improving or maintaining water quality, water quantity, and wildlife habitat for potential purchase, conservation easements, mitigation banks, ROMAs, and other mitigation projects
- Use mitigation and watershed initiatives in concert to restore and enhance wetlands that have been hydrologically, physically, or chemically altered as part of enhancing groundwater recharge and spring flows

3. Voluntary Restoration and Protection

Overall Goals: Florida's voluntary restoration and protection goals are to protect wetlands from degradation or destruction and to restore degraded wetlands to healthy condition to improve the important functions that wetlands provide, including the protection of ground and surface water quality, the prevention of flooding and storm damage, the prevention of pollution, and the protection of aquatic, shellfish and wildlife habitat. This plan does not include specific new initiatives under this core element, although Florida already conducts several ongoing initiatives and activities supporting these goals.

Other Program Activities (Voluntary Restoration and Protection):

- Expand and develop educational material for the public on wetland enhancement, restoration, and preservation opportunities
- Identify watersheds and work with local organizations to develop ways to voluntarily protect the watersheds
- Develop programs to foster public appreciation for wetland protection and to encourage a sense of ownership of wetland protection projects
- Continue to enhance and restore wetlands purchased under Florida Forever through the water management districts
- Continue to implement Surface Water Improvement and Management (SWIM) program plans to promote restoration of wetlands and other water bodies
- Continue development and implementation of Basin Management Action Plans and other TMDL action plans
- WMDs and the Department of Agriculture and Consumer Services continue to implement the USDA's Natural Resource Conservation Service (NRCS) Wetland Reserve Program in Florida to protect, restore, and enhance wetlands
- SWFWMD continues developing conservation plans for agricultural producers jointly with NRCS as part of their Agricultural Ground and Surface Water Management Program
- Study and evaluate linkage between upland water use and the hydrology of adjacent wetlands
- Yards and Neighborhoods & Lake Watch

4. Water Quality Standards for Wetlands

Overall Goals: Florida's water quality goals are to improve the quality of Florida wetlands in accordance with the Clean Water Act as well as with Florida's water quality standards as authorized in Section 403.061, F.S., and adopted in Chapter 62-302, and Rule 62-4.242, F.A.C. Objectives supporting these goals are intended to ensure that wetlands meet all relevant water quality standards; develop modified water quality standards for certain parameters that are different in wetlands than other water bodies; assess the measures taken to improve water quality.

Objective 4.1: Continue Assessment of Natural Variability in Wetland Water Quality

[need to contact DEAR, etc, re: status]

Activity	2013	2014	2015	2016
1. Complete study to determine dissolved oxygen and nutrient parameters specific to wetlands in 69 sites across the state	X	X		
2. Investigate developing wetland-specific water quality standards for pH, turbidity, and other parameters appropriate to Florida wetlands		X	X	X

Other Program Activities (Water Quality Standards for Wetlands):

- Continue to develop quality assurance (continue to improve quality of data by training staff and auditing data)
- Assess the efficacy of filter marshes for water quality treatment

Plan Authorization

The Department of Environmental Protection will periodically review this plan and evaluate its progress towards the listed goals and objectives.

I, _______, have reviewed and approved the Wetland Program Plan.

_____ _____

Jeff Littlejohn Date

Deputy Secretary for Regulatory Programs

Department of Environmental Protection

_____ _____

Name of Signee, EPA Date

APPENDIX 1
HISTORY OF FLORIDA'S WETLAND AND SURFACE WATER MANAGEMENT PROGRAMS

Management of state-owned lands — The history of water resource management and protection in Florida dates back to Florida's statehood on March 3, 1845, at which time it received 500,000 acres of land from the federal government "for the benefit of internal improvements." Through the Swamp and Overflowed Lands Act of 1850, Florida received an additional 20 million acres of land. In 1855, the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) was created as an agency of the Florida government to hold title to these lands. The federal government also made other land grants to the State for varied purposes such as educational facilities, and the seat of government. In 1967 the Florida Legislature vested the Board of Trustees of the Internal Improvement Trust Fund (BOT) with title to and the responsibility to manage most of the lands owned by the various agencies, boards, and commissions of the state. These lands managed by the BOT are held in trust for the use and benefit of the people of the state of Florida. Although Florida's history of managing those lands went through periods when draining and development of the state's wetlands and submerged lands was encouraged, it has evolved through enactment and amendment of Chapter 253 of the Florida Statutes (F.S.) to now manage the state's state-owned submerged lands primarily for the maintenance of essentially natural conditions, propagation of fish and wildlife, and traditional recreations uses such as fishing, boating, and swimming; activities on these lands must not be contrary to the public interest, sales of such lands must be in the public interest, equitable compensation (such as through leases and easements) is required for activities that generate revenue, monies, or profit for the user or that limit or preempt general public use, and activities are limited to water dependent uses, with few exceptions. State Parks, Aquatic Preserves, and certain other managed lands are afforded special protection under Chapter 258 Chapter, F.S. Management of the above lands is done through the State's various "proprietary" statutes and rules. One of the most notable recent land management initiatives has been Florida's unique programs to purchase and preserve privately owned lands. Florida has had programs dedicated to the purchase and management of conservation and recreation lands since 1963, but the state began a much more aggressive conservation land acquisition program in 1991 with the Preservation 2000 program, followed by Florida Forever in 2001. Over the past 20 years, acquisition programs in Florida have resulted in the preservation and management of almost 2.5 million acres of land in both fee-simple and conservation easements.

Regulatory program (including activities on private and public lands) — It is estimated Florida lost approximately half of its original 20,000,000 acres of wetlands up through the early 1970's, largely as a result of drainage of the Everglades and other swamp and overflow lands beginning in the late 1880's, and rampant dredging, filling, and development of other state-owned submerged lands and privately-owned wetlands and other surface waters, including, throughout south Florida in particular, extensive finger-fill canal construction. Those losses, coupled with the nation's awakening interest in controlling water pollution (leading to amendments to the Federal Water Pollution Control Act in 1972), finally caused Florida to adopt regulatory programs to clean up waters and control dredging

and filling. The Florida Air and Water Pollution Control Commission was created in 1967 to develop programs to prevent, abate, and control of air and water pollution – prior to this, all state environmental regulation in Florida occurred under the State Board of Health and the State Board of Conservation. The responsibilities of that commission were transferred to the Department of Air and Water Pollution Control in 1969, which was renamed the Department of Pollution Control (DPC) in 1972. Also in 1972, through enactment of the Florida's Water Resource Act, Chapter 373, F.S., authority was established for the first time to conserve and manage Florida's water supply, including regulating land uses that affect surface and ground water quality and quantity (including preventing damage from flooding) through the Management and Storage of Surface Waters (MSSW) program, and the use and withdrawal of ground and surface waters (the Consumptive Use program). That Act also created the first of what eventually became five water management districts (WMDs) throughout Florida to implement its provisions (see http://www.dep.state.fl.us/secretary/dist/default.htm).

In 1975, the Florida Environmental Reorganization Act established the Department of Environmental Regulation (DER), which replaced DPC as the primary agency responsible for air, waste, and water quality management, and transferred some functions of the Board of Trustees to both DER and what was then Florida's agency responsible for managing state parks and recreation areas, the Department of Natural Resources (DNR, which became Florida's overall public land management agency). At that time the DER began requiring dredge and fill permits under Chapter 403, F.S., for work in waters and limited wetlands connected (by natural and artificial means) to bays, bayous, sounds, estuaries, lagoons, the Gulf of Mexico, the Atlantic Ocean, and most natural lakes greater than 10 acres in size; that permit included the issuance, denial, or waiver of water quality certifications under Section 401. In 1982, DER adopted specific rules regulating stormwater discharges (Chapter 62-25, F.A.C.) and in 1984 the extent of the wetlands regulated by the dredge and fill program was expanded (by the Warren S. Henderson Wetlands Protection Act) to include a much broader list of wetland indicator species than was being used up to that point. In 1986, the WMDs (not DER) were authorized to begin regulating impacts to isolated wetlands.

By 1988, a complex permitting program was in place, requiring some applicants to obtain eight or more authorizations to develop one project — MSSW and consumptive use permits from a WMD, a dredge and fill permit from DER, a submerged lands authorization from DNR, a local government permit, and separate USACE permits under Section 404 and Section 10 of the Rivers and Harbors Act, as applicable. Between 1988 and 1992, in an attempt to streamline the regulatory process, authority to regulate stormwater management systems under chapter 62-25, F.A.C., was transferred into chapter 373, F.S., such that stormwater permitting became a component of the MSSW permit under part IV of chapter 373, F.S. Effectively this resulted in the WMDs comprehensively regulating stormwater quality, stormwater quantity, and dredging and filling in isolated wetlands, as well as consumptive uses of water under chapter 373, while the DER continued to issue permits for dredge and fill in "connected" wetlands and stormwater discharge permits under chapter 62-25, F.A.C. However, this arrangement did not effectively reduce the number of permits that were required…it only consolidated within either DER or the respective WMD the ability to issue both any required dredge and fill, MSSW, and stormwater permits. Separate submerged lands authorizations still had to be obtained from DNR, and applicants still had to obtain separate federal and local permits.

The Florida Environmental Reorganization Act of 1993 merged the DER and the DNR to create the Department of Environmental Protection (DEP). The merger resulted in linking dredge and fill permitting with state-owned submerged lands authorizations such that a regulatory permit under Chapter 403 could not be issued for an activity located on state-owned submerged lands if the activity could not also qualify for issuance of the Chapter 253 (and, as applicable Chapter 258), F.S., proprietary authorization. The 1993 Act also established authority under Part IV of Ch. 373, F.S., for DEP and the SRWMD, SJRWMD, SWFWMD, and SFWMD to adopt rules to implement a new environmental resource permit (ERP) program to consolidate dredge and fill and MSSW permitting (including stormwater quality, stormwater quantity, and isolated wetlands regulation). After challenges to the new rules were settled, the new ERP rules became effective on October 3, 1995, and the rules linking issuance or denial of an ERP permit with any required authorization to use state-owned submerged lands became effective on October 10, 1995. However, the ERP regulatory program was not authorized within the Northwest (Panhandle) region of Florida until section 373.4145, F.S., was amended in 2006 and then again in 2009.