FLORIDA COASTAL MANAGEMENT PROGRAM

SUPPLEMENTAL APPENDIX

INCORPORATES PROGRAM CHANGES MADE THROUGH 1984

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1986

THE FLORIDA COASTAL MANAGEMENT PROGRAM

SUPPLEMENTAL APPENDIX

INCORPORATES PROGRAM CHANGES MADE THROUGH 1984

U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
OFFICE OF COASTAL ZONE MANAGEMENT

AND

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION
OFFICE OF COASTAL MANAGEMENT

JANUARY 1986

FLORIDA COASTAL MANAGEMENT PROGRAM

SUPPLEMENTAL APPENDIX OF LAWS AND REGULATIONS

REFLECTING CHANGES MADE THROUGH THE END OF 1984

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JANUARY 1986

U.S. DEPARTMENT OF COMMERCE NOAA
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FLORIDA COASTAL MANAGEMENT PROGRAM SUPPLEMENTAL APPENDIX

INTRODUCTION

This Supplemental Appendix replaces the Florida Coastal Management Program original appendix from 1981. It contains updates to the core laws and regulations which are approved as routine program implementations through 1984. It therefore supersedes the 1983 listing of statutes also. In addition to the core laws and regulations, a list of rules authorized by the statutes which compose the Florida Coastal Management Program is included. Text of these rules can be obtained from the appropriate State agency, or upon request from the Office of Coastal Management, 2600 Blair Stone Road, Tallahassee, Florida, 32301. For further information about the Florida Coastal Management Program which is a network program, call the Office of Coastal Management at 904/488-4805.

Due to Florida's track record for making continual improvements to laws and regulations, annual updates to the Florida Coastal Managment Program will continue to be requested. However, it is anticipated that this appendix will be reprinted only every three years. Our intent is to keep interested parties informed and to provide for consistency between state and federal activities.

LAWS AND REGULATIONS OF THE
FLORIDA COASTAL MANAGEMENT PROGRAM

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† The 1984 Amendment package contains additions under this rule.

Chapter 370.029-0.29 Saltwater Fisheries and Chapter 376.30-.315 Pollutant Discharge Prevention & Removal, new statute sections will be incorporated into the FCMP as 1984 amendments.

* Chapter 186 and 163 will be added in the 1985 amendment process.

sistant executive director: tax research, planning and policy development and legal services.

(g) *The following function shall be under the executive director:* internal audit.

History.—s. 21, ch. 69-106; s. 1, ch. 72-268; s. 1, ch. 75-211; s. 1, ch. 77-102; ss. 1, 2, ch. 78-330; s. 3, ch. 79-10; s. 2, ch. 80-291; s. 1, ch. 81-50; s. 11, ch. 84-170.

cf.—s. 213.05 Control and administration of revenue laws.
s. 214.02 Collection authority

20.22 Department of General Services.—There is created a Department of General Services.

(1) The head of the Department of General Services is the Governor and Cabinet.

(2) The following divisions and bureaus within the Department of General Services are established:

(a) Division of Administration.
(b) Division of Bond Finance.
(c) Division of Building Construction and Property Management.
(d) Division of Communications.
(e) Division of Information Services.
(f) Division of Motor Pool.
1. Bureau of Aircraft.
2. Bureau of Motor Vehicles.
(g) Division of Purchasing.
(h) Division of Safety and Crime Prevention.
(i) Division of Surplus Property.

(3) *The Division of Information Services shall operate and manage the Administrative Management Information Center.*

History.—s. 22, ch. 69-106; ss. 1, 2, ch. 70-146; s. 1, ch. 71-43; s. 2, ch. 71-256; s. 1, ch. 74-256; ss. 1, 2, ch. 75-70; s. 1, ch. 76-247; ss. 1, 2, 3, ch. 77-112; s. 5, ch. 80-92; s. 3, ch. 84-274.

20.23 Department of Transportation.—There is created a Department of Transportation.

(1) The head of the Department of Transportation is the Secretary of Transportation. The secretary shall be appointed by the Governor subject to confirmation by the Senate. The secretary shall serve at the pleasure of the Governor.

(2) *The secretary shall be a proven, effective administrator who by a combination of education and experience shall clearly possess a broad knowledge of the administrative, financial, and technical aspects of the development, operation, and regulation of transportation systems and facilities or comparable systems and facilities.*

(3) The secretary shall appoint an assistant secretary who shall possess qualifications similar to those for the secretary and who shall act in the absence of the secretary. The assistant secretary shall be directly responsible to the secretary and shall perform such duties as are assigned to him by the secretary. The assistant secretary shall serve at the pleasure of the secretary.

(4) The following divisions of the Department of Transportation are established:

(a) Division of Administration.
(b) Division of Construction.
(c) Division of Maintenance.
(d) Division of Planning.
(e) Division of Preconstruction and Design.
(f) Division of Public Transportation Operations.

(5) The operations of the department shall be organized into a minimum of six districts.

History.—s. 23, ch. 69-106; ss. 1, 2, 4, 5, ch. 72-166; s. 1, ch. 77-44; s. 1, ch. 77-[illegible]; s. 1, ch. 78-90; s. 4, ch. 79-10; s. 1, ch. 81-209; s. 1, ch. 84-309.

CHAPTER 23

MISCELLANEOUS EXECUTIVE FUNCTIONS

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PART II TRANSPORTATION

PART IV EARLY CHILDHOOD AND FAMILY DEVELOPMENT ACT

PART VII FLORIDA CRIMINAL JUSTICE COUNCIL

PART I

STATE COMPREHENSIVE PLANNING

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23.011 Governor; chief planning officer of the state.—[Transferred to s. 186.004 by the reviser.]

23.0111 Short title.—[Transferred to s. 186.001 by the reviser.]

23.0112 Definitions.—[Amended by s. 3, ch. 84-257, and transferred to s. 186.003 by the reviser.]

23.0113 Designation of departmental planning officer.—[Transferred to s. 186.005 by the reviser.]

23.0114 State comprehensive plan; preparation; revision.—[Amended by s. 5, ch. 84-257, and transferred to s. 186.007 by the reviser.]

23.0115 Specification of data and projections.—[Repealed by s. 18, ch. 84-257.]

23.012 General powers and duties.—[Repealed by s. 18, ch. 84-257.]

23.0125 Data development by Departments of Environmental Regulation and Natural Resources.—[Repealed by s. 18, ch. 84-257.]

23.013 State comprehensive plan; adoption; implementation.—[Amended by s. 6, ch. 84-257, and transferred to s. 186.008 by the reviser.]

23.014 Annual development program preparation, procedure, content.—[Repealed by s. 18, ch. 84-257.]

23.015 Annual economic report.—[Amended by s. 9, ch. 84-257, and transferred to s. 186.031 by the reviser.]

23.016 Special reports.—[Repealed by s. 18, ch. 84-257.]

23.0161 Annual progress report on state and regional planning.—[Repealed by s. 18, ch. 84-257.]

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23.019 Population census determination.—[Transferred to s. 186.901 by the reviser.]

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23.054 Exception; Florida Public Service Commission.—[Repealed by s. 262, ch. 84-309.]

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23.136 Reports appraising early childhood development programs.—[Repealed by s. 35, 84-254.]

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23.152 Florida Council on Criminal Justice; membership; staff.—[Repealed by s. 7, ch. 84-94.]

23.153 Council meetings; quorum; committees; bylaws.—[Repealed by s. 7, ch. 84-94.]

CHAPTER 25

SUPREME COURT

25.073 Retired justices or judges assigned to temporary duty; additional compensation; appropriation.
25.385 Standards for instruction of circuit court judges in handling domestic violence cases.

review of audits, reports, and other data pertaining to the systems or plans;

(b) Receive and comment upon all actuarial reviews of retirement systems or plans maintained by units of local government;

(c) Cooperate with local retirement systems or plans on matters of mutual concern and provide technical assistance to units of local government in the assessment and revision of retirement systems or plans;

(d) Issue, by January 1 annually, a report to the President of the Senate and the Speaker of the House of Representatives, which report details division activities, findings, and recommendations concerning all governmental retirement systems. The report may include legislation proposed to carry out such recommendations; and

(e) Adopt reasonable rules to administer the provisions of this part.

(2) The division may subpoena actuarial witnesses, review books and records, hold hearings, and take testimony. A witness shall have the right to be accompanied by counsel.

History.—s. 19, ch. 79-183; s. 7, ch. 84-254.

CHAPTER 113

COMMISSIONS

113.01 Fee for commissions issued by Governor.

113.01 Fee for commissions issued by Governor.—A fee of $10 is prescribed for the issuance of each commission issued by the Governor of the state and attested by the Secretary of State for an elected officer or a notary public. However, no fee shall be required for the issuance of a commission as a notary public to a veteran who served during a period of wartime service as defined in s. 1.01(15) and who has been rated by the United States Government or the Veterans Administration to have a disability rating of 50 percent or more; such disability is subject to verification by the Secretary of State, who has authority to adopt reasonable procedures to implement this act.

History.—s. 1, ch. 14669, 1931; s. 1, ch. 15925, 1933; s. 1, ch. 17133, 1935; [illegible] Supp. 460(1), (4), 479(1); s. 1, ch. 28296, 1953; s. 2, ch. 65-256; s. 1, ch. [illegible]-460; s. 1, ch. 81-260; s. 5, ch. 84-116.

[illegible] ss. 15.05, 15.09 Commission fees.

s. 117.01 Appointment, application, fee, term of office, powers, bond, and oath—notary public.

CHAPTER 117

NOTARIES PUBLIC

117.10 Law enforcement officers and correctional officers.

117.10 Law enforcement officers and correctional officers.—Law enforcement officers and correctional officers, as defined in s. 943.10, are notaries public for the purpose of notarizing, certifying, or attesting to documents in connection with the performance of official duties. Sections 117.01, 117.04, 117.05, 117.07, and 117.08 do not apply to the provisions of this section. An officer may not notarize his own signature.

History.—s. 4, ch. 84-97.

CHAPTER 119

PUBLIC RECORDS

119.02 Penalty.
119.07 Inspection and examination of records; exemptions.
119.11 Accelerated hearing; immediate compliance.
119.12 Attorney's fees.
119.14 Periodic legislative review of exemptions from public meeting and record requirements.

119.02 Penalty.—A public officer who knowingly violates the provisions of s. 119.07(1) is subject to suspension and removal or impeachment and, in addition, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 2, ch. 5942, 1909; RGS 425; CGL 491; s. 1, ch. 17173, 1935; CGL 1936 Supp. 7520(6); s. 73, ch. 71-136; s. 6, ch. 75-225; s. 4, ch. 84-298.

119.07 Inspection and examination of records; exemptions.—

(1)(a) Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or his designee. The custodian shall furnish a copy or a certified copy of the record upon payment of the fee prescribed by law or, if a fee is not prescribed by law, upon payment of the actual cost of duplication of the record. The phrase "actual cost of duplication" means the cost of the material and supplies used to duplicate the record, but it does not include the labor cost or overhead cost associated with such duplication. Unless otherwise provided by law, the fees to be charged for duplication of public records shall be collected, deposited, and accounted for in the manner prescribed for other operating funds of the agency.

(b) If the nature or volume of public records requested to be inspected, examined, or copied pursuant to this subsection is such as to require extensive clerical or supervisory assistance by personnel of the agency involved, the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the labor cost of the personnel providing the service that is actually incurred by the agency or attributable to the agency for the clerical and supervisory assistance required.

(2)(a) A person who has custody of a public record and who asserts that an exemption provided in subsection (3) or in a general or special law applies to a particular public record or part of such record shall delete or excise from the record only that portion of the record with respect to which an exemption has

been asserted and validly applies, and such person shall produce the remainder of such record for inspection and examination. If the person who has custody of a public record contends that the record or part of it is exempt from inspection and examination, he shall state the basis of the exemption which he contends is applicable to the record, including the statutory citation to an exemption created or afforded by statute, and, if requested by the person seeking the right under this subsection to inspect, examine, or copy the record, he shall state in writing and with particularity the reasons for his conclusion that the record is exempt.

(b) In any civil action in which an exemption to subsection (1) is asserted, if the exemption is alleged to exist under or by virtue of paragraph (e), paragraph (f), paragraph (g), paragraph (m), or paragraph (o) of subsection (3), the public record or part thereof in question shall be submitted to the court for an inspection in camera. If an exemption is alleged to exist under or by virtue of paragraph (d) of subsection (3), an inspection in camera will be discretionary with the court. If the court finds that the asserted exemption is not applicable, it shall order the public record or part thereof in question to be immediately produced for inspection, examination, or copying as requested by the person seeking such access.

(c) Even if an assertion is made by the custodian of a public record that a requested record is not a public record subject to public inspection and examination under subsection (1), the requested record shall, nevertheless, not be disposed of for a period of 30 days after the date on which a written statement requesting the right to inspect, examine, or copy the record was served on or otherwise furnished to the custodian of the record by the person seeking access to the record. If a civil action is instituted within the 30-day period to enforce the provisions of this section with respect to the requested record, the custodian shall not disclose the record except by order of a court of competent jurisdiction after notice to all affected parties.

(d) The absence of a civil action instituted for the purpose stated in paragraph (c) will not relieve the custodian of his duty to maintain the record as a public record if the record is in fact a public record subject to public inspection and examination under subsection (1) and will not otherwise excuse or exonerate the custodian from any unauthorized or unlawful disposition of such record.

(3)(a) All public records which are presently provided by law to be confidential or which are prohibited from being inspected by the public, whether by general or special law, are exempt from the provisions of subsection (1).

(b) All public records referred to in ss. 199.222, 228.093, 257.261, 288.075, 624.319(3) and (4), and 655.057(1)(b), (3), and (4) are exempt from the provisions of subsection (1).

(c) Examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure, certification, or employment are exempt from the provisions of subsection (1). A person who has taken such an examination shall have the right to review his own completed examination.

(d) Active criminal intelligence information and active criminal investigative information are exempt from the provisions of subsection (1).

(e) Any information revealing the identity of a confidential informant or a confidential source is exempt from the provisions of subsection (1).

(f) Any information revealing surveillance techniques or procedures or personnel is exempt from the provisions of subsection (1).

(g) Any information revealing undercover personnel of any criminal justice agency is exempt from the provisions of subsection (1).

(h) Any criminal intelligence information or criminal investigative information including the photograph, name, address, or other fact or information which reveals the identity of the victim of the crime of sexual battery as defined in chapter 794 or the identity of the victim of the crime of child abuse as defined by chapter 827 is exempt from the provisions of subsection (1).

(i) Any criminal intelligence information or criminal investigative information which reveals the personal assets of the victim of a crime, other than property stolen or destroyed during the commission of the crime, is exempt from the provisions of subsection (1).

(j) All criminal intelligence and criminal investigative information received by a criminal justice agency prior to January 25, 1979, is exempt from the provisions of subsection (1).

(k) The home addresses, telephone numbers, and photographs of law enforcement personnel; the home addresses, telephone numbers, photographs, and places of employment of the spouses and children of law enforcement personnel; and the names and locations of schools attended by the children of law enforcement personnel are exempt from the provisions of subsection (1).

(l) Any information provided to an agency of state government or to an agency of a political subdivision of the state for the purpose of forming ridesharing arrangements, which information reveals the identity of an individual who has provided his name for ridesharing arrangements as defined in s. 341.031(6), is exempt from the provisions of subsection (1).

(m) Any information revealing the substance of a confession of a person arrested is exempt from the provisions of subsection (1), until such time as the criminal case is finally determined by adjudication, dismissal, or other final disposition.

(n) A patient record obtained by the Hospital Cost Containment Board established under s. 395.503, which record contains the name, residence or business address, telephone number, social security or other identifying number, or photograph of any person or the spouse, relative, or guardian of such person or which record is patient-specific or otherwise identifies the patient, either directly or indirectly, is exempt from the provisions of paragraph (1)(a).

(o) A public record which was prepared by an agency attorney (including an attorney employed or retained by the agency or employed or retained by another public officer or agency to protect or represent the interests of the agency having custody of the record) or prepared at the attorney's express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or

the agency, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings, is exempt from the provisions of subsection (1) until the conclusion of the litigation or adversarial administrative proceedings. When asserting the right to withhold a public record pursuant to this paragraph, the agency shall identify the potential parties to any such criminal or civil litigation or adversarial administrative proceedings. If a court finds that the document or other record has been improperly withheld under this paragraph, the party seeking access to such document or record shall be awarded reasonable attorney's fees and costs in addition to any other remedy ordered by the court.

(4) Nothing in this section shall be construed to exempt from subsection (1) a public record which was made a part of a court file and which is not specifically closed by order of court except as provided in paragraphs (e), (f), (g), (m), and (o) of subsection (3).

(5) Nothing in subsection (3) shall be interpreted as providing an exemption from or exception to s. 286.011.

(6) The provisions of this section are not intended to expand or limit the provisions of Rule 3.220, Florida Rules of Criminal Procedure, regarding the right and extent of discovery by the state or by a defendant in a criminal prosecution.

History.—s. 7, ch. 67-125; s. 4, ch. 75-225; s. 2, ch. 77-60; s. 2, ch. 77-75; s. 2, ch. 77-94; s. 2, ch. 77-156; s. 2, ch. 78-81; ss. 2, 4, 6, ch. 79-187; s. 2, ch. 80-273; s. 1, ch. 81-245; s. 1, ch. 82-95; s. 36, ch. 82-243; s. 6, ch. 83-215; s. 2, ch. 83-269; s. 1, ch. 83-286; s. 5, ch. 84-298.

cf.—s. 14.22 Sunshine State Games direct-support organizations.
s. 17.076 Department of Banking and Finance direct deposits.
s. 20.19 Statewide Human Rights Advocacy Committee and district human rights advocacy committees.
s. 23.129 Florida Mutual Aid Plan; inventory of law enforcement resources.
s. 27.151 Confidentiality of executive order assigning a state attorney to, or to assist in, another circuit.
s. 27.37 Council on Organized Crime.
s. 39.031 Juvenile confidential records.
s. 106.25 Florida Elections Commission and Division of Elections; elections violations.
s. 110.201 Career service system; collective bargaining work products.
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s. 447.605 Public employers; collective bargaining work products.
s. 455.225 Department of Professional Regulation; investigations.
s. 455.229 Information required of applicants to practice a profession.
s. 455.241 Patient records; copies of records to be furnished.
s. 458.3315 Treatment programs for impaired medical professionals.
s. 464.0185 Treatment programs for impaired nursing professionals.
s. 465.0165 Handling of reports that pharmacist or pharmacy intern is impaired by alcohol or medicinal drug.
s. 487.0615 Pesticide Review Council.
s. 496.09 Charitable organizations and solicitors; contributions.
s. 542.28 Civil antitrust investigations.
s. 607.325 Registered agents; investigations by Department of Legal Affairs.
s. 634.348 Home warranty association investigatory records.
s. 634.444 Service warranty association investigatory records.
s. 637.167 Optometric service plan investigatory records.
s. 637.238 Pharmaceutical service plan investigatory records.
s. 638.282 Ambulance service contract investigatory records.
s. 639.33 Prepaid funeral merchandise or service contract investigatory records.
s. 648.46 Bail bondsman investigations.
s. 651.134 Continuing care contract investigatory records.
s. 723.037 Mobile home park dispute investigations.
s. 943.1395 Decertification of law enforcement and correctional officers.
s. 943.173 Criminal justice training school examinations.

119.11 Accelerated hearing; immediate compliance.—

(1) Whenever an action is filed to enforce the provisions of this chapter, the court shall set an immediate hearing, giving the case priority over other pending cases.

(2) Whenever a court orders an agency to open its records for inspection in accordance with this chapter, the agency shall comply with such order within 48 hours, unless otherwise provided by the court issuing such order, or unless the appellate court issues a stay order within such 48-hour period.

(3) A stay order shall not be issued unless the court determines that there is a substantial probability that opening the records for inspection will result in significant damage.

(4) Upon service of a complaint, counterclaim, or cross-claim in a civil action brought to enforce the provisions of this chapter, the custodian of the public record that is the subject matter of such civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public record sought to be inspected and examined, notwithstanding the applicability of an exemption or the assertion that the requested record is not a public record subject to inspection and examination under s. 119.07(1), until the court directs otherwise. The person who has custody of such public record may, however, at any time permit inspection of the requested record as provided in s. 119.07(1) and other provisions of law.

History.—s. 5, ch. 75-225; s. 2, ch. 83-214; s. 6, ch. 84-298.

119.12 Attorney's fees.—

(1) If a civil action is filed against an agency to enforce the provisions of this chapter and if the court determines that such agency unlawfully refused to permit a public record to be inspected, examined, or copied, the court shall assess and award, against the agency responsible, the reasonable costs of enforcement including reasonable attorneys' fees.

(2) Whenever an agency appeals a court order requiring it to permit inspection of records pursuant to this chapter and such order is affirmed, the court shall assess a reasonable attorney's fee for the appeal against such agency.

History.—s. 5, ch. 75-225; s. 7, ch. 84-298.

119.14 Periodic legislative review of exemptions from public meeting and record requirements.—

(1) This section may be cited as the "Open Government Sunset Review Act."

(2) This act provides for the periodic automatic application of the open government policy to certain exemptions from s. 286.011 and chapter 119.

(3)(a) On the dates specified in this subsection with respect to the chapters of law specified in this subsection, the provisions of ss. 119.01, 119.07, and 286.011 shall fully apply, notwithstanding any provisions in such chapters to the contrary, unless the application of this subsection to such chapters has been modified by subsequent law passed by the Legislature. The applicable dates and chapters are as follows:

1. October 1, 1986, and at the end of each 10-year period thereafter, with respect to chapters 1 through 99.

2. October 1, 1987, and at the end of each 10-year period thereafter, with respect to chapters 100 through 199 except ss. 106.24 through 106.27 and 112.320 through 112.324.

3. October 1, 1988, and at the end of each 10-year period thereafter, with respect to chapters 200 through 299.

4. October 1, 1989, and at the end of each 10-year period thereafter, with respect to chapters 300 through 399.

5. October 1, 1990, and at the end of each 10-year period thereafter, with respect to chapters 400 through 499.

6. October 1, 1991, and at the end of each 10-year period thereafter, with respect to chapters 500 through 599.

7. October 1, 1992, and at the end of each 10-year period thereafter, with respect to chapters 600 through 699.

8. October 1, 1993, and at the end of each 10-year period thereafter, with respect to chapters 700 through 799.

9. October 1, 1994, and at the end of each 10-year period thereafter, with respect to chapters 800 through 899.

10. October 1, 1995, and at the end of each 10-year period thereafter, with respect to chapters 900 through 999.

(b) Records created prior to the date specified in paragraph (a) with respect to any particular section of law shall be governed by the provisions of law in effect on the date the records were created, unless otherwise provided by law.

(4)(a) In the year prior to the repeal of an exemption pursuant to this section, the Legislature shall conduct a review of the exemption, considering the following criteria:

1. The nature and scope of the exemption, in theory and in practice;

2. The rationale, purpose, or justification for the exemption;

3. The nature and weight of the alleged compelling interest, if any, in maintaining the exemption;

4. The balance between the policy of open government as a means of building public confidence and as a tool of accountability and the alleged compelling justification, if any, in the existence of the exemption.

(b) An exemption shall be maintained only if reenacted by law after the legislative review demonstrates a compelling interest in such exemption.

History.—s. 8, ch. 84-298.

CHAPTER 120

ADMINISTRATIVE PROCEDURE ACT

120.52 Definitions.
120.53 Adoption of rules of procedure and public inspection.
120.54 Rulemaking; adoption procedures.
120.55 Publication.
120.57 Decisions which affect substantial interests.
120.58 Agency action; evidence, record and subpoenas.
120.59 Orders.
120.60 Licensing.
120.68 Judicial review.

120.52 Definitions.—As used in this act:

(1) "Agency" means:

(a) The Governor in the exercise of all executive powers other than those derived from the constitution.

(b) Each other state officer and each state department, departmental unit described in s. 20.04, commission, regional planning agency, board, district, and authority, including, but not limited to, those described in chapters 163, 298, 373, 380, and 582 and s. 186.504, except any legal entity or agency created in whole or in part pursuant to chapter 361, part II.

(c) Each other unit of government in the state, including counties and municipalities, to the extent they are expressly made subject to this act by general or special law or existing judicial decisions.

A deputy commissioner shall not, in the adjudication of workers' compensation claims, be considered an agency or part of an agency for the purposes of this act.

(2) "Agency action" means the whole or part of a rule or order, or the equivalent, or the denial of a petition to adopt a rule or issue an order. The term also includes any denial of a request made under s. 120.54(5).

(3) "Agency head" means the person or collegial body in a department or other governmental unit statutorily responsible for final agency action.

(4) "Committee" means the Administrative Procedures Committee.

(5) "Communications media technology" means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

(6) "Division" means the Division of Administrative Hearings of the Department of Administration.

(7) "Educational unit" means a local school district, a community college district, the Florida School for the Deaf and the Blind, or a unit of the State University System other than the Board of Regents.

(8) "License" means a franchise, permit, certification, registration, charter, or similar form of authorization required by law, but it does not include a license required primarily for revenue purposes when issuance of the license is merely a ministerial act.

(9) "Licensing" means the agency process respecting the issuance, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license or imposition of terms for the exercise of a license.

(10) "Order" means a final agency decision which does not have the effect of a rule and which is not excepted from the definition of a rule, whether affirmative, negative, injunctive, or declaratory in form. An agency decision shall be final when reduced to writing and filed with the person designated by the agency as clerk. The clerk shall indicate the date of filing on the order. This subsection is not applicable to an assessment of tax, penalty, or interest by the Department of Revenue. Assessments by the Department of Revenue shall be deemed final as provided in the statutes and rules governing the assessment and collection of taxes.

(11) "Party" means:

(a) Specifically named persons whose substantial interests are being determined in the proceeding.

(b) Any other person who, as a matter of constitutional right, provision of statute, or provision of agency regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by proposed agency action, and who makes an appearance as a party.

(c) Any other person, including an agency staff member, allowed by the agency to intervene or participate in the proceeding as a party. An agency may by rule authorize limited forms of participation in agency proceedings for persons who are not eligible to become parties.

(d) Any county representative, agency, department, or unit funded and authorized by state statute or county ordinance to represent the interests of the consumers of a county, when the proceeding involves the substantial interests of a significant number of residents of the county and the board of county commissioners has, by resolution, authorized the representative, agency, department, or unit to represent the class of interested persons. The authorizing resolution shall apply to a specific proceeding and to appeals and ancillary proceedings thereto, and it shall not be required to state the names of the persons whose interests are to be represented.

Prisoners as defined in s. 944.02(5) may obtain or participate in proceedings under s. 120.54(3), (4), (5), or (9) or s. 120.56 and may be parties under s. 120.68 to seek judicial review of those proceedings. Prisoners shall not be considered parties in any other proceedings and may not seek judicial review under s. 120.68 of any other agency action. Parolees shall not be considered parties for purposes of agency action or judicial review when the proceedings relate to the rescission or revocation of parole.

(12) "Person" means any person described in s. 1.01, any unit of government in or outside the state, and any agency described in subsection (1).

(13) "Proposed order" means the advance text, under s. 120.58(1)(e), of the order which a collegial agency head plans to enter as its final order. When a hearing officer assigned by the division conducts a hearing, the recommended order is the proposed order.

(14) "Recommended order" means the official recommendation of a hearing officer assigned by the division to an agency or of any other duly authorized presiding officer, other than an agency head or member thereof, for the final disposition of a proceeding under s. 120.57.

(15) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedure, or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the amendment or repeal of a rule. The term does not include:

(a) Internal management memoranda which do not affect either the private interests of any person or any plan or procedure important to the public and which have no application outside the agency issuing the memorandum.

(b) Legal memoranda or opinions issued to an agency by the Attorney General or agency legal opinions prior to their use in connection with an agency action.

(c) The preparation or modification of:

1. Agency budgets.

2. Contractual provisions reached as a result of collective bargaining.

3. Agricultural marketing orders under chapter 573 or chapter 601.

4. Curricula by an educational unit.

(d) Agency action which has the effect of altering established hunting or fishing seasons when such action is adequately noticed in the area affected through publishing in a newspaper of general circulation or through notice by broadcasting in an electronic media.

(e) Any tests, test scoring criteria, or testing procedures relating to student assessment which are developed or administered by the Department of Education pursuant to s. 229.57, s. 232.245, s. 232.246, or s. 232.247 or any other statewide educational test required by law.

(f) Law enforcement policies and procedures of the Department of Law Enforcement which relate to:

1. The collection, management, and dissemination of active criminal intelligence information and active criminal investigative information; management of criminal investigations; and management of undercover investigations and the selection, assignment, and fictitious identity of undercover personnel.

2. The recruitment, management, identity, and remuneration of confidential informants or sources.

3. Surveillance techniques, the selection of surveillance personnel, and electronic surveillance including court-ordered and consensual interceptions

of communication conducted pursuant to chapter 934.

4. The safety and release of hostages.

5. The provision of security and protection to public figures.

6. The protection of witnesses.

History.—s. 1, ch. 74-310; s. 1, ch. 75-191; s. 1, ch. 76-131; s. 1, ch. 77-174; s. 12, ch. 77-290; s. 2, ch. 77-453; s. 1, ch. 78-25; s. 1, ch. 78-425; s. 1, ch. 79-20; s. 55, ch. 79-40; s. 1, ch. 79-299; s. 2, ch. 81-119; s. 1, ch. 81-180; s. 7, ch. 82-160; s. 1, ch. 83-18; s. 2, ch. 83-273; s. 10, ch. 84-170.

Note.—Reference to "s. 186.504" substituted for reference to "ch. 160" to conform to the renumbering of s. 160.01, F.S. '83, which section specifically provides for the creation of regional planning councils, as s. 186.504 by the reviser in the preparation of the F.S. '84 Supp.

cf.—s. 11.60 Administrative Procedures Committee; creation, membership; powers; duties.

s. 27.37 Council on Organized Crime; exclusion from definition of "agency."

s. 110.207 Career service class specifications, titles, and codes; exclusion from definition of "rule."

s. 110.209 Career service salary ranges and assignment of ranges to positions; exclusion from definition of "rule."

s. 760.10 Referral of complaint to Commission on Human Rights; exclusion from definition of "agency action."

120.53 Adoption of rules of procedure and public inspection.—

(1) In addition to other requirements imposed by law, each agency shall:

(a) Adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests.

(b) Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures.

(c) Adopt rules of procedure appropriate for the presentation of arguments concerning issues of law or policy, and for the presentation of evidence on any pertinent fact that may be in dispute.

(d) Adopt rules for the scheduling of meetings, hearings, and workshops, one of which shall be that an agenda shall be prepared by the agency in time to ensure that a copy of the agenda may be received at least 7 days before the event by any person in the state who requests a copy and who pays the reasonable cost of the copy. The agenda shall contain the items to be considered, in the order of presentation. After the agenda has been made available, change shall be only for good cause, as determined by the person designated to preside, and stated in the record. Notification of such change shall be at the earliest practicable time. The agenda for a special meeting of a district school board under authority of s. 230.16 shall be prepared upon the calling of the meeting, but not less than 48 hours prior to such meeting. In addition, each agency shall give notice of meetings, hearings, and workshops in the same manner as that prescribed for rulemaking in s. 120.54(1), except that the notice requirement does not apply to emergency meetings. The notice shall include a statement of the general subject matter to be considered and shall be given not less than 7 days before the event.

(2) Each agency shall make available for public inspection and copying, at no more than cost:

(a) All rules formulated, adopted, or used by the agency in the discharge of its functions.

(b) All agency orders.

(c) A current subject-matter index, identifying for the public any rule or order issued or adopted after January 1, 1975.

All rules adopted pursuant to this act shall be indexed within 90 days. The Department of State shall by rule establish uniform indexing procedures.

(3) No agency rule or order is valid for any purpose until it has been made available for public inspection as herein required unless the person or party against whom enforcement is sought has actual knowledge of it.

(4) An agency may comply with paragraphs (2)(b) and (c) by designating by rule an official reporter which publishes and indexes by subject matter each agency order rendered after a proceeding which affects substantial interests has been held.

(5) An agency which enters into a contract pursuant to the provisions of ss. 282.301-282.313, chapter 255, chapter 287, or chapters 334-349 shall adopt rules specifying procedures for the resolution of protests arising from the contract bidding process. Such rules shall at least provide that:

(a) The agency shall provide notice of its decision or intended decision concerning a bid solicitation or a contract award as follows:

1. For a bid solicitation, notice of a decision or intended decision shall be given by United States mail or by hand delivery.

2. For any other agency decision, notice of a decision or intended decision shall be given either by posting the bid tabulation at the location where the bids were opened or by certified United States mail, return receipt requested.

The notice required by this paragraph shall contain the following statement: "Failure to file a protest within the time prescribed in s. 120.53(5), Florida Statutes, shall constitute a waiver of proceedings under chapter 120, Florida Statutes."

(b) Any person who is affected adversely by the agency decision or intended decision shall file with the agency a notice of protest in writing within 72 hours after the posting of the bid tabulation or after receipt of the notice of the agency decision or intended decision and shall file a formal written protest within 10 days after the date he filed the notice of protest. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under chapter 120.

(c) Upon receipt of a notice of protest which has been timely filed, the agency shall stop the bid solicitation process or the contract award process until the subject of the protest is resolved by final agency action, unless the agency head sets forth in writing particular facts and circumstances which require the continuance of the bid solicitation process or the contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.

(d) The agency, on its own initiative or upon the request of a protestor, shall provide an opportunity to resolve the protest by mutual agreement between the parties within 14 days of receipt of a formal written protest.

1. If the subject of a protest is not resolved by mutual agreement within 14 days of receipt of the formal written protest and if there is no disputed issue of material fact, an informal proceeding shall be conducted pursuant to s. 120.57(2) and applicable

agency rules before a person whose qualifications have been prescribed by rules of the agency.

2. If the subject of a protest is not resolved by mutual agreement within 14 days of receipt of the formal written protest and if there is a disputed issue of material fact, the agency shall refer the protest to the division for proceedings under s. 120.57(1).

(6) Each state agency, as defined in s. 216.011, shall adopt rules providing a procedure for conducting meetings, hearings, and workshops, and for taking evidence, testimony, and argument at such meetings, hearings, and workshops, by means of communications media technology. The rules shall provide that all evidence, testimony, and argument presented shall be afforded equal consideration, regardless of the method of communication. If a meeting, hearing, or workshop is to be conducted by means of communications media technology, or if attendance may be provided by such means, the notice shall so state. The notice for meetings, hearings, and workshops utilizing communications media technology shall state how persons interested in attending may do so and shall name locations, if any, where communications media technology facilities will be available. Nothing in this subsection shall be construed to diminish the right to inspect public records under chapter 119. Limiting points of access to meetings, hearings, and workshops subject to the provisions of s. 286.011 to places not normally open to the public shall be presumed to violate the right of access of the public; and any official action taken under such circumstances is void and of no effect. Other laws relating to public meetings, hearings, and workshops, including penal and remedial provisions, shall apply to meetings, hearings, and workshops conducted by means of communications media technology and shall be liberally construed in their application to such meetings, hearings, and workshops.

History.—s. 1, ch. 74-310; s. 2, ch. 75-191; s. 2, ch. 76-131; s. 2, ch. 79-299; s. 1, ch. 81-296; s. 2, ch. 81-309; s. 8, ch. 83-92; s. 34, ch. 83-217; s. 3, ch. 83-273; s. 1, ch. 84-203.

cf.—s. 213.22 Department of Revenue technical assistance advisements; exception.

s. 947.071 Parole and Probation Commission; rulemaking procedures.

120.54 Rulemaking; adoption procedures.—

(1) Prior to the adoption, amendment, or repeal of any rule not described in subsection (9), an agency shall give notice of its intended action, setting forth a short and plain explanation of the purpose and effect of the proposed rule, the specific legal authority under which its adoption is authorized, and a summary of the estimate of the economic impact of the proposed rule on all persons affected by it.

(a) Except as otherwise provided in this paragraph, the notice shall be mailed to the committee, to all persons named in the proposed rule, and to all persons who have made requests of the agency for advance notice of its proceedings at least 14 days prior to such mailing. The agency shall also give such notice as is prescribed by rule to those particular classes of persons to whom the intended action is directed. Notice of intent by an educational unit to adopt, amend, or repeal any rule not described in subsection (9) shall be made:

1. By publication in a newspaper of general circulation in the affected area;

2. By mail to all persons who have made requests of the educational unit for advance notice of its proceedings and to organizations representing persons affected by the proposed rule; and

3. By posting in appropriate places so that those particular classes of persons to whom the intended action is directed may be duly notified.

Such publication, mailing, and posting of notice shall occur at least 14 days prior to the intended action.

(b) The notice shall be published in the Florida Administrative Weekly not less than 21 days prior to the intended action, except that notice of actions proposed by educational units or units of government with jurisdiction in only one county or a part thereof need not be published in the Florida Administrative Weekly or transmitted to the committee. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.

(2)(a) Each agency, prior to the adoption, amendment, or repeal of any rule, shall provide information on its proposed action by preparing a detailed economic impact statement. The economic impact statement shall include:

1. An estimate of the cost to the agency of the implementation of the proposed action, including the estimated amount of paperwork;

2. An estimate of the cost or the economic benefit to all persons directly affected by the proposed action;

3. An estimate of the impact of the proposed action on competition and the open market for employment, if applicable; and

4. A detailed statement of the data and method used in making each of the above estimates.

(b) If an economic impact statement is required before an agency takes action on an application or petition by any person, the statement shall be prepared within a reasonable time after the application is made or the petition is filed.

(c) The failure to provide an adequate statement of economic impact is a ground for holding the rule invalid; however, beginning October 1, 1978, no rule shall be declared invalid for want of an adequate statement of economic impact unless the issue is raised in an administrative or judicial proceeding within 1 year of the effective date of the rule to which the statement applies.

(3) If the intended action concerns any rule other than one relating exclusively to organization, procedure, or practice, the agency shall, on the request of any affected person received within 14 days after the date of publication of the notice, give affected persons an opportunity to present evidence and argument on all issues under consideration appropriate to inform it of their contentions. Prisoners, as defined in s. 944.02(5), may be limited by the Department of Corrections to an opportunity to submit written statements concerning intended action on any department rule. The agency may schedule a public hearing on the rule and, if requested by any affected person, shall schedule a public hearing on the rule. Any material pertinent to the issues under consideration submitted to the agency within 14 days after the date of publication of the notice or submitted at a public hearing shall be considered by the agency

and made a part of the record of the rulemaking proceeding.

(4)(a) Any substantially affected person may seek an administrative determination of the invalidity of any proposed rule on the ground that the proposed rule is an invalid exercise of delegated legislative authority.

(b) The request seeking a determination under this subsection shall be in writing and must be filed with the division within 14 days after the date of publication of the notice. It must state with particularity the provisions of the rule or economic impact statement alleged to be invalid with sufficient explanation of the facts or grounds for the alleged invalidity and facts sufficient to show that the person challenging the proposed rule would be substantially affected by it.

(c) Immediately upon receipt of the petition, the division shall forward copies of the petition to the agency whose rule is challenged, the Department of State, and the committee. Within 10 days after receiving the petition, the division director, if he determines that the petition complies with the above requirements, shall assign a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn. Within 30 days after conclusion of the hearing, the hearing officer shall render his decision and state the reasons therefor in writing. The division shall forthwith transmit copies of the hearing officer's decision to the Department of State and to the committee. The hearing officer may declare the proposed rule wholly or partly invalid. The proposed rule or provision of a proposed rule declared invalid shall be withdrawn from the committee by the adopting agency and shall not be adopted. No rule shall be filed for adoption until 21 days after the notice required by subsection (1) or until the hearing officer has rendered his decision, as the case may be. However, the agency may proceed with all other steps in the rulemaking process, including the holding of a factfinding hearing pursuant to subsection (3). In the event part of a proposed rule is declared invalid, the adopting agency may, in its sole discretion, withdraw the proposed rule in its entirety. The agency whose proposed rule has been declared invalid in whole or part shall give notice of the decision in the first available issue of the Florida Administrative Weekly.

(d) Hearings held under this provision shall be conducted in the same manner as provided in s. 120.57 except that the hearing officer's order shall be final agency action. The agency proposing the rule and the person requesting the hearing shall be adversary parties. Other substantially affected persons may join the proceeding as parties or intervenors on appropriate terms which will not substantially delay the proceedings. Failure to proceed under this subsection shall not constitute failure to exhaust administrative remedies.

(5) Any person regulated by an agency or having a substantial interest in an agency rule may petition an agency to adopt, amend, or repeal a rule or to provide the minimum public information required by s. 120.53. The petition shall specify the proposed rule and action requested. Not later than 30 calendar days after the date of filing a petition, the agency shall initiate rulemaking proceedings under this act, otherwise comply with the requested action, or deny the petition with a written statement of its reasons for the denial.

(6) In rulemaking proceedings, the agency may recognize any material which may be judicially noticed, and it may provide that materials so recognized be incorporated into the record of the proceeding. Before the record of any proceeding is completed, all parties shall be provided a list of such materials and given a reasonable opportunity to examine them and offer written comments thereon or written rebuttal thereto.

(7) Each rule adopted shall be accompanied by a reference to the specific rulemaking authority pursuant to which the rule was adopted and a reference to the section or subsection of the Florida Statutes or the Laws of Florida being implemented, interpreted, or made specific.

(8) Each rule adopted shall contain only one subject and shall be preceded by a concise statement of the purpose of the rule and reference to the rules repealed or amended, which statement need not be printed in the Florida Administrative Code. Pursuant to rule of the Department of State, a rule may incorporate material by reference but only as such material exists on the date the rule is adopted. For purposes of such rule, changes in such material shall have no effect with respect to the rule unless the rule is amended to incorporate such material as changed. No rule shall be amended by reference only. Amendments shall set out the amended rule in full in the same manner as required by the constitution for laws.

(9)(a) If an agency finds that an immediate danger to the public health, safety, or welfare requires emergency action, the agency may adopt any rule necessitated by the immediate danger by any procedure which is fair under the circumstances and necessary to protect the public interest, provided that:

1. The procedure provides at least the procedural protection given by other statutes, the Florida Constitution, or the United States Constitution.

2. The agency takes only that action necessary to protect the public interest under the emergency procedure.

3. The agency publishes in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances.

In any event, notice of emergency rules, other than those of educational units or units of government with jurisdiction in only one county or a part thereof, including the full text of the rules, shall be published in the first available issue of the Florida Administrative Weekly. The agency's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable.

(b) Rules pertaining to the public health, safety, or welfare shall include, but not be limited to, those rules pertaining to perishable agricultural commodities.

(c) An emergency rule adopted under this subsection may not be effective for a period longer than 90 days and shall not be renewable, except during the pendency of a challenge to proposed rules addressing the subject of the emergency rule. However, the agen-

cy may take identical action by normal rulemaking procedures.

(d) Subject to applicable constitutional and statutory provisions, an emergency rule becomes effective immediately on filing, or at a date less than 20 days thereafter if specified in the rule, if the adopting agency finds that such effective date is necessary because of an immediate danger to the public health, safety, or welfare.

(10) The Administration Commission shall promulgate one or more sets of model rules of procedure which shall be reviewed by the committee and filed with the Department of State. On filing with the department, the appropriate model rules shall be the rules of procedure for each agency subject to this act to the extent that each agency does not adopt a specific rule of procedure covering the subject matter contained in the model rules applicable to that agency. An agency may seek modification of the model rules of procedure to the extent necessary to conform to any requirement imposed as a condition precedent to receipt of federal funds or permit persons in this state to receive tax benefits under federal law or as required for the most efficient operation of the agency as determined by the Administration Commission. The reasons for the modification shall be published in the Florida Administrative Weekly. Agency rules adopted to comply with ss. 120.53 and 120.565 must be in substantial compliance with the model rules.

(11)(a) The adopting agency shall file with the committee at least 21 days prior to the proposed adoption date, a copy of each rule it proposes to adopt; a detailed written statement of the facts and circumstances justifying the proposed rule; a copy of the estimate of economic impact required by subsection (2); a statement of the extent to which the proposed rule establishes standards more restrictive than federal standards or a statement that the proposed rule is no more restrictive than federal standards or that a federal rule on the same subject does not exist; and the notice required by subsection (1). After the final public hearing on the proposed rule, or after the time for requesting a hearing has expired, the adopting agency shall file any changes in the proposed rule and the reasons therefor with the committee or advise the committee that there are no changes. In addition, when any change is made in a proposed rule, other than a technical change, the adopting agency shall provide a detailed statement of such change by certified mail or actual delivery to any person who requests it in writing at the public hearing. The agency shall file the change with the committee, and provide the statement of change to persons requesting it, at least 7 days prior to filing the rule for adoption. Educational units, other than units of the State University System and the Florida School for the Deaf and the Blind, and local units of government with jurisdiction in only one county or part thereof shall not be required to make filings with the committee. This paragraph does not apply to emergency rules adopted pursuant to subsection (9). However, agencies, other than those listed herein, adopting emergency rules shall file a copy of each emergency rule with the committee.

(b) If the adopting agency is required to publish its rules in the Florida Administrative Code, it shall file with the Department of State three certified copies of the rule it proposes to adopt, a summary of the rule, a summary of any hearings held on the rule, and a detailed written statement of the facts and circumstances justifying the rule. Agencies not required to publish their rules in the Florida Administrative Code shall file one certified copy of the proposed rule, and the other material required above, in the office of the agency head; and such rules shall be open to the public pursuant to s. 120.53(2). Filings shall be made no less than 21 days nor more than 90 days after the notice required by subsection (1). If a public hearing is held, the 90-day limit is extended to 21 days after adjournment of the final hearing on the rule, 21 days after receipt of all material authorized to be submitted at the hearing, or 21 days after receipt of the transcript, if one is made, whichever is latest. For purposes of this paragraph, the term "public hearing" includes any public meeting held by any agency at which the rule is considered. The filing of a petition for an administrative determination under the provisions of subsection (4) will toll the 90-day period during which a rule must be filed for adoption until the hearing officer has filed his order with the clerk. At the time a rule is filed, the agency shall certify that the time limitations prescribed by this subsection have been complied with and that there is no administrative determination pending on the rule. The department shall reject any rule not filed within the prescribed time limits or upon which an administrative determination is pending. If a rule has not been adopted within the time limits imposed by this section, the agency proposing the rule shall withdraw the rule and give notice of its action in the same manner as is prescribed in paragraphs (1)(a) and (b).

(12) Whenever an act of the Legislature is enacted which requires implementation of the act by rules of an agency within the executive branch of state government, such rules shall be drafted and formally proposed as provided herein within 180 days of the effective date of the act unless the provisions of the act provide otherwise.

(13)(a) The proposed rule shall be adopted on being filed with the Department of State and become effective 20 days after being filed, on a later date specified in the rule, or on a date required by statute. Rules not required to be filed with the Department of State shall become effective when adopted by the agency head or on a later date specified by rule or statute.

(b) After the notice required in subsection (1) and prior to adoption, the agency may withdraw the rule in whole or in part or may make such changes in the rule as are supported by the record of public hearings held on the rule, technical changes which do not affect the substance of the rule, changes in response to written material relating to the rule received by the agency within 14 days after the notice and made a part of the record of the proceeding, or changes in response to a proposed objection by the committee. After adoption and before the effective date, a rule may be modified or withdrawn only in response to an objection by the committee or may be modified to extend the effective date by not more than 60 days when the committee has notified the agency that an objection to the rule is being considered. The agency shall give notice of its decision to withdraw or modify a rule in the first available issue

of the publication in which the original notice of rulemaking was published and shall notify the Department of State if the rule is required to be filed with the Department of State. After a rule has become effective, it may be repealed or amended only through regular rulemaking procedures.

(14) If the committee disapproves a proposed rule and the agency does not modify the rule, the committee shall file with the Department of State a notice of the disapproval detailing with particularity its objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly and shall publish, as a history note to the rule when it is published in the Florida Administrative Code, a reference to the committee's disapproval and to the issue of the weekly in which the full text thereof appears.

(15) No agency has inherent rulemaking authority; nor has any agency authority to establish penalties for violation of a rule unless the Legislature, when establishing a penalty, specifically provides that the penalty applies to rules. However, an agency may adopt rules necessary to the proper implementation of a statute prior to the effective date of the statute, but the rules may not be enforced until the statute upon which they are based is effective.

(16) The rulemaking provisions of this chapter do not apply to compensation appeals referees.

(17) Rulemaking proceedings shall be governed solely by the provisions of this section unless a person timely asserts that his substantial interests will be affected in the proceeding and affirmatively demonstrates to the agency that the proceeding does not provide adequate opportunity to protect those interests. If the agency determines that the rulemaking proceeding is not adequate to protect his interests, it shall suspend the rulemaking proceeding and convene a separate proceeding under the provisions of s. 120.57. Similarly situated persons may be requested to join and participate in the separate proceeding. Upon conclusion of the separate proceeding, the rulemaking proceeding shall be resumed.

History.—s. 1, ch. 74-310; s. 3, ch. 75-191; s. 3, ch. 76-131; ss. 1, 2, ch. 76-276; s. 1, ch. 77-174; s. 13, ch. 77-290; s. 3, ch. 77-453; s. 2, ch. 78-28; s. 2, ch. 78-425; s. 7, ch. 79-3; s. 3, ch. 79-299; s. 69, ch. 79-400; s. 5, ch. 80-391; s. 1, ch. 81-309; s. 2, ch. 83-351; s. 1, ch. 84-173; s. 2, ch. 84-203.

[illegible] Note.—Section 2, ch. 84-203, purports to add a "subsection (12)" to s. 120.54, F.S., without amending, repealing, or renumbering existing subsection (12). Since [illegible] subsection appears to have been inadvertent, former subsection (12) has been renumbered as subsection (13) and is republished here.

cf.—s. 161.161 Beach erosion control hearings; additional notice requirement.

s. 403.8055 Department adoption of federal standards.

120.55 Publication.—

(1) The Department of State shall:

(a)1. Publish in a permanent compilation entitled "Florida Administrative Code" all rules adopted by each agency, citing the specific rulemaking authority pursuant to which each rule was adopted, all history notes as authorized in s. 120.545(8), and complete indexes to all rules contained in the code. Supplementation shall be made as often as practicable, but at least monthly. The department shall, by July 1, 1981, contract with a publishing firm for the publication, in a timely and useful form, of the Florida Administrative Code; however, the department shall retain responsibility for the code as provided in this section. This publication shall be the official compilation of the administrative rules of this state.

2. Rules general in form but applicable to only one school district, community college district, or county, or a part thereof, or university rules relating to internal personnel or business and finance shall not be published in the Florida Administrative Code. Exclusion from publication in the Florida Administrative Code shall not affect the validity or effectiveness of such rules.

3. At the beginning of the section of the code dealing with an agency that files copies of its rules with the department, the department shall publish a summary or listing of all rules of that agency excluded from publication in the code and a statement as to where those rules may be inspected or examined and shall also publish any exemptions granted that agency pursuant to s. 120.63, including the termination date of the exemption and a statement whether the exemption can be renewed pursuant to s. 120.63(2)(b).

4. Forms shall not be published in the Florida Administrative Code; but any form which an agency uses in its dealings with the public, along with any accompanying instructions, shall be filed with the committee before it is used. Any form or instruction which meets the definition of "rule" provided in s. 120.52(15) shall be incorporated by reference into the appropriate rule. The reference shall specifically state that the form is being incorporated by reference and shall include the number, title, and effective date of the form and an explanation of how the form may be obtained.

(b) Publish a weekly publication entitled the "Florida Administrative Weekly," which shall contain:

1. Notice of adoption of, and an index to, all rules filed during the preceding week.

2. All hearing notices required by s. 1[illegible] showing the time, place, and date of the hear[illegible] the text of all rules proposed for consideration, reference to the location in the Florida Administrative Weekly where the text of the proposed rules published.

3. All notices of meetings, hearings, and workshops conducted in accordance with the provisions of s. 120.53(1)(d), including a statement of the manner in which a copy of the agenda may be obtained.

4. A notice of each request for authorization to amend or repeal an existing model rule or for the adoption of new model rules.

5. A notice of each request for exemption from any provision of this chapter.

6. Notice of petitions for declaratory statements or administrative determinations.

7. A summary of each objection to any rule filed by the Administrative Procedures Committee during the preceding week.

8. Any other material required or authorized by law or deemed useful by the department.

The department may contract with a publishing firm for publication of the Florida Administrative Weekly.

(c) Prescribe by rule the style and form required for rules submitted for filing and establish the form for their certification.

(d) Correct grammatical, typographical, and like errors not affecting the construction or meaning of the rules, after having obtained the advice and con-

sent of the appropriate agency, and insert history notes.

(e) Make copies of the Florida Administrative Weekly available on an annual subscription basis computed to cover a pro rata share of 50 percent of the costs related to the publication of the Florida Administrative Weekly.

(f) Charge each agency using the Florida Administrative Weekly a space rate computed to cover a pro rata share of 50 percent of the costs related to the Florida Administrative Weekly.

(2) Each agency shall print or distribute copies of its rules, citing the specific rulemaking authority pursuant to which each rule was adopted.

(3) Any publication of a proposed rule promulgated by an agency, whether published in the Florida Administrative Code or elsewhere, shall include, along with the rule, the name of the person or persons originating such rule, the name of the supervisor or person who approved the rule, and the date upon which the rule was approved.

(4)(a) The Department of State shall furnish the Florida Administrative Code and the Florida Administrative Weekly, without charge and upon request, as follows:

1. One set to each federal and state court having jurisdiction over the residents of the state; the Legislative Library; each state university library; the State Library; each depository library designated pursuant to s. 257.05; and each standing committee of the Senate and House of Representatives and each state legislator upon request of the Senate President's or House Speaker's Office.

2. Two sets to each state department.

3. Three sets to the library of the Supreme Court of Florida, the library of each state district court of appeal, the division, the library of the Attorney General, each law school library in Florida, the Secretary of the Senate, and the Clerk of the House.

4. Ten sets to the committee.

(b) The Department of State shall furnish one copy of the Florida Administrative Weekly, at no cost, to each clerk of the circuit court and each state department, for posting for public inspection.

(5)(a) There is hereby created in the State Treasury a revolving fund to be known as the "Publication Revolving Trust Fund" of the Department of State.

(b) All fees and moneys collected by the Department of State under this chapter shall be deposited in the revolving trust fund for the purpose of paying for the publication and distribution of the Florida Administrative Code and the Florida Administrative Weekly and for associated costs incurred by the department in carrying out this chapter.

(c) The unencumbered balance in the revolving trust fund at the beginning of each fiscal year shall not exceed $100,000, and any excess shall be transferred to the General Revenue Fund.

(d) It is the intent of the Legislature that the Florida Administrative Weekly be supported entirely from funds collected for subscriptions to and advertisements in the Florida Administrative Weekly. To that end, the Department of State is authorized to add a surcharge of 10 percent to any charge relating to the Florida Administrative Weekly until such time as the Publication Revolving Trust Fund has transferred to the General Revenue Fund an amount equal to all funds appropriated to the trust fund.

History.—s. 1, ch. 74-310; s. 1, ch. 75-107; s. 4, ch. 75-191; s. 5, ch. 76-131; s. 1, ch. 77-174; s. 4, ch. 77-453; s. 3, ch. 78-425; s. 4, ch. 79-299; s. 7, ch. 80-391; s. 4, ch. 81-309; s. 1, ch. 82-19; s. 1, ch. 82-47; s. 3, ch. 83-351; s. 3, ch. 84-203.

120.57 Decisions which affect substantial interests.—The provisions of this section apply in all proceedings in which the substantial interests of a party are determined by an agency, unless such proceedings are exempt pursuant to subsection (5). Unless waived by all parties, subsection (1) applies whenever the proceeding involves a disputed issue of material fact. Unless otherwise agreed, subsection (2) applies in all other cases.

(1) FORMAL PROCEEDINGS.—

(a) A hearing officer assigned by the division shall conduct all hearings under this subsection, except for:

1. Hearings before agency heads or a member thereof other than an agency head or a member of an agency head within the Department of Professional Regulation;

2. Hearings before the Unemployment Appeals Commission in unemployment compensation appeals, unemployment compensation appeals referees, and special deputies pursuant to s. 443.141;

3. Hearings regarding drivers' licensing pursuant to chapter 322;

4. Hearings conducted within the Department of Health and Rehabilitative Services in the execution of those social and economic programs administered by the former Division of Family Services of said department prior to the reorganization effected by chapter 75-48, Laws of Florida;

5. Hearings in which the division is a party, in which case an attorney assigned by the Administration Commission shall be the hearing officer;

6. Hearings which involve student disciplinary suspensions or expulsions and which are conducted by educational units;

7. Hearings of the Public Employees Relations Commission in which a determination is made of the appropriateness of the bargaining unit, as provided in s. 447.307; and

8. Hearings held by the Department of Agriculture and Consumer Services pursuant to chapter 601.

(b) In any case to which this subsection is applicable, the following procedures apply:

1. A request for a hearing shall be granted or denied within 15 days of receipt.

2. All parties shall be afforded an opportunity for a hearing after reasonable notice of not less than 14 days; however, the 14-day notice requirement may be waived with the consent of all parties. In a preliminary hearing for the revocation of parole, no less than 7 days' notice shall be given. In a hearing involving a student disciplinary suspension or expulsion conducted by an educational unit, the 14-day notice requirement may be waived by the agency head or the hearing officer without the consent of the parties. The notice shall include:

a. A statement of the time, place, and nature of the hearing.

b. A statement of the legal authority and jurisdiction under which the hearing is to be held.

c. A reference to the particular sections of the statutes and rules involved.

d. Except for any hearing before an unemployment compensation appeals referee, a short and plain statement of the matters asserted by the agency and by all parties of record at the time notice is given. If the agency or any party is unable to state the matters in sufficient detail at the time initial notice is given, the notice may be limited to a statement of the issues involved, and thereafter, upon timely written application, a more definite and detailed statement shall be furnished not less than 3 days prior to the date set for the hearing.

3. Except for any proceeding conducted as prescribed in s. 120.54(4) or s. 120.56, a petition or request for a hearing under this section shall be filed with the agency. If the agency elects to request a hearing officer from the division, it shall so notify the division within 10 days of receipt of the petition or request. When the Florida Land and Water Adjudicatory Commission receives a notice of appeal pursuant to s. 380.07, the commission shall notify the division within 60 days of receipt of the notice of appeal if the commission elects to request the assignment of a hearing officer. On the request of any agency, the division shall assign a hearing officer with due regard to the expertise required for the particular matter. The referring agency shall take no further action with respect to the formal proceeding, except as a party litigant, as long as the division has jurisdiction over the formal proceeding. Any party may request the disqualification of the hearing officer by filing an affidavit with the division prior to the taking of evidence at a hearing, stating the grounds with particularity.

4. All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to any order or hearing officer's recommended order, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the agency proposes to consider such material, then all parties shall be given an opportunity to cross-examine or challenge or rebut it.

5. The record in a case governed by this subsection shall consist only of:

a. All notices, pleadings, motions, and intermediate rulings;

b. Evidence received or considered;

c. A statement of matters officially recognized;

d. Questions and proffers of proof and objections and rulings thereon;

e. Proposed findings and exceptions;

f. Any decision, opinion, proposed or recommended order, or report by the officer presiding at the hearing;

g. All staff memoranda or data submitted to the hearing officer during the hearing or prior to its disposition, after notice of the submission to all parties, except communications by advisory staff as permitted under s. 120.66(1), if such communications are public records;

h. All matters placed on the record after an ex parte communication pursuant to s. 120.66(2); and

i. The official transcript.

6. The agency shall accurately and completely preserve all testimony in the proceeding, and, on the request of any party, it shall make a full or partial transcript available at no more than actual cost. In any proceeding before a hearing officer initiated by a consumptive use permit applicant pursuant to subparagraph 13., the applicant shall bear the cost of accurately and completely preserving all testimony and providing full or partial transcripts to the water management district. At the request of any other party, full or partial transcripts shall be provided at no more than cost.

7. Findings of fact shall be based exclusively on the evidence of record and on matters officially recognized.

8. Except as provided in subparagraph 12., the hearing officer shall complete and submit to the agency and all parties a recommended order consisting of his findings of fact, conclusions of law, interpretation of administrative rules, and recommended penalty, if applicable, and any other information required by law or agency rule to be contained in the final order. The agency shall allow each party at least 10 days in which to submit written exceptions to the recommended order.

9. The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law and interpretation of administrative rules in the recommended order, but may not reject or modify the findings of fact unless the agency first determines from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept or reduce the recommended penalty in a recommended order, but may not reduce or increase it without a review of the complete record and without stating with particularity its reasons therefor in the order, by citing to the record in justifying the action. When there is an appeal, the court in its discretion may award reasonable attorney's fees and costs to the prevailing party if the court finds that the appeal was frivolous, meritless or an abuse of the appellate process or that the agency action which precipitated the appeal was a gross abuse of the agency's discretion.

10. If the hearing officer assigned to a hearing becomes unavailable, the division shall assign another hearing officer who shall use any existing record and receive any additional evidence or argument, if any, which the new hearing officer finds necessary.

11. A hearing officer who is a member of an agency head may participate in the formulation of the final order of the agency, provided he has completed all his duties as hearing officer.

12. In any application for a license or merger pursuant to title XXXVIII which is referred by the agency to the division for hearing pursuant to this section, the hearing officer shall complete and submit to the agency and to all parties a written report consisting of findings of fact and rulings on evidentiary matters. The agency shall allow each party at least 10 days in which to submit written exceptions to the report.

13. In any application for a consumptive use per-

:nit pursuant to part II of chapter 373, the water management district on its own motion may, or, at the request of the applicant for the permit, shall, refer the matter to the division for the appointment of a hearing officer to conduct a hearing under this section.

(2) INFORMAL PROCEEDINGS.—In any case to which subsection (1) does not apply:

(a) The agency shall, in accordance with its rules of procedure:

1. Give reasonable notice to affected persons or parties of the action of the agency, whether proposed or already taken, or of its decision to refuse action, together with a summary of the factual, legal, and policy grounds therefor.

2. Give affected persons or parties or their counsel an opportunity, at a convenient time and place, to present to the agency or hearing officer written or oral evidence in opposition to the action of the agency or of its refusal to act, or a written statement challenging the grounds upon which the agency has chosen to justify its action or inaction.

3. If the objections of the persons or parties are overruled, provide a written explanation within 7 days.

(b) The record shall only consist of:

1. The notice and summary of grounds;

2. Evidence received or considered;

3. All written statements submitted by persons and parties;

4. Any decision overruling objections;

5. All matters placed on the record after an ex parte communication pursuant to s. 120.66(2); and

6. The official transcript.

(3) Unless precluded by law, informal disposition may be made of any proceeding by stipulation, agreed settlement, or consent order.

(4) This section does not apply to agency investigations preliminary to agency action.

(5) This section does not apply to any proceeding in which the substantial interests of a student are determined by the State University System. The Board of Regents shall establish a committee, at least half of whom shall be appointed by the Council of Student Body Presidents, which shall establish by January 1, 1985, rules and guidelines ensuring fairness and due process in judicial proceedings involving students in the State University System. This section shall not become effective until January 1, 1985.

History.—s. 1, ch. 74-310; s. 7, ch. 75-191; s. 8, ch. 76-131; s. 1, ch. 77-174; s. 1, ch. 77-450; ss. 6, 11, ch. 78-95; s. 6, ch. 78-425; s. 5, ch. 79-7; s. 7, ch. 80-95; s. 4, ch. 80-299; s. 57, ch. 81-259; s. 2, ch. 83-75; s. 9, ch. 83-216; s. 2, ch. 84-173; s. 4, ch. 84-203.

57.111 Civil actions and administrative proceedings initiated by state agencies; attorneys' fees and costs.

s. 72.011 Jurisdiction of circuit courts in specific tax matters.

120.58 Agency action; evidence, record and subpoenas.—

(1) In agency proceedings for a rule or order:

(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form, and all testimony of parties and witnesses shall be made under oath. Hearsay evi[illegible] may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. This paragraph applies only to proceedings under s. 120.57.

(b) An agency or its duly empowered presiding officer or a hearing officer has the power to swear witnesses and take their testimony under oath, to issue subpoenas upon the written request of any party or upon its own motion, and to effect discovery on the written request of any party by any means available to the courts and in the manner provided in the Florida Rules of Civil Procedure, including the imposition of sanctions, except contempt. However, no agency or its duly empowered presiding officer or any hearing officer has the authority to issue any subpoena or order directing discovery to any member or employee of the Legislature when the subpoena or order commands the production of documents or materials or compels testimony relating to the legislative duties of the member or employee. Any subpoena or order directing discovery directed to a member or an employee of the Legislature shall show on its face that the testimony sought does not relate to legislative duties.

(c) Any public employee subpoenaed to appear at an agency proceeding is entitled to per diem and travel expenses at the same rate as that provided for state employees under s. 112.061 if travel away from such public employee's headquarters is required. All other witnesses appearing pursuant to a subpoena shall be paid such fees and mileage for their attendance as is provided in civil actions in circuit courts of this state. In the case of a public employee, such expenses shall be processed and paid in the manner provided for agency employee travel expense reimbursement; and, in the case of a witness who is not a public employee, payment of such fees and expenses shall accompany the subpoena.

(d) Documentary evidence may be received in the form of a copy or excerpt if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

(e) If a majority of those who are to render the final order have not heard the case or read the record, a decision adverse to a party other than the agency itself shall not be made until a proposed order is served upon the parties and they are given an opportunity to file exceptions and present briefs and oral arguments to those who are to render the decision. The proposed order shall contain necessary findings of fact and conclusions of law and a reference to the source of each. The proposed order shall be prepared by the individual who conducted the hearing, if available, or by one who has read the record. The parties by written stipulation may waive compliance with this paragraph. The provisions of this paragraph do not apply in the granting of parole or preliminary hearings for the revocation of parole.

(f) A party shall be permitted to conduct cross-examination when testimony is taken or documents are made a part of the record.

(2) Any person subject to a subpoena may, before compliance and on timely petition, request the agency or hearing officer having jurisdiction of the dispute to invalidate the subpoena on the ground that it was not lawfully issued, is unreasonably broad in

scope, or requires the production of irrelevant material, but the decision of the agency or hearing officer on any such request will not be proposed agency action governed by s. 120.57.

(3) A party may seek enforcement of a subpoena, order directing discovery, or order imposing sanctions issued under the authority of this act by filing a petition for enforcement in the circuit court of the judicial circuit in which the person failing to comply with the subpoena or order resides. A failure to comply with an order of the court shall result in a finding of contempt of court. However, no person shall be in contempt while a subpoena is being challenged under subsection (2). The court may award to the prevailing party all or part of the costs and attorney's fees incurred in obtaining the court order whenever the court determines that such an award should be granted under the Florida Rules of Civil Procedure.

History.—s. 1, ch. 74-310; s. 8, ch. 75-191; s. 9, ch. 76-131; s. 7, ch. 78-425; s. 3, ch. 84-173.

120.59 Orders.—

(1) The final order in a proceeding which affects substantial interests shall be in writing or stated in the record and include findings of fact and conclusions of law separately stated, and it shall be rendered within 90 days:

(a) After the hearing is concluded, if conducted by the agency;

(b) After a recommended order is submitted to the agency and mailed to all parties, if the hearing is conducted by a hearing officer, or

(c) After the agency has received the written and oral material it has authorized to be submitted, if there has been no hearing.

The 90-day period may be waived or extended with the consent of all parties.

(2) Findings of fact, if set forth in a manner which is no more than mere tracking of the statutory language, shall be accompanied by a concise and explicit statement of the underlying facts of record which support the findings. If, in accordance with agency rules, a party submitted proposed findings of fact or filed any written application or other request in connection with the proceeding, the order shall include a ruling upon each proposed finding and a brief statement of the grounds for denying the application or request.

(3) If an agency head finds that an immediate danger to the public health, safety, or welfare requires an immediate final order, it shall recite with particularity the facts underlying such finding in the final order, which shall be appealable or enjoinable from the date rendered.

(4) Parties shall be notified either personally or by mail of any order; and, unless waived, a copy of the final order shall be delivered or mailed to each party or to his attorney of record. Each notice shall inform the recipient of any administrative hearing or judicial review which may be available to him, shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply.

(5) If a recommended order is submitted to an agency, the agency shall return a copy of its final order to the division within 15 days after the order is filed with the agency clerk.

History.—s. 1, ch. 74-310; s. 1, ch. 77-174; s. 5, ch. 84-203.

120.60 Licensing.—

(1) Unless otherwise provided by statute enacted subsequent to the effective date of this act, licensing is subject to the provisions of s. 120.57.

(2) When an application for a license is made as required by law, the agency shall conduct the proceedings required with reasonable dispatch and with due regard to the rights and privileges of all affected parties or aggrieved persons. Within 30 days after receipt of an application for a license, the agency shall examine the application, notify the applicant of any apparent errors or omissions, and request any additional information the agency is permitted by law to require. Failure to correct an error or omission or to supply additional information shall not be grounds for denial of the license unless the agency timely notified the applicant within this 30-day period. The agency shall notify the applicant if the activity for which he seeks a license is exempt from the licensing requirement and return any tendered application fee within 30 days after receipt of the original application or within 10 days after receipt of the timely requested additional information or correction of errors or omissions. Every application for license shall be approved or denied within 90 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions unless a shorter period of time for agency action is provided by law. The 90-day or shorter time period will be tolled by the initiation of a proceeding under s. 120.57 and will resume 10 days after the recommended order is submitted to the agency and the parties. Any application for a license which is not approved or denied within the 90-day or shorter time period, within 15 days after conclusion of a public hearing held on the application, or within 45 days after the recommended order is submitted to the agency and the parties, whichever is latest, shall [illegible] deemed approved; and, subject to the satisfacto[illegible] completion of an examination, if required as a [illegible] requisite to licensure, the license shall be issued. The Public Service Commission, when issuing a license, and any other agency, if specifically exempted by law, shall be exempt from the time limitations within this subsection. Each agency, upon issuing or denying a license, shall state with particularity the grounds or basis for the issuance or denial of the license, except when issuance is a ministerial act. On denial of a license application on which there has been no hearing, the denying agency shall inform the applicant of any right to a hearing pursuant to s. 120.57.

(3) Each applicant shall be given written notice either personally or by mail that the agency intends to grant or deny, or has granted or denied, the application for license. Unless waived, a copy of the notice shall be delivered or mailed to each party's attorney of record and to each person who has requested notice of agency action. Each notice shall inform the recipient of any administrative hearing or judicial review which may be available to him, shall indicate the procedure which must be followed, and shall state the applicable time limits. [illegible]suing agency shall certify that the notice was [illegible] The certifica-

n shall show the time and date the notice was mailed or delivered and shall be filed with the agency clerk.

(4) The provisions of subsection (2) notwithstanding, every application for a certificate of authority as required by s. 624.401 shall be approved or denied within 180 days after receipt of the original application. Any application for such a certificate of authority which is not approved or denied within the 180-day period, or within 30 days after conclusion of a public hearing held on the application, shall be deemed approved, subject to the satisfactory completion of conditions required by statute as a prerequisite to license.

(5) In proceedings for the issuance, denial, renewal, or amendment of a license or approval of a merger pursuant to title XXXVIII:

(a)1. The Department of Banking and Finance shall have published in the Florida Administrative Weekly notice of the application within 21 days of receipt.

2. Within 21 days of publication of notice, any person may request a hearing, which upon request shall be conducted pursuant to s. 120.57 except that the Department of Banking and Finance shall by rule provide for participation by the general public; however, the failure to request a hearing within 21 days of publication of notice shall constitute waiver of any right to a hearing.

(b) Should a hearing be requested pursuant to subparagraph 2. of paragraph (a), the applicant or licensee shall publish at his own cost a notice of the hearing in a newspaper of general circulation in the area affected by the application. The Department of Banking and Finance may by rule specify the format and size of such notice.

(c) Notwithstanding subsection (2), every application for license for a new bank, new trust company, new credit union, or new savings and loan association, and every application for acquisition of majority control of a bank, trust company, or savings and loan association involving a foreign national, shall be approved or denied within 180 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions. Any application for such a license or for acquisition of such control which is not approved or denied within the 180-day period or within 30 days after conclusion of a public hearing on the application, whichever is the latest, shall be deemed approved subject to the satisfactory completion of conditions required by statute as a prerequisite to license and approval of insurance of accounts for a new bank, a new savings and loan association, or a new credit union by the appropriate insurer.

(6) When a licensee has made timely and sufficient application for the renewal of a license which does not automatically expire by statute, the existing license shall not expire until the application has been finally acted upon by the agency or, in case the application is denied or the terms of the license are limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(7) No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the entry of a final order, the agency has served, by personal service or certified mail, an administrative complaint which affords reasonable notice to the licensee of facts or conduct which warrant the intended action and unless the licensee has been given an adequate opportunity to request a proceeding pursuant to s. 120.57. When personal service cannot be made and the certified mail notice is returned undelivered, the agency shall cause a short, simple notice to the licensee to be published once each week for 4 consecutive weeks in a newspaper published in the county of the licensee's last known address as it appears on the records of the board. If no newspaper is published in that county, the notice may be published in a newspaper of general circulation in that county. If the address is in some state other than this state or in a foreign territory or country, the notice may be published in Leon County. Notwithstanding the provisions of this section, cancellation, suspension, or revocation of a driver's license shall be by personal delivery to the licensee or by first-class mail as provided in s. 322.251.

(8) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency suspension, restriction, or limitation of a license, it shall show compliance in its order with the requirements imposed by s. 120.54(9) on agencies making emergency rules. Summary suspension, restriction, or limitation may be ordered, but a formal suspension or revocation proceeding under this section shall also be promptly instituted and acted upon.

(9) If the Administration Commission grants an exemption from any provision of this section as provided in s. 120.63, the exemption shall be for a single application only and shall not be renewable.

(10) This section does not apply to certification of employee organizations pursuant to s. 447.307.

History.—s. 1, ch. 74-310; s. 10, ch. 76-131; s. 1, ch. 77-174; ss. 6, 9, ch. 77-453; s. 57, ch. 78-95; s. 8, ch. 78-425; s. 1, ch. 79-142; s. 6, ch. 79-299; s. 2, ch. 81-150; s. 6, ch. 84-203; s. 2, ch. 84-265.

cf.—s. 161.141 Beach nourishment and restoration and erosion control projects.

s. 403.815 Public notice; waiver of hearings.

120.68 Judicial review.—

(1) A party who is adversely affected by final agency action is entitled to judicial review. For purposes of this section, a district school board whose decision is reviewed under the provisions of s. 231.36 and whose final action is modified by a superior administrative decision shall be a party entitled to judicial review of the final action. A preliminary, procedural, or intermediate agency action or ruling, including any order of a hearing officer, is immediately reviewable if review of the final agency decision would not provide an adequate remedy.

(2) Except in matters for which judicial review by the Supreme Court is provided by law, all proceedings for review shall be instituted by filing a petition in the district court of appeal in the appellate district where the agency maintains its headquarters or where a party resides. Review proceedings shall be conducted in accordance with the Florida Appellate Rules.

(3) The filing of the petition does not itself stay enforcement of the agency decision, but if the agency decision has the effect of suspending or revoking a license, supersedeas shall be granted as a matter of right upon such conditions as are reasonable, unless

the court, upon petition of the agency, determines that a supersedeas would constitute a probable danger to the health, safety, or welfare of the state. The agency may also grant a stay upon appropriate terms, but, whether or not the action has the effect of suspending or revoking a license, a petition to the agency for a stay is not a prerequisite to a petition to the court for supersedeas. In any event, the order shall specify the conditions, if any, upon which the stay or supersedeas is granted.

(4) Judicial review of any agency action shall be confined to the record transmitted and any additions made thereto in accordance with subsection (6).

(5) The record for judicial review shall consist of the following:

(a) The agency's written document expressing the order, the statement of reasons therefor, if issued, and the record under s. 120.57, if review of proceedings under that section is sought.

(b) The agency's written document expressing the action, the statement of reasons therefor, if issued, and the materials considered by the agency under s. 120.54, if review is sought of proceedings under that section.

(c) The agency's written document expressing the action, and other written documents identified by the agency as having been considered by it before its action and used as a basis for its action, if review is sought of proceedings under s. 120.56 or s. 120.565 or if there has been no proceeding under s. 120.54 or s. 120.57.

(6) When there has been no hearing prior to agency action and the reviewing court finds that the validity of the action depends upon disputed facts, the court shall order the agency to conduct a prompt, factfinding proceeding under this act after having a reasonable opportunity to reconsider its determination on the record of the proceedings.

(7) The reviewing court shall deal separately with disputed issues of agency procedure, interpretations of law, determinations of fact, or policy within the agency's exercise of delegated discretion.

(8) The court shall remand the case for further agency action if it finds that either the fairness of the proceedings or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure. Failure of any agency to comply with s. 120.53 shall be presumed to be a material error in procedure.

(9) If the court finds that the agency has erroneously interpreted a provision of law and that a correct interpretation compels a particular action, it shall:

(a) Set aside or modify the agency action, or

(b) Remand the case to the agency for further action under a correct interpretation of the provision of law.

(10) If the agency's action depends on any fact found by the agency in a proceeding meeting the requirements of s. 120.57, the court shall not substitute its judgment for that of the agency as to the weight of the evidence on any disputed finding of fact. The court shall, however, set aside agency action or remand the case to the agency if it finds that the agency's action depends on any finding of fact that is not supported by competent substantial evidence in the record.

(11) If the agency's action depends on facts determined pursuant to subsection (6), the court shall set aside, modify, or order agency action if the facts compel a particular action as a matter of law, or it may remand the case to the agency for further examination and action within the agency's responsibility.

(12) The court shall remand the case to the agency if it finds the agency's exercise of discretion to be:

(a) Outside the range of discretion delegated to the agency by law;

(b) Inconsistent with an agency rule;

(c) Inconsistent with an officially stated agency policy or a prior agency practice, if deviation therefrom is not explained by the agency; or

(d) Otherwise in violation of a constitutional or statutory provision;

but the court shall not substitute its judgment for that of the agency on an issue of discretion.

(13)(a) The decision of the reviewing court may be mandatory, prohibitory, or declaratory in form; and it shall provide whatever relief is appropriate irrespective of the original form of the petition. The court may:

1. Order agency action required by law, order agency exercise of discretion when required by law, set aside agency action, remand the case for further agency proceedings, or decide the rights, privileges, obligations, requirements, or procedures at issue between the parties; and

2. Order such ancillary relief as the court finds necessary to redress the effects of official action wrongfully taken or withheld.

(b) If the court sets aside agency action or remands the case to the agency for further proceedings, it may make such interlocutory order as the court finds necessary to preserve the interests of any party and the public pending further proceedings or agency action.

(14) Unless the court finds a ground for setting aside, modifying, remanding, or ordering agency action or ancillary relief under a specified provision of this section, it shall affirm the agency's action.

History.—s. 1, ch. 74-310; s. 13, ch. 76-131; s. 38, ch. 77-104; s. 1, ch. 77-174; s. 11, ch. 78-425; s. 4, ch. 84-173.

cf.—s. 57.111 Civil actions and administrative proceedings initiated by state agencies; attorneys' fees and costs.

s. 72.011 Jurisdiction of circuit courts in specific tax matters.

CHAPTER 121

FLORIDA RETIREMENT SYSTEM

121.021 Definitions.
121.031 Administration of system; appropriation; oaths; actuarial studies.
121.0515 Special risk membership; criteria; designation and removal of classification; credits for past service and prior service; retention of special risk normal retirement date.
121.052 Membership class of certain elected state officers.
121.071 Contributions.
121.081 Past service; prior service; contributions.

for any contingencies involving the damaging, destruction, or condemnation of the project leased or any substantial portion thereof, such option to purchase may not be exercised unless all bonds issued for such project, including all principal, interest, and redemption premiums, if any, and all other obligations incurred by the local agency in connection with such project have been paid in full or sufficient funds have been deposited in trust for such payment; and provided further that the purchase price of such project shall not be less than an amount sufficient to pay in full all of the bonds, including all principal, interest, and redemption premium, if any, issued for the project then outstanding and all other obligations incurred by the local agency in connection with such project.

History.—s. 6, ch. 69-104; s. 5, ch. 80-297; s. 3, ch. 84-308.

CHAPTER 160

REGIONAL PLANNING COUNCILS

160.001 Short title.
160.002 Legislative findings; public purpose.
160.003 Definitions.
160.01 Regional planning councils; creation; membership.
160.02 Regional planning councils; powers and duties.
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160.07 Comprehensive regional policy plans.
160.08 Reports.
160.09 Creation of regional planning councils under ch. 163.

160.001 Short title.—[Transferred to s. 186.501 by the reviser.]

160.002 Legislative findings; public purpose.—[Amended by s. 10, ch. 84-257, and transferred to s. 186.502.]

160.003 Definitions.—[Amended by s. 18, ch. 84-257, and transferred to s. 186.503.]

160.01 Regional planning councils; creation; membership.—[Amended by s. 11, ch. 84-257, and transferred to s. 186.504.]

160.02 Regional planning councils; powers and duties.—[Amended by s. 12, ch. 84-257, and transferred to s. 186.505.]

160.05 Executive Office of the Governor; powers and duties.—[Transferred to s. 186.506 by the reviser.]

160.07 Comprehensive regional policy plans.—[Amended by s. 13, ch. 84-257, and transferred to s. 186.507.]

160.08 Reports.—[Transferred to s. 186.513 by the reviser.]

160.09 Creation of regional planning councils under ch. 163.—[Transferred to s. 186.515 by the reviser.]

CHAPTER 161

BEACH AND SHORE PRESERVATION

PART I REGULATION OF CONSTRUCTION, RECONSTRUCTION, AND OTHER PHYSICAL ACTIVITY (ss. 161.011-161.212)

PART II BEACH AND SHORE PRESERVATION DISTRICTS (ss. 161.25-161.45)

PART I

REGULATION OF CONSTRUCTION, RECONSTRUCTION, AND OTHER PHYSICAL ACTIVITY

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161.011 Short title.—This chapter parts I and II, may be known and cited as the "Beach and Shore Preservation Act."

History.—s. 1, ch. 85-408.

161.021 Definitions.—In construing these statutes, where the context does not clearly indicate otherwise, the word, phrase, or term:

(1) "Department" means the Department of Natural Resources.

(2) "Division" means the Division of Marine Resources of the Department of Natural Resources.

(3) "Beach and shore preservation," "erosion control, beach preservation and hurricane protection," "beach erosion control" and "erosion control" includes, but is not limited to, erosion control, hurricane protection, coastal flood control, shoreline and offshore rehabilitation, and regulation of work and activities likely to affect the physical condition of the beach or shore.

(4) "Coastal construction" includes any work or activity which is likely to have a material physical effect on existing coastal conditions or natural shore and inlet processes.

(5) "Inlet sediment bypassing" includes any transfer of sediment from an inlet or beach to another stretch of beach for the purpose of renourishment and beach erosion control.

(6) "Emergency" means any unusual incident resulting from natural or unnatural causes which endangers the health, safety, or resources of the residents of the state, including damages or erosion to any shoreline resulting from a hurricane, storm, or other such violent disturbance.

History.—s. 1, ch. 65-408; ss. 23, 28, ch. 69-106; s. 43, ch. 71-377; s. 1, ch. 78-257.

161.031 Personnel and facilities.—The Department of Natural Resources may call to its assistance temporarily, any engineer or other employee in any state agency or department or in the University of Florida or other educational institution financed wholly or in part by the state, for the purpose of devising the most effective and economical method of averting and preventing erosion, hurricane and storm damages. These employees shall not receive additional compensation, except for actual necessary expenses incurred while working under the direction of the Division of Marine Resources.

History.—s. 1, ch. 65-408; ss. 23, 28, ch. 69-106.

161.041 Permits required.—If any person, firm, corporation, county, municipality, township, special district, or any public agency desires to make any coastal construction or reconstruction or change of existing structures, or any construction or physical activity undertaken specifically for shore protection purposes, or other structures and physical activity including groins, jetties, moles, breakwaters, seawalls, revetments, artificial nourishment, inlet sediment bypassing, excavation or maintenance dredging of inlet channels, or other deposition or removal of beach material, or construction of other structures if of a solid or highly impermeable design, upon sovereignty lands of Florida, below the mean high-water line of any tidal water of the state, a coastal construction permit must be obtained from the Department of Natural Resources prior to the commencement of such work. No such development shall interfere, except during construction, with the use by the public of any area of a beach seaward of the mean high-water line unless the department determines such interference is unavoidable for purposes of protecting the beach or any endangered upland structure. Application for coastal construction permits as defined above shall be made to the department upon such terms and conditions as set forth by rule of the department.

History.—s. 1, ch. 65-408; ss. 23, 28, ch. 69-106; s. 2, ch. 78-257; s. 1, ch. 83-247.

161.0415 Citation of rule.—In addition to any other provisions within this chapter or any rules promulgated hereunder, the permitting agency shall, when requesting information for a permit application pursuant to this chapter or such rules promulgated hereunder, cite a specific rule. If a request for information cannot be accompanied by a rule citation, failure to provide such information cannot be grounds to deny a permit.

History.—s. 1, ch. 78-161.

161.042 Coastal construction and excavation in barrier beach inlets.—The department is authorized to direct that any person, or any public body or agency, responsible for the excavation of sandy sediment as a result of any activity conducted to maintain navigable depths within or immediately adjacent to any coastal barrier beach inlet within sovereignty lands shall, after receipt of written authorization from the Department of Environmental Regulation relating to the deposition of spoil material from the excavation pursuant to chapters 253 and 403, use such sediment for beach nourishment as prescribed by the division. Requests for such authorization shall be made by the applicant to the Department of Environmental Regulation, and such authorization shall be granted upon issuance of water quality certification by the Department of Environmental Regulation. For any construction or excavation within or immediately contiguous to any coastal barrier beach inlet which has been permitted pursuant to s. 161.041, the department may require the permittee to supply beach profiles and conduct hydrographic monitoring of the impacted area.

History.—s. 2, ch. 78-257; s. 1, ch. 80-183.

161.051 Coastal construction by persons, firms, corporations, or local authorities.—Where any person, firm, corporation, county, municipality, township, special district, or any public agency shall construct and install projects when permits have been properly issued, such works and improvements shall be the property of said person, firm, corporation, county, municipality, township, special district, or any public agency where located, and shall thereafter be maintained by and at the expense of said person, firm, corporation, county, municipality, township, special district, or other public agency. No grant under this section shall affect title of the state to any lands below the mean high-water mark, and any additions or accretions to the upland caused by erection of such works or improvement shall remain the property of the state if not previously conveyed. The state shall in no way be liable for any damages as a result of erections of such works and improvements, or for any damages arising out of construction, reconstruction, maintenance, or repair thereof, or otherwise arising on account of such works or improvements.

History.—s. 1, ch. 65-408.

161.052 Coastal construction and excavation; regulation.—

(1) No person, firm, corporation, municipality, county, or other public agency shall excavate or construct any dwelling house, hotel, motel, apartment building, seawall, revetment, or other structure incidental to or related to such structure, including but not limited to such attendant structures or facilities as a patio, swimming pool, or garage, within 50 feet of the line of mean high water at any riparian coastal location fronting the Gulf of Mexico or Atlantic coast shoreline of the state, exclusive of bays, inlets, rivers, bayous, creeks, passes, and the like. In areas where an erosion control line has been established under the provisions of ss. 161.141-161.211, that line, or the presently existing mean high-water line, whichever is more landward, shall be considered to be the mean high-water line for the purposes of this section.

(2) A waiver or variance of the setback requirements may be authorized by the Department of Natural Resources in the following circumstances:

(a) The department may authorize an excavation or erection of a structure at any riparian coastal location as described in subsection (1) upon receipt of an application from a riparian owner and upon the consideration of facts and circumstances, including adequate engineering data concerning shoreline stability and storm tides related to shoreline topography, which, in the opinion of the Department of Natural Resources, clearly and unequivocally justify such a waiver or variance.

(b) If in the immediate contiguous or adjacent area a number of existing structures have established a reasonably continuous and uniform construction line closer to the line of mean high water than the foregoing, and if said existing structures have not been unduly affected by erosion, a proposed structure may be permitted along such line on written authorization from the Department of Natural Resources if such proposed structure is also approved by the Department of Natural Resources. However, the Department of Natural Resources shall not contravene setback requirements established by a county or municipality which are equal to, or more strict than, those setback requirements provided herein.

(c) The department may authorize the construction of pipelines or piers extending outward from the shoreline, unless it determines that the construction

of such projects would cause erosion of the beach in the area of such structures.

(3) The provisions of this section shall not apply to structures intended for shore protection purposes which are regulated by s. 161.041 or to structures existing or under construction on June 27, 1970.

(4) The Department of Natural Resources may by regulation exempt specifically described portions of the coastline from the provisions of this section whenever in its judgment such portions of coastline, because of their nature, are not subject to erosion of a substantially damaging effect to the public.

(5) The setback requirements as defined herein shall not apply to any riparian coastal locations fronting the Atlantic Ocean or Gulf of Mexico which have vegetation-type seasandy shores.

(6) The setback requirements defined in subsection (1) shall not apply to any modification, maintenance, or repair to any existing structure within limits of the existing foundation which does not require, involve, or include any additions to, or repair or modification of, the existing foundation of that structure. Specifically excluded from this exemption are seawalls and any additions or enclosures added, constructed, or installed below the first dwelling floor or lowest deck of the existing structure.

(7) Any coastal structure erected, or excavation created, in violation of the provisions of this section is hereby declared to be a public nuisance, and such structure shall be forthwith removed or such excavation refilled after written notice by the Department of Natural Resources directing such removal or filling. In the event that the structure is not removed or the excavation refilled as directed within a reasonable time, the Department of Natural Resources may remove such structure or fill such excavation at its own expense. The cost thereof shall become a lien upon the property of the upland owner upon which such unauthorized structure or excavation is located.

(8) Any person violating any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.083. Such person shall be deemed guilty of a separate offense for each month during any portion of which any violation of this section is committed or continued.

(9) The executive director of the department may make recommendations to the Governor and Cabinet as head of the department concerning the purchase of the fee or any lesser interest in any lands seaward of the setback requirement as environmentally endangered lands or as outdoor recreation lands.

(10) A coastal county or municipality fronting on the Gulf of Mexico or the Atlantic Ocean shall advise the department within 5 days after receipt of any permit application for construction or other activities proposed to be located within 50 feet of the line of mean high water. Within 5 days after receipt of such application, the county or municipality shall notify the applicant of the requirements for state permits.

History.—s. 1, ch. 70-231; s. 12, ch. 71-133; s. 1, ch. 75-87; s. 2, ch. 80-103; s. 63, ch. 81-259.

161.053 Coastal construction and excavation; regulation on county basis.—

(1) The Legislature finds and declares that the beaches in this state and the coastal barrier dunes adjacent to such beaches, by their nature, are subject to frequent and severe fluctuations and represent one of the most valuable natural resources of Florida and that it is in the public interest to preserve and protect them from imprudent construction which can jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, and endanger adjacent property and the beach-dune system. In furtherance of these findings, it is the intent of the Legislature to provide that the department establish coastal construction control lines on a county basis along the sand beaches of the state fronting on the Atlantic Ocean or the Gulf of Mexico. Such lines shall be established so as to define that portion of the beach-dune system which is subject to severe fluctuations based on a 100-year storm surge, storm waves, or other predictable weather conditions. However, the department may establish a segment or segments of a coastal construction control line further landward than the impact zone of a 100-year storm surge, provided such segment or segments do not extend beyond the landward toe of the coastal barrier dune structure that intercepts the 100-year storm surge. Such segment or segments shall not be established if adequate dune protection is provided by a state-approved dune management plan. Special siting and design considerations shall be necessary seaward of established coastal construction control lines to ensure the protection of the beach-dune system, proposed or existing structures, and adjacent properties.

(2) Coastal construction control lines shall be established by the department only after it has been determined from a comprehensive engineering study and topographic survey that the establishment of such control lines is necessary for the protection of upland properties and the control of beach erosion. No such line shall be set until a public hearing has been held for each area involved. After the department has given consideration to the results of such public hearing, it shall, after considering ground elevations in relation to historical storm and hurricane tides, predicted maximum wave uprush, beach and offshore ground contours, the vegetation line, erosion trends, the dune or bluff line, if any exist, and existing upland development, set and establish a coastal construction control line and cause such line to be duly recorded in the public records of any county and municipality affected and shall furnish the clerk of the circuit court in each county affected a survey of such line with references made to permanently installed monuments at such intervals and locations as may be considered necessary. Upon the establishment, approval, and recordation of such control line or lines, no person, firm, corporation, or governmental agency shall construct any structure whatsoever seaward thereof; make any excavation, remove any beach material, or otherwise alter existing ground elevations; drive any vehicle on, over, or across any sand dune; or damage or cause to be damaged such sand dune or the vegetation growing thereon seaward thereof except as hereinafter provided. Control lines established under the provisions of this section shall be subject to review at the discretion of the department after consideration of hydrographic and topographic data which indicates shoreline changes that render established coastal construction control lines to be ineffective for the purposes of this act or at the written request of officials of affected counties or municipalities. Any riparian upland owner who feels that such line as established is unduly restrictive or prevents a legitimate use of his property shall be granted a review of the line upon written request. After such review, the department shall decide if a change in the control line as established is justified and shall so notify the person or persons making the request. The decision of the department shall be subject to judicial review as provided in chapter 120.

(3) Any coastal county or coastal municipality may establish coastal construction zoning and building codes in lieu of the provisions of this section, provided such zones and codes are approved by the department as being adequate to protect the shoreline from erosion and safeguard adjacent structures. Exceptions to locally established coastal construction zoning and building codes shall not be granted unless previously approved by the department. It is the intent of this subsection to provide for local administration of established coastal construction control lines through approved zoning and building codes where desired by local interests and where such local interests have, in the judgment of the department, sufficient funds and personnel to adequately administer the program. Should the department determine at any time that the program is inadequately administered, the department shall have authority to revoke the authority granted to the county or municipality.

(4) Except in those areas where local zoning and building codes have been established pursuant to subsection (3), a permit to alter, excavate, or construct on property seaward of established coastal construction control lines may be granted by the department as follows:

(a) The department may authorize an excavation or erection of a structure at any coastal location as described in subsection (1) upon receipt of an application from a property and/or riparian owner and upon the consideration of facts and circumstances, including adequate engineering data concerning shoreline stability and storm tides related to shoreline topography, design features of the proposed structures or activities, and potential impacts of the location of such structures or activities including potential cumulative effects of any proposed structures or activities upon such beach-dune system, which, in the opinion of the department, clearly justify such a permit.

(b) If in the immediate contiguous or adjacent area a number of existing structures have established a reasonably continuous and uniform construction line closer to the line of mean high water than the foregoing, and if the existing structures have not been unduly affected by erosion, a proposed structure may, at the discretion of the department, be permitted along such line on written authorization from the department if such structure is also approved by the department. However, the department shall not contravene setback requirements or zoning or building codes established by a county or municipality which are equal to, or more strict than, those requirements provided herein.

(c) The department may condition the nature, timing, and sequence of construction of permitted activities to provide protection to nesting sea turtles and hatchlings and their habitat pursuant to s. 370.12 and to native salt-resistant vegetation and endangered plant communities.

(5) Any coastal structure erected, or excavation created, in violation of the provisions of this section is hereby declared to be a public nuisance; and such structure shall be forthwith removed or such excavation shall be forthwith refilled after written notice by the department directing such removal or filling. In the event the structure is not removed or the excavation refilled within a reasonable time as directed, the department may remove such structure or fill such excavation at its own expense; and the costs thereof shall become a lien upon the property of the upland owner upon which such unauthorized structure or excavation is located.

(6) Any person who violates this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; except that a person driving any vehicle on, over, or across any sand dune and damaging or causing to be damaged such sand dune or the vegetation growing thereon in violation of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person shall be deemed guilty of a separate offense for each month during any portion of which any violation of this section is committed or continued.

(7) The provisions of this section do not apply to structures intended for shore protection purposes which are regulated by s. 161.041 or to structures existing or under construction prior to the establishment of the coastal construction control line as provided herein, provided such structures may not be materially altered except as provided in subsection (4).

(8) The department may by regulation exempt specifically described portions of the coastline from the provisions of this section when in its judgment such portions of coastline because of their nature are not subject to erosion of a substantially damaging effect to the public.

(9) Pending the establishment of coastal construction control lines as provided herein, the provisions of s. 161.052 shall remain in force. However, upon the establishment of coastal construction control lines, or the establishment of coastal construction zoning and building codes as provided in subsection (3), the provisions of s. 161.052 shall be superseded by the provisions of this section.

(10) The coastal construction control requirements defined in subsection (1) do not apply to any modification, maintenance, or repair to any existing structure within the limits of the existing foundation which does not require, involve, or include any additions to, or repair or modification of, the existing foundation of that structure. Specifically excluded from this exemption are seawalls and any additions or enclosures added, constructed, or installed below the first dwelling floor or lowest deck of the existing structure.

(11) Concurrent with the establishment of a coastal construction control line, the executive director of the department shall make recommendations to the Governor and Cabinet as head of the department concerning the purchase of the fee or any lesser interest in any lands seaward of the control line as environmentally endangered lands or as outdoor recreation lands; and, with respect to those control lines established pursuant to this section prior to June 14, 1978, the executive director may make such recommendations.

(12) A coastal county or municipality fronting on the Gulf of Mexico or the Atlantic Ocean shall advise the department within 5 days after receipt of any permit application for construction or other activities proposed to be located seaward of the line established by the department pursuant to the provisions of this section. Within 5 days after receipt of such application, the county or municipality shall notify the applicant of the requirements for state permits.

(13) In keeping with the intent of subsection (3), and at the discretion of the department, authority for permitting certain types of activities which have been defined by the department may be delegated by the department to a coastal county or coastal municipality. Such partial delegation shall be narrowly construed to those particular activities specifically named in the delegation and agreed to by the affected county or municipality; and the delegation may be revoked by the department at any time if it is determined that the delegation is improperly or inadequately administered.

History.—s. 1, ch. 71-280; s. 2, ch. 75-87; s. 1, ch. 77-12; s. 8, ch. 78-257; s. 20, ch. 79-164; s. 3, ch. 80-183; s. 67, ch. 81-259; s. 2, ch. 83-247.

161.0535 Permits; fees, costs.—The department may establish by rule a fee schedule and may assess fees for the filing, processing, and issuance of permits issued pursuant to s. 161.041 and s. 161.053. The fee schedule shall contain categories of permits based on the varying costs of evaluating applications for different types of proposed construction. The fee schedule shall be based on the actual costs of administering these permitting programs, less the amounts appropriated by the Legislature for such purposes. The department may also assess the applicant for the costs of public notice by publication prior to the consideration of these permit applications.

History.—s. 2, ch. 83-247.

161.054 Administrative fines; liability for damage; liens.—

(1) In addition to the penalties provided for in ss. 161.052, 161.053, and 161.121, any person or agent of any person refusing to comply with or willfully violating any of the provisions of s. 161.052 or s. 161.053 or any rule or order prescribed by the department thereunder shall incur a fine for each offense in an amount up to $10,000 to be fixed, imposed, and collected by the department. Each day during any portion of which such violation occurs constitutes a separate offense.

(2) Whenever any person or agent of any person knowingly violates any of the provisions of s. 161.052 or s. 161.053 so that damage is caused to beaches, shores, or beach-dune systems, including animal, plant, or aquatic life thereon, such violator shall be liable for such damage. If two or more persons or their agents cause damage, and if liability for such damage cannot be apportioned, each violator shall be jointly and severally liable for the damage. If, however, liability for such damage can be apportioned, each violator is liable only for that portion of the damage and subject to that portion of the fine attributable to his violation.

(3) The imposition of a fine or an award of damages pursuant to this section shall create a lien upon the real and personal property of the violator, enforceable by the department as are statutory liens under chapter 85. The proceeds of such fines and awards of damages shall be deposited in the Erosion Control Trust Fund.

(4) Fines imposed by the department or damages awarded shall be of such amount so as to ensure immediate and continued compliance with the provisions of ss. 161.052 and 161.053.

History.—s. 4, ch. 80-183; s. 3, ch. 83-247.

161.061 Coastal construction serving no public purpose, endangering human life, health, or welfare, or becoming unnecessary or undesirable.—

(1) Any coastal construction, or any structure including groins, jetties, moles, breakwaters, seawalls, revetments, or other structures if of a solid or highly impermeable design upon sovereignty lands of Florida, below the mean high-water line of any tidal water of the state, regardless of date of construction or whether a permit has been issued in accordance with part I of this chapter, which serves no public purpose, which is dangerous to or in any way endangers human life, health, or welfare, or which proves to be undesirable or becomes unnecessary, as determined by the Department of Natural Resources, shall be adjusted, altered, or removed by the abutting upland property owner after written notice by the division. Request for hearing must be filed by the owner with the department within 15 days after such notice. Adjustments, alterations, or removals required by this section shall be accomplished at no cost to the state. The decision of the department as to whether to adjust, alter, or remove such coastal construction or structure shall be final and the department shall set a reasonable time within which the adjustment, alteration, or removal shall be accomplished.

(2) In the event that the upland property owner does not adjust, alter, or remove any coastal construction, or other structure including groins, jetties, moles, breakwaters, seawalls, revetments, or other structures if of a solid or highly impermeable design upon sovereignty lands of Florida, below the mean high-water line, when requested or directed by the department in accordance with subsection (1) of this section, the department may alter, adjust, or remove such coastal construction or structures at its own expense, and the costs thereof shall become a lien upon the property of said abutting upland property owner.

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106; s. 22, ch. 73-85.

161.071 Prosecuting officers to assist enforcement of part I of this chapter.—State attorneys, or other prosecuting officers of the state or county, and sheriffs and their deputies of the several counties of this state, shall assist the Department of Natural Resources in enforcement of part I of this chapter. The officers and their deputies shall, upon information that any persons, firms, or corporations are violating any of the provisions of part I of this chapter, report the same, together with the information in their possession relating thereto, to the department and shall cooperate with the department in carrying out the provisions of part I of this chapter. The state attorneys and other prosecuting officers of the state or any county, upon the request of the department, shall institute and maintain such legal proceedings as may be necessary to carry out the enforcement of the provisions of part I of this chapter.

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106.

161.081 Powers of Department of Legal Affairs.—When a permit is required under part I of this chapter and has not been issued as provided herein, any such project or physical activity shall be considered a public nuisance and the Department of Legal Affairs may at the request of the Department of Natural Resources institute proceedings to enjoin or abate such nuisance.

History.—s. 1, ch. 65-408; ss. 11, 25, 35, ch. 69-106.

161.091 Erosion Control Trust Fund Account.—

(1) There is created in the State Treasury an account to be known as the "Erosion Control Trust Fund Account." Subject to such appropriations as the Legislature may make therefor from time to time, disbursements from this account may be made by the Division of Marine Resources of the Department of Natural Resources subject to the approval of the department in order to carry out the proper state responsibilities in a comprehensive, long-range, statewide plan for erosion control, beach preservation, and hurricane protection, in accordance with the following:

(a) With regard to federal aid projects, the department is authorized to pay up to 75 percent of the nonfederal construction and maintenance costs of projects authorized for construction by the United States Congress, including biological monitoring costs, revegetation costs, and costs of monitoring post-construction shoreline changes, provided local interests shall, as project sponsor, pay:

1. The nonfederal costs for project engineering, including engineering supervision and inspection;
2. The costs for providing all required construction easements, rights-of-way, public access easements, and required vehicle parking spaces;
3. The costs of obtaining all required permits;
4. The costs of establishing erosion control lines; and
5. All other nonfederal costs.

The department is authorized to advance federal aid funds for projects authorized by the United States Congress when such funds are not made available by the Congress at the time a project is ready for construction. In such a case, the department shall request reimbursement of the authorized federal share in the cost of such projects and is authorized to accept such reimbursement and deposit same in the Erosion Control Trust Fund Account. The project sponsor shall assume full responsibility for all project costs in excess of the state-federal cost limitation.

(b) With regard to nonfederal aid projects, the department is authorized to pay up to 75 percent of the construction costs, maintenance costs, basic engineering data costs, biological monitoring costs, revegetation costs, costs of monitoring post-construction shoreline changes, and project monitoring costs of projects authorized for construction by the department, provided local interests shall, as project sponsor, pay:

1. The costs for project engineering, including engineering supervision and inspection;
2. The costs for providing all required construction easements, rights-of-way, public access easements, and required vehicle parking spaces;
3. The costs of obtaining all required permits;
4. The costs of establishing erosion control lines; and
5. All other costs.

(c) The department is authorized to pay up to 100 percent of the cost of sand-source data. The selection of a project engineer, acceptable to the department, by local interests, as project sponsor, shall be on a competitive negotiation basis as set forth in chapter 287. The project sponsor shall assume full responsibility for all project costs in excess of the state cost limitation.

(d) With regard to inlet sand transfer projects, the department is authorized to initiate and pay up to 75 percent of the cost of such projects when the primary purpose is beach nourishment, provided the county, municipality, port, or inlet district authority within which the inlet is located accepts the responsibility of sponsor for such project and provides easements, rights-of-way, required permits, and all other requirements normally provided by a local sponsor. Where such sand transfer projects involve the placement of sand on beaches of which the state is the upland owner, the department is authorized to pay up to 100 percent of the costs. In the case of nonfederal inlet navigation channel construction or maintenance-dredging projects, the department is authorized to pay up to 75 percent of the cost involved in placing suitable sand material on adjacent beaches, provided the county, municipality, port, or inlet district authority within which the inlet is located accepts the responsibility of sponsor for such project and provides easements, rights-of-way, required permits, and all other requirements normally provided by a local sponsor; however, if such sand is placed on beaches of which the state is the upland owner, the department is authorized to pay 100 percent of the costs. In the case of federal inlet navigation channel construction or maintenance-dredging projects, the department is authorized to pay up to 100 percent of any additional project cost, as determined by the department, involved in placing suitable sand material on nearby beaches instead of dumping such sand out at sea or in other disposal areas when such sand placement does not involve the construction of an authorized beach restoration project requiring public funding; provided that, except in cases where beach disposal areas are in state public ownership, the

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county, municipality, port, or inlet district authority within which the federal inlet navigation channel is located shall accept the responsibility of sponsor for such project and provide easements, rights-of-way, required permits, and all other requirements normally provided by a local sponsor.

(e) For an area to qualify for state funding, as provided in paragraphs (a) and (b), local interests shall, as project sponsor, provide permanent public access to project areas at approximately ½-mile intervals, including adequate vehicle parking areas, as determined by the department to be necessary in the public interest. Notwithstanding anything else herein, no public funds shall be spent restoring any beach where adequate public access to, and use of, the restored beach is not available.

(f) Local interests, as project sponsor, desiring to initiate and pay the entire cost of designing, constructing, and maintaining erosion control projects prior to the state's or, in the case of a federal aid project, the Federal Government's, initiating such construction may be reimbursed from state funds on the basis of the provisions of paragraphs (a), (b), and (d), provided the project is approved by the department prior to initiation, after construction and based on legislative appropriations. Such local interests shall, as project sponsor, be responsible for obtaining federal reimbursement in the case of federal aid projects.

(g) Local interests shall, as project sponsor, hold and save the state and its agencies, officers, and employees harmless from any and all liabilities which may result from the construction or operation of a project.

(h) The department is authorized to expend funds from the Erosion Control Trust Fund Account in order to alleviate emergency conditions related directly to shoreline stability, upon declaration by the Governor that a shoreline emergency of state concern exists.

(i) The department is authorized to expend funds from the Erosion Control Trust Fund Account to undertake such other erosion control, beach preservation, and hurricane protection work or activity as may be in the interest of the state, as determined by the department and subject to availability of funds as appropriated by the Legislature.

(j) The department is authorized to initiate, construct, and pay the entire costs of projects which involve shoreline of which the state is the upland owner.

(k) Twenty-five percent of any funds appropriated for implementation of this section shall be held by the department until the last quarter of the fiscal year for which the appropriation is made. This amount shall be used to meet emergencies prescribed in paragraph (h). If no such emergencies occur, then these funds may be released in the last quarter of the fiscal year in which the appropriation is made for projects.

(l) The department shall maintain a current project listing and may, in its discretion and dependent upon availability of local resources, revise the project listing.

(m) The department is authorized to pay 100 percent of the cost of studies and research it deems necessary for the state erosion control program.

(2) General revenue funds as appropriated by the Legislature shall be deposited in the Erosion Control Trust Fund Account upon appropriation. The Erosion Control Trust Fund Account and the moneys deposited therein shall be under the direct supervision and control of the department and such moneys may be disbursed by the Treasurer from time to time upon requisition as determined by the department.

(3) Notwithstanding the provisions of s. 216.292, the Erosion Control Trust Fund Account shall not be available for transfer for any purpose other than those provided for in this section.

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106; s. 1, ch. 71-162; s. 1, ch. 72-170; ss. 1-3, ch. 74-192; s. 1, ch. 75-202; s. 1, ch. 77-378; s. 8, ch. 78-257; s. 8, ch. 80-183.

161.101 State participation in federally and nonfederally authorized projects and studies relating to beach erosion control.—

(1) To carry out the beach and shore preservation programs, the department is hereby constituted as the beach and shore preservation authority for the state. In this capacity, the executive director of the department may at his own initiative take all necessary steps as soon as practicable and desirable to implement the provisions of this chapter.

(2) Whenever a beach erosion control project has been authorized by Congress for federal financial participation in accordance with any Act of Congress relating to beach erosion control in which nonfederal participation is required, it shall be the policy of the state to assist with an equitable share of such funds to the extent that funds are available, as determined by the department.

(3) The department, for itself or on behalf of any and all duly established beach and shore preservation districts and boards of county commissioners within the state, may enter into cooperative agreements and otherwise cooperate with, and meet the requirements and conditions (including, but not limited to, execution of indemnification agreements) of, federal, state, and other local governments and political entities, or any agencies or representatives thereof, for the purpose of improving, furthering, and expediting the beach and shore preservation program.

(4) The department is authorized, for and on behalf of the state, to accept such federal moneys for beach erosion control as are available and to sign all necessary agreements therefor and to do and perform all necessary acts in connection therewith to effectuate the intent and purpose of this act.

(5) The department is authorized to make application for federal participation in the cost of any beach and shore preservation program under any Acts of Congress and all amendments thereto.

(6) The department is authorized to pay up to 100 percent of the nonfederal construction and maintenance costs of projects authorized for construction by the United States Congress, including project sponsor costs as outlined in s. 161.091(1)(a), when construction and maintenance are on lands of which the state is the upland riparian owner.

(7) With regard to nonfederal aid projects the department is authorized to pay 100 percent of the project costs as outlined in s. 161.091(1)(b), (c), and

(d) on lands of which the state is the upland riparian owner.

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106; s. 1, ch. 78-257.

161.111 Shore erosion emergency.—If a shore erosion emergency is declared by the Governor, the state, acting through the Department of Natural Resources, may spend whatever state funds are available to alleviate shore erosion, including such funds specifically set aside for such purposes in the erosion control account.

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106.

161.121 Penalty.—Unless otherwise provided in this chapter, whoever shall fail to comply with the provisions of part I is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 1, ch. 65-408; s. 68, ch. 71-136; s. 2, ch. 77-12.
cf.—ss. 161.052, 161.053 Coastal construction and excavation regulation.

161.131 Construction of ss. 161.011-161.121.—The provisions of ss. 161.011-161.121 shall be liberally construed by all concerned in a manner to best accomplish the beach and shore preservation purposes and programs.

History.—s. 3, ch. 65-408.

161.141 Declaration of public policy and permitting process.—

(1) Beach erosion being a serious menace to the economy and general welfare of the people of this state and having advanced to emergency proportions, it is hereby declared to be in the public interest that appropriate steps be taken to enhance and protect Florida beaches from erosion and that the Legislature make provision for beach nourishment and restoration and erosion control projects and establish and clarify the property rights of the state and private upland owners arising from or created by such projects. The Legislature hereby declares that it is the public policy of the state to cause to be fixed and determined, pursuant to beach nourishment and restoration and erosion control projects, the boundary line between sovereignty lands of the state bordering on the Atlantic Ocean, the Gulf of Mexico, and the bays, lagoons, and other tidal reaches thereof, and the upland properties adjacent thereto; except that such boundary line shall not be fixed for beach nourishment projects that result from inlet or navigation channel maintenance dredging projects unless such projects involve the construction of authorized beach restoration projects. However, prior to construction of such beach nourishment project, the local sponsor shall establish the line of mean high water for the area to be nourished; and any additions to the upland property seaward of the established line of mean high water which result from the nourishment project shall become the property of the upland owner subject to all governmental regulations and shall not be used to justify increased density or the relocation of the coastal construction control line as may be in effect for such upland property. Such resulting additions to upland property shall also be subject to a public easement for traditional uses of the sandy beach consistent with uses which would have been allowed prior to the need for such nourishment project. It is further declared that there is no intention on the part of the state to extend its claims to lands not already held by it or to deprive any upland or submerged land owner of the legitimate and constitutional use and enjoyment of his property. If a requested and authorized beach nourishment and restoration and erosion control project cannot reasonably be accomplished without the taking of private property, then such taking shall be made by the requesting authority by eminent domain proceedings.

(2) When the Department of Environmental Regulation has received all information necessary to evaluate the impact of the proposed project pursuant to chapters 253 and 403 and has concluded its evaluation, it shall notify the applicant within 10 days whether it intends to issue or deny the permit, regardless of whether the Board of Trustees of the Internal Improvement Trust Fund has given its consent to the use of state lands as required by s. 253.77. However, the Department of Environmental Regulation shall not issue any permit until the requirements of s. 253.77 have been complied with, and the deadline imposed pursuant to s. 120.60 shall not begin to run until s. 253.77 has been complied with.

History.—s. 1, ch. 70-276; s. 1, ch. 73-285; s. 1, ch. 82-144.

161.151 Definitions.—As used in ss. 161.141-161.211:

(1) "Board of trustees" means the Board of Trustees of the Internal Improvement Trust Fund.

(2) "Requesting authority" means any coastal county, municipality, or beach erosion control district which requests a survey by the board of trustees under the provisions of ss. 161.141-161.211.

(3) "Erosion control line" means the line determined in accordance with the provisions of ss. 161.141-161.211 which represents the landward extent of the claims of the state in its capacity as sovereign titleholder of the submerged bottoms and shores of the Atlantic Ocean, the Gulf of Mexico, and the bays, lagoons and other tidal reaches thereof on the date of the recording of the survey as authorized in s. 161.181.

(4) "Authorized beach restoration project" means a beach project authorized by the United States Congress or the department which involves a specific project engineering design and a project maintenance program for a period of not less than 10 years.

History.—s. 2, ch. 70-276; s. 1, ch. 70-439; s. 2, ch. 82-144.

161.161 Procedure for approval of projects.—

(1) Upon the request by written resolution of a requesting authority for a survey preliminary to the implementation of a beach erosion control project, the board of trustees shall first require the Department of Natural Resources to furnish a written recommendation approving or disapproving the requested project and, if approval be recommended, to certify in writing that:

(a) Severe beach erosion has occurred in the area encompassed by the requested survey; and

(b) The beach sought to be protected by an erosion control project has been or will be destroyed in the immediate future unless a publicly financed program is undertaken.

Upon receipt of the written recommendation and certification from the Department of Natural Resources, the board of trustees shall decide whether, in light of existing needs throughout the state, the project should be pursued. In determining the priority of projects to be undertaken, the board of trustees shall consider the relative need for protective measures, the availability of necessary equipment, and the anticipated local and federal contribution and cooperation. If the board of trustees determines that the requested project should be pursued, it shall forthwith conduct a survey of all or part of the shoreline within the jurisdiction of the requesting authority in order to establish the area of beach to be protected by the project and locate an erosion control line. However, no such line shall be fixed except in connection with an authorized beach erosion control project in which the requesting authority has secured the written consent of the owners of a majority of the lineal feet of contiguous riparian property which either abuts the requested erosion control line or would abut such line, if established at the line of mean high water, for the establishment of such a line. No provision of ss. 161.141-161.211 shall be construed as preventing a requesting authority from participating in the funding of erosion control projects or surveys undertaken in accordance with the provisions of ss. 161.141-161.211. In lieu of conducting a survey, the board of trustees may accept and approve a survey as initiated, conducted, and submitted by the requesting authority if said survey is made in conformity with the appropriate principles set forth in ss. 161.141-161.211.

(2) Upon completion of the survey depicting the area of the beach erosion control project and the proposed location of the erosion control line, the board of trustees shall give notice of the written resolution of the requesting authority, the survey, and the date on which the board of trustees will hold a public hearing for the purpose of receiving evidence on the merits of the requested project and, if approval be granted, of locating and establishing such requested erosion control line. Such notice shall be by publication in a newspaper of general circulation published in the county or counties in which the proposed beach erosion control project shall be located, not less than once a week for 3 consecutive weeks, and by mailing copies of such notice by certified or registered mail to each riparian owner of record of upland property lying within 1,000 feet (radial distance) of the shoreline to be extended through construction of the proposed beach erosion control project, as his name and address appear upon the latest tax assessment roll, in order that any persons who have an interest in the beach erosion control project or in the location of such requested erosion control line can be present at such hearing to submit their views concerning necessity for the project and the precise location of the requested erosion control line. Such notice shall be in addition to any notice requirement in chapter 120.

(3) The board of trustees shall approve or disapprove the beach erosion control project. If approval be granted, the board shall establish the location of the erosion control line. In locating said line, the board of trustees shall be guided generally by the existing line of mean high water, bearing in mind the requirements of proper engineering in the erosion control project, the extent to which erosion or avulsion has occurred, and the need to protect existing ownership of as much upland as is reasonably possible. In the event riparian upland owners agree to furnish financial or other acceptable assistance in the beach erosion control project, the board of trustees is authorized to locate the erosion control line a sufficient distance seaward of the existing line of mean high water in order to provide for an equitable distribution of the restored beach between the state and such existing upland owners.

History.—s. 3, ch. 70-276; s. 1, ch. 70-439; s. 22, ch. 75-22; s. 2, ch. 79-223.

161.181 Recording of resolution and survey of board of trustees.—If no review is taken within the time prescribed from the decision of the board of trustees or, if review be timely taken, in the absence of a final decision of a court of competent jurisdiction preventing the implementation of a beach erosion control project or invalidating, abolishing, or otherwise preventing the establishment and recordation of the erosion control line as provided herein, the board of trustees shall file in the public records of the county or counties in which the erosion control line lies, a copy of its resolution approving the beach erosion control project and locating the erosion control line and shall also file and cause to be recorded in the book of plats of said county or counties a survey showing the area of beach to be protected and the location of the erosion control line.

History.—s. 5, ch. 70-276; s. 1, ch. 70-439; s. 3, ch. 79-223.

161.191 Vesting of title to lands.—

(1) Upon the filing of a copy of the board of trustees' resolution and the recording of the survey showing the location of the erosion control line and the area of beach to be protected as provided in s. 161.181, title to all lands seaward of the erosion control line shall be deemed to be vested in the state by right of its sovereignty, and title to all lands landward of such line shall be vested in the riparian upland owners whose lands either abut the erosion control line or would have abutted the line if it had been *located directly on the line of mean high water on the* date the board of trustees' survey was recorded.

(2) Once the erosion control line along any segment of the shoreline has been established in accordance with the provisions of ss. 161.141-161.211, the common law shall no longer operate to increase or decrease the proportions of any upland property lying landward of such line, either by accretion or erosion or by any other natural or artificial process, except as provided in s. 161.211(2) and (3). However, the state shall not extend, or permit to be extended through artificial means, that portion of the protected beach lying seaward of the erosion control line beyond the limits set forth in the survey recorded by the board of trustees unless the state first obtains the written consent of all riparian upland owners whose view or access to the water's edge would be altered or impaired.

History.—s. 6, ch. 70-276; s. 1, ch. 70-439; s. 3, ch. 79-223.

161.201 Preservation of common-law rights.

—Any upland owner or lessee who by operation of ss. 161.141-161.211 ceases to be a holder of title to the mean high-water line shall, nonetheless, continue to be entitled to all common-law riparian rights except as otherwise provided in s. 161.191(2), including but not limited to rights of ingress, egress, view, boating, bathing, and fishing. In addition the state shall not allow any structure to be erected upon lands created, either naturally or artificially, seaward of any erosion control line fixed in accordance with the provisions of ss. 161.141-161.211, except such structures required for the prevention of erosion. Neither shall such use be permitted by the state as may be injurious to the person, business, or property of the upland owner or lessee; and the several municipalities, counties and special districts are authorized and directed to enforce this provision through the exercise of their respective police powers.

History.—s. 7, ch. 70-276.

161.211 Cancellation of resolution for nonperformance by board of trustees.—

(1) If for any reason construction of the beach erosion control project authorized by the board of trustees is not commenced within 2 years from the date of the recording of the board of trustees' survey, as provided in s. 161.181, or in the event construction is commenced but halted for a period exceeding 6 months from commencement, then, upon receipt of a written petition signed by those owners or lessees of a majority of the lineal feet of riparian property which either abuts or would have abutted the erosion control line if the same had been located at the line of mean high water on the date the board of trustees' survey was recorded, the board of trustees shall forthwith cause to be canceled and vacated of record the resolution authorizing the beach erosion control project and the survey locating the erosion control line, and the erosion control line shall be null and void and of no further force or effect.

(2) If the state, county, municipality, erosion control district, or other governmental agency charged with the responsibility of maintaining the protected beach fails to maintain the same and as a result thereof the shoreline gradually recedes to a point or points landward of the erosion control line as established herein, the provisions of s. 161.191(2) shall cease to be operative as to the affected upland.

(3) In the event a substantial portion of the shoreline encompassed within the erosion control project recedes landward of the erosion control line, the board of trustees, on its own initiative, may direct or request, or, upon receipt of a written petition signed by the owners or lessees of a majority of the lineal feet of riparian property lying within the erosion control project, shall direct or request, the agency charged with the responsibility of maintaining the beach to restore the same to the extent provided for in the board of trustees' recorded survey. If the beach is not restored as directed or requested by the board of trustees within a period of 1 year from the date of the directive or request, the board of trustees shall forthwith cause to be canceled and vacated of record the resolution authorizing the beach erosion control project and the survey locating the erosion control line, and the erosion control line shall be null and void and of no further force or effect.

History.—s. 8, ch. 70-276; s. 1, ch. 70-439; s. 3, ch. 79-223.

161.212 Judicial review relating to permits and licenses.—

(1) As used in this section, unless the context otherwise requires:

(a) "Agency" means any official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of state government.

(b) "Permit" means any permit or license required by this chapter.

(2) Any person substantially affected by a final action of any agency with respect to a permit may seek review within 90 days of the rendering of such decision and request monetary damages and other relief in the circuit court in the judicial circuit in which the affected property is located; however, circuit court review shall be confined solely to determining whether final agency action is an unreasonable exercise of the state's police power constituting a taking without just compensation. Review of final agency action for the purpose of determining whether the action is in accordance with existing statutes or rules and based on competent substantial evidence shall proceed in accordance with chapter 120.

(3) If the court determines the decision reviewed is an unreasonable exercise of the state's police power constituting a taking without just compensation, the court shall remand the matter to the agency which shall, within a reasonable time:

(a) Agree to issue the permit;

(b) Agree to pay appropriate monetary damages; however, in determining the amount of compensation to be paid, consideration shall be given by the court to any enhancement to the value of the land attributable to governmental action; or

(c) Agree to modify its decision to avoid an unreasonable exercise of police power.

(4) The agency shall submit a statement of its agreed-upon action to the court in the form of a proposed order. If the action is a reasonable exercise of police power, the court shall enter its final order approving the proposed order. If the agency fails to submit a proposed order within a reasonable time not to exceed 90 days which specifies an action that is a reasonable exercise of police power, the court may order the agency to perform any of the alternatives specified in subsection (3).

(5) The court shall award reasonable attorney's fees and court costs to the agency or substantially affected person, whichever prevails.

(6) The provisions of this section are cumulative and shall not be deemed to abrogate any other remedies provided by law.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 78-85.

PART II

BEACH AND SHORE PRESERVATION DISTRICTS

161.25 County beach and shore preservation authority; board of county commissioners.
161.26 Expenses; use of county funds.

161.27 Personnel and facilities.
161.28 Comprehensive county beach and shore preservation program.
161.29 Benefit categories or zones.
161.31 Establishment of districts.
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161.25 County beach and shore preservation authority; board of county commissioners.—To carry out the beach and shore preservation program, the board of county commissioners of any county and its successors in office, as an ex officio duty, are hereby severally constituted as the beach and shore preservation authority for their county. In this capacity, any such board of county commissioners may at its own initiative take all necessary steps as soon as practicable and desirable to implement the provisions of this chapter.

History.—s. 1, ch. 65-[illegible].

161.26 Expenses; use of county funds.—The board of county commissioners of any of the counties is authorized to use any available county funds to meet necessary expenses of its beach and shore preservation program. This may include, among other things, costs of studies, surveys, planning, engineering, coordination, regulation, acquisition of lands, construction of works and facilities, operation and maintenance, and other activities incidental to acquisition and construction to the extent considered proper and desirable by the board of county commissioners.

History.—s. 1, ch. 65-[illegible].

161.27 Personnel and facilities.—In carrying out the purposes of part II of this chapter, the board of county commissioners may use to the extent feasible any personnel or facilities employed by or available to the county. In addition, the board of county commissioners may hire such personnel and contract for such services as may prove necessary or desirable.

History.—s. 1, ch. 65-[illegible].

161.28 Comprehensive county beach and shore preservation program.—The board of county commissioners of any of the counties may, by assignments to legally qualified personnel, where services are made available as provided in s. 161.27, initiate and carry on such studies and investigations as may be necessary to plan a logical and suitable program for comprehensive beach and shore preservation within its county. This program may incorporate all or part of the recommendations of the United States Army Corps of Engineers concerning beach and shore restoration and erosion control, if there be any, and may additionally provide to an appropriate extent for the other aspects of beach and shore preservation. In conducting its studies and making its plans for a beach and shore preservation program, the board of county commissioners shall hold sufficient public hearings to ascertain the views and feelings of affected property owners in the various localities of the county regarding the needs to be served and manner in which they should best be served. The board of county commissioners shall give proper and reasonable consideration to all evidence received in planning the beach and shore preservation program.

History.—s. 1, ch. 65-408.

161.29 Benefit categories or zones.—Upon adoption of a reasonably final plan of improvement for the beach and shore preservation program for the entire county, the board of county commissioners shall conduct, through the use of personnel competent and qualified in this field, an economic analysis of the proposed program, determining the nature and extent of benefits expected to accrue from the program and allocating these benefits to their proper recipients by categories or zones of comparable benefits, and place in the same zone areas of equal benefits, or follow such other method as may be deemed suitable for the purposes of this section. From time to time, the board of county commissioners shall conduct in the same or similar manner a new analysis to better determine and allocate actual or expected benefits.

History.—s. 1, ch. 65-408.

161.31 Establishment of districts.—

(1) Districts established under the provisions of part II of this chapter shall constitute public bodies corporate and politic, exercising public powers and all other powers and duties incident to such bodies.

(2) The board of county commissioners shall serve as the governing body for all districts created under this authority and shall proceed as expeditiously as possible to determine and implement policy and program for each such district in accordance with the overall county program, except that the board of county commissioners may receive guidance in these matters for each district from an advisory group, consisting of not less than three nor more than five persons, which the board of county commissioners may appoint from any or each such district. Members of such advisory group shall have no definite term of office but shall serve at the pleasure of the board of county commissioners.

(3) To further provide for efficient administration of the district program, the board of county commissioners may hire such additional personnel or contract for such additional services as it considers necessary or desirable in each case.

(4) A uniform ad valorem tax not to exceed 1 mill per year on all nonexempt taxable property within the district may be levied for a period of not more than 2 years to defray organizational and administrative costs of said district.

History.—s. 1, ch. 65-408; s. 2, ch. 71-14.

161.32 Existing erosion prevention district.—Part II of this chapter shall not be construed to impair the existence, powers or functions of any existing erosion prevention, beach or shore preservation districts created by special or local act; provided, however, that any such existing district may recreate and reestablish itself under the provisions of this act as if originally created and established hereunder in all respects, by resolution of its governing body adopting the provisions of chapter 161, in their entirety and thereafter shall function as a beach and shore preservation district created and established under the provisions of part II of this chapter.

History.—s. 1, ch. 65-408.

161.33 Cooperation with federal, state, and other governmental entities.—

(1) The board of county commissioners, for itself or on behalf of any and all duly established beach and shore preservation districts within the county, may enter into cooperative agreements and otherwise cooperate with, and meet the requirements and conditions of, federal, state and other local governments and political entities, or any agencies or representative thereof, for the purpose of improving, furthering and expediting the beach and shore preservation program.

(2) The board of county commissioners and the Department of Natural Resources, for and on behalf of each or any district created in accordance with parts I and II of this chapter, are authorized to receive and accept from any federal agency, grants for or in aid of any beach and shore preservation program contemplated by part II of this chapter, and to receive and accept aid or contributions from any source, of money, property and other things of value. The board of county commissioners is authorized to make application for Federal participation in the cost of any beach and shore preservation program under any Acts of Congress and all amendments thereto.

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106.

161.34 Coordination of county preservation activities.—The board of county commissioners shall coordinate the work and activity of all districts established hereunder within the county and, to further insure harmony and consistency with the overall county beach and shore preservation plan, shall establish working liaison with each municipality and other agencies and groups involved in beach and shore preservation activity within the county.

History.—s. 1, ch. 65-408.

161.35 County shoreline; supervisory and regulatory powers of board of county commissioners.—

(1) With the consent of the Department of Natural Resources and of any municipality or other political authority involved, the board of county commissioners may regulate and supervise all physical work or activity along the county shoreline which is likely to have a material physical effect on existing coastal conditions or natural shore processes. This regulatory and supervisory authority shall specifically include, but not be limited to, installation of groins, jetties, moles, breakwaters, seawalls, revetments, and other coastal construction as defined herein. For this purpose, the board of county commissioners, with assistance as required from its professional personnel, may develop standards and criteria, issue permits and conduct inspections.

(2) All regulations and requirements prescribed by the board of county commissioners pursuant to part II of this chapter may be enforced by mandatory injunction or other appropriate action in any court of competent jurisdiction. Such regulations and requirements shall in no way affect the regulatory authority of the Department of Natural Resources.

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106.

161.36 General powers of authority.—In order to most effectively carry out the purposes of part II of this chapter, the board of county commissioners, as the county beach and shore preservation authority and as the governing body of each beach and shore preservation district established thereby, shall be possessed of broad powers to do all manner of things necessary or desirable in pursuance of this end; provided, however, nothing herein shall diminish or impair the regulatory authority of the Department of Natural Resources or Division of Marine Resources under s. 370.02(2), or part I of this chapter, or the Board of Trustees of the Internal Improvement Trust Fund under chapter 253. Such powers shall specifically include, but not be limited to, the following:

(1) To make contracts and enter into agreements;

(2) To sue and be sued;

(3) To acquire and hold lands and property by any lawful means;

(4) To exercise the power of eminent domain;

(5) To enter upon private property for purposes of making surveys, soundings, drillings and examinations, and such entry shall not be deemed a trespass;

(6) To construct, acquire, operate and maintain works and facilities;

(7) To make rules and regulations; and

(8) To do any and all other things specified or implied in part II of this chapter.

History.—s. 1, ch. 65-408; ss. 25, 27, 35, ch. 69-106.

161.37 Capital, operation and maintenance costs; district benefits tax levy.—

(1) To provide for the capital, operation and maintenance cost of the beach and shore preservation program, either by debt service or direct expenditure, the board of county commissioners as the governing body of each district created in accordance with part II of this chapter may levy upon all taxable property within each district an ad valorem benefits tax in any amount necessary to meet the requirements of the program but not exceeding the reasonable ability of the district to pay.

(2) The tax shall be levied upon each taxable property in proportion to benefits said property will receive as determined by the most recent economic analysis of the program as provided for under s. 161.29. General benefits shall be uniformly applied

on an ad valorem basis to the entire assessed valuation of each district, while special benefits shall be assigned to groups of specific properties which shall constitute zones because of the equal or comparable benefits each included property will receive.

(3) Where the board of county commissioners levies any special benefits taxes, it shall consider the value of the property, its kind, susceptibility to improvement and the maximum annual benefits to be conferred thereon by the works or improvements in the district.

(4) The owner of lands where a special benefits tax is proposed to be levied shall be given written notice and an opportunity to be heard upon the amount of special benefits tax to be levied upon his lands. If the special benefits to all properties within any district are found to be equal or comparable, then the said district shall comprise only one tax zone. The proportional tax rate which each property within a district shall pay shall be determined by adding the general and special benefits assigned to its zone. The actual tax levy for any particular year shall depend on the revenue needs for that year.

(5) The board of county commissioners shall levy sufficient ad valorem and special benefits taxes to pay off debt service on any bonds issued. It shall be the duty of the board each year, sufficiently in advance of the preparation of the county tax roll, to establish the revenue requirements for each individual district for the fiscal year in question and certify this figure to the county property appraiser who shall then assign shares of this total to each zone within the respective district according to the proportion of total benefits previously assigned. The share of total required revenue assigned each zone shall then be collected by an ad valorem levy on each taxable property within the zone.

(6) All taxes provided for in part II of this chapter shall be levied and collected by the county in the same manner as other county taxes, and while unpaid shall constitute a lien of equal stature and dignity with other county taxes.

History.—s. 1, ch. 65-608; s. 1, ch. 77-102.

161.38 Issuance of bonds.—

(1) The board of county commissioners, for and on behalf of each or any district created in accordance with part II of this chapter, is authorized to provide from time to time for the issuance of bonds to obtain funds to meet the costs of the beach and shore preservation program; provided, however, that such issuance shall have first been approved at a duly conducted referendum election by freeholders within the subject district as provided for by law. The bonds of each issue shall be dated, shall bear interest at rates not to exceed 7.5 percent which mature at such time not to exceed 40 years from the date of issuance as determined by the board of county commissioners, and at the option of the board of county commissioners may be made redeemable before maturity under such terms and conditions and at such prices as fixed by the board of county commissioners prior to issuance.

(2) The board of county commissioners shall determine the form of such bonds, including any interest coupons to be attached thereto, the denomination of the bonds, and the place of payment of principal and interest which may be at any bank or trust company within or without the state.

(a) The resolution authorizing the issue may further provide that such bonds may be executed manually or by engraved, lithographed or facsimile signature.

(b) The appropriate seal may be affixed or lithographed, engraved or otherwise reproduced in facsimile on such bonds and shall be attested by the manual or facsimile signature of the county clerk; provided, however, that at least one of the signatures of executing officials on the bonds shall be manual. Signatures, manual or facsimile, of executing officials shall continue to be valid for all purposes whatsoever regardless of whether or not signing officials are still in office at the time bonds are actually delivered.

(c) Bonds may be issued in coupon or registered form as the board of county commissioners may decide and provision may be made for the registration of any coupon bonds as to principal alone or as to principal and interest, and for the reconversion of coupon bonds or any bond registered as to principal and interest.

(d) No sale of bonds shall be made at a price so low as to require the payment of interest on money received therefor at a rate in excess of 6 percent per annum, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding from such computation, however, the amount of any premiums to be paid for the redemption of any bonds prior to maturity.

(e) Prior to the preparation or issuance of definitive bonds, the board of county commissioners may under like restrictions issue interim receipts or temporary notes or other forms of such temporary obligations with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. Such bonds may be issued under the provisions of part II of this chapter without obtaining the consent of any commission, board, bureau or agency of this state, and without any other proceeding or happening than specifically required by this chapter.

(3) All bonds issued under part II of this chapter shall constitute, and have all the qualities and incidents of, negotiable instruments under the law merchant and the Negotiable Instruments Law of Florida, and shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale thereof and shall be incontestable in the hands of bona fide purchasers for value.

(4) The provisions of part II of this chapter shall constitute an irrevocable contract between the board of county commissioners and the holders of such bonds or coupons thereof issued pursuant to the provisions hereof.

(5) Any holder of such bonds issued under the provisions of part II of this chapter, and the trustee under any trustee agreement, except to the extent the rights herein given may be restricted by such trust agreement, may either at law or in equity, by suit, action, or mandamus, force and compel the performance of the duties required by part II of this chapter or of any of the officers or persons herein mentioned in relation to said bonds, or the levy, assessment, collection and enforcement and application of the taxes pledged for the principal and interest thereof as provided for in s. 161.37.

(6) Bonds issued under the provisions of part II of this chapter shall not be subject to the consent or approval of any state board, commission, or agency, but such bonds shall be validated in accordance with the provisions of chapter 75.

History.—s. 1, ch. 65-608; s. 11, ch. 73-302; s. 5, ch. 80-86.

161.39 Cooperation between two or more counties.—

(1) When two or more counties have created one or more beach preservation districts as provided for under part II of this chapter or any other law with same or like intent, or desire to carry out programs of beach and shore preservation, and find it to be mutually beneficial, the boards of county commissioners of such counties may cooperate to any extent necessary or desirable to carry out the intent of part II of this chapter or any other law with same or like intent, in the implementation of any beach or shore preservation plan or project as defined herein. This cooperation may include but shall not be limited to cooperative participation in the nonfederal costs of federally authorized projects affecting one or more of the cooperating counties, plans or projects resulting from investigation, or studies made by any or all such counties, or other such plans or projects, which by their nature would prove to be beneficial to each such cooperating county as determined by the boards of county commissioners of each such county.

(2) The costs of any such plan or project shall be borne by each of the cooperating counties in accordance with the benefits expected to accrue to each county as determined in accordance with s. 161.29, or as determined and agreed upon by the boards of county commissioners of each such cooperating county.

(3) Any county may expend funds in any other county for the purposes provided herein if in the opinion of the board of county commissioners of one county such expenditure of its funds in other counties would be beneficial to the beaches and shores of that county.

History.—s. 1, ch. 65-608.

161.40 Tax exemptions.—All properties, revenues and other assets of the board of county commissioners acting as the beach and shore preservation authority, or of any of the districts created thereby, shall, by recognition of its essential public function, be exempt from all taxation by the state or any political subdivision, agency or instrumentality thereof.

History.—s. 1, ch. 65-608.

161.41 Construction of ss. 161.25-161.40.—The provisions of ss. 161.25-161.40 shall be liberally construed by all concerned in a manner to best accomplish the beach and shore preservation purposes and programs.

History.—s. 2, ch. 65-608.

161.45 Effect of repeal of ch. 158 on districts created prior to repeal.—The county erosion districts created under the provisions of chapter 158, and presently in existence shall not be affected by the repeal of chapter 158.

History.—s. 2, ch. 65-126.

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CHAPTER 201

EXCISE TAX ON DOCUMENTS

201.01 Documents taxable, generally.
201.02 Tax on deeds and other instruments relating to realty or interests in realty.
201.04 Tax on bills of sale, agreements, or transfers of stock or shares in corporations and interests therein.
201.05 Tax on stock certificates.
201.07 Tax on bonds, debentures, and certificates of indebtedness.
201.08 Tax on promissory or nonnegotiable notes, written obligations to pay money, or assignments of wages or other compensation; exception.
201.09 Renewal of existing promissory notes and mortgages; exemption.
201.10 Certificates of deposit issued by banks exempt.
201.11 Administration of law by Department of Revenue.
201.12 Duties of clerks of the circuit court.
201.13 Department of Revenue to furnish stamps for tax.
201.131 Metering machines.
201.132 Exceptions to use of stamps on recorded documents; county comptrollers and clerks of the circuit court.
201.133 Exceptions to use of stamps on documents not to be recorded; certificates of registration.
201.14 Cancellation of stamps when used.
201.15 Distribution of taxes collected.
201.16 Other laws made applicable to chapter.
201.17 Penalties for failure to pay tax required.
201.18 Penalties for illegal use of stamps.
201.20 Penalties for illegally avoiding tax on notes.
201.21 Notes and other written obligations exempt under certain conditions.
201.22 Financing statements under chapter 679 of the Uniform Commercial Code.
201.23 Foreign notes and other written obligations exempt.
201.24 Obligations of municipalities, political subdivisions, and agencies of the state.

201.01 Documents taxable, generally.—There shall be levied, collected, and paid the taxes specified in this chapter, for and in respect to the several documents, bonds, debentures or certificates of stock and indebtedness, and other documents, instruments, matters, writings, and things described in the following sections, or for or in respect of the vellum, parchment, or paper upon which such document, instrument, matter, writing, or thing, or any of them, is written or printed by any person who makes, signs, executes, issues, sells, removes, consigns, assigns, records, or ships the same, or for whose benefit or use the same are made, signed, executed, issued, sold, removed, consigned, assigned, recorded, or shipped in the state. The documentary stamp taxes required under this chapter shall be affixed to and placed on all recordable instruments requiring documentary stamps according to law, prior to recordation. With respect to mortgages or trust deeds which do not incorporate the certificate of indebtedness, a notation shall be made on the note or certificate that the tax has been paid and that the proper stamps have been affixed to the mortgage or trust deed.

History.—s. 1, ch. 15787, 1931; CGL 1936 Supp. 1279(111); s. 1, ch. 81-272; s. 1, ch. 77-418.

201.02 Tax on deeds and other instruments relating to realty or interests in realty.—

(1)(a) On deeds, instruments, or writings whereby any lands, tenements, or other realty, or any interest therein, shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser, or any other person by his direction, on each $100 of the consideration therefor the tax shall be 45 cents. When the full amount of the consideration for the execution, assignment, transfer, or conveyance is not shown in the face of such deed, instrument, document, or writing, the tax shall be at the rate of 45 cents for each $100 or fractional part thereof of the consideration therefor.

(b) The tax increase imposed by section 1 of chapter 81-33, Laws of Florida, is repealed effective July 1, 1991; and the tax rate shall be reduced to 40 cents for each $100 or fractional part thereof of the consideration.

(2) The tax imposed by subsection (1) shall also be payable upon documents by which the right is granted to a tenant-stockholder to occupy an apartment in a building owned by a cooperative apartment corporation.

(3) The tax imposed by subsection (2) shall be paid by the purchaser, and the document recorded in the office of the clerk of the circuit court as evidence of ownership.

(4) The tax imposed by subsection (1) shall also be payable upon documents which convey or transfer, pursuant to s. 689.071, any beneficial interest in lands, tenements, or other realty, or any interest therein, even though such interest may be designated as personal property, notwithstanding the provisions of s. 689.071(4). The tax shall be paid upon execution of any such document.

History.—s. 1, ch. 15787, 1931; CGL 1936 Supp. 1279(111); s. 1, ch. 67-327; s. 1, ch. 69-303; s. 1, ch. 73-334; s. 1, ch. 77-332; ss. 2, 3, ch. 79-302; s. 1, ch. 81-33.

201.04 Tax on bills of sale, agreements, or transfers of stock or shares in corporations and interests therein.—

(1) On all sales, agreements to sell or memoranda of sales or deliveries of, transfers of legal title to shares, or certificates of stock or profits or interest in property or accumulations in any corporation, or to rights to subscribe for or to receive such shares or certificates, whether made upon or shown by the books of the corporation, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale, whether entitling the holder in any manner to

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and qualifications, all persons using or desiring to use the procedure authorized by this section shall be subject to audit and shall make their records available for ready inspection by the department and shall post a bond at their own expense as may be required by the department.

(6) Such persons shall keep a journal, or other account book or record of original entry, showing a listing of all documents executed and delivered. The journal shall show a daily listing of such documents unless another time period is required by the department. The journal shall show every transaction and the amount, whether the transaction is taxable or not. In the case of taxable transactions, the journal shall show the amount of tax payable with respect to each transaction. In the case of nontaxable transactions, the journal shall disclose the basis on which the exemption from tax is claimed. Such records shall be kept in permanent form and retained indefinitely in the files subject to verification by the representative of the department. The following notation or similar language along with the certificate of registration number shall be made on each individual document requiring tax: "Florida documentary stamp tax required by law in the amount of $___ has been paid or will be paid directly to the Department of Revenue. Certificate of Registration #___."

(7) The authority of any person described in subsection (1) to use the procedure authorized by this section may be canceled by the department if such person:

(a) Knowingly files a false monthly report of the data required by subsection (4);

(b) Fails, refuses, or neglects to file the report required by subsection (4);

(c) Fails to remit the tax collected; or

(d) Fails to adequately maintain the records required by subsection (6).

History.—s. 2, ch. 81-14.

201.14 Cancellation of stamps when used.—Whenever an adhesive stamp is used for denoting any tax imposed by this chapter on documents, the person using or affixing the same shall write or stamp or cause to be written or stamped thereon, the initials of his or its name, and the date upon which same is attached or used, so that the same may not again be used. Stamps shall be affixed in such manner that their removal will require continued application of steam or water; provided, that the Department of Revenue may prescribe such other method for the cancellation of such stamps as it may deem expedient.

History.—s. 8, ch. 15787, 1931; CGL 1936 Supp. 1279(118); ss. 21, 35, ch. 69-106.

201.15 Distribution of taxes collected.—

(1) All taxes collected under the provisions of this chapter shall be distributed as follows:

(a) Seventy-nine and one-half percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the General Revenue Fund of the state, to be used and expended for the purposes for which the General Revenue Fund was created and exists by law.

(b) Thirteen and three-tenths percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Sums deposited in such fund pursuant to this section may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(c) Seven and two-tenths percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Water Management Lands Trust Fund. Sums deposited in that fund may be used for any purpose authorized in s. 373.59 and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(2) The change in the schedule of distributions imposed by s. 2 of chapter 81-33, Laws of Florida, is repealed effective August 1, 1991, at which time the schedule of distributions shall revert to the schedule existing at the time of passage of chapter 81-33, Laws of Florida.

History.—s. 9, ch. 15787, 1931; CGL 1936 Supp. 1279(117); s. 4, ch. 79-350; ss. 2, 4, ch. 81-33.

201.16 Other laws made applicable to chapter.—All revenue laws relating to the assessment and collection of taxes are hereby extended to and made a part of this chapter, so far as applicable, for the purpose of collecting stamp taxes omitted through mistake or fraud from any instrument, document, paper, or writing named herein.

History.—s. 3, ch. 15787, 1931; CGL 1936 Supp. 1279(115).

201.17 Penalties for failure to pay tax required.—

(1) Whoever makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever, without the full amount of the tax herein imposed thereon being fully paid, or whoever makes use of any adhesive stamp to denote any tax imposed by this chapter without canceling or obliterating such stamps as herein provided, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any document, instrument, or paper upon which the tax under this chapter is imposed and which, upon audit or at time of recordation, does not show the proper amount of tax paid shall subject the person or persons liable for the tax upon the document, instrument, or paper to:

(a) Payment of the tax not paid.

(b) Payment of a penalty to the Department of Revenue equal to 25 percent of the tax not paid. If it is determined by clear and convincing evidence that any part of a deficiency is due to fraud, there shall be added to the tax as a civil penalty, in lieu of the aforementioned penalty under this paragraph, an amount equal to 100 percent of the deficiency. These penalties are to be in addition to, and not in lieu of, any other penalties imposed by law.

(c) Payment of interest to the Department of Revenue, accruing from the date of recordation until

(10) The county commissioners, or municipal authorities, may, in their discretion, appropriate a sufficient sum, not otherwise appropriated, to pay the necessary expenses of any unit of the organized militia of the state located in their respective counties or municipalities, to be accounted for to the Adjutant General by the organization receiving such appropriation as other military funds.

History.—ss. 42, 43, 63, ch. 8492, 1921; s. 4, ch. 10185, 1925; s. 5, ch. 12969, 1927; CGL 2054, 2073; s. 6, ch. 20849, 1941; s. 1, ch. 25112, 1949; s. 19, ch. 63-400; ss. 11, 35, ch. 69-106; s. 1, ch. 84-174.

Note.—Former ss. 250.48, 250.70.

CHAPTER 252

EMERGENCY MANAGEMENT

252.32 Policy and purpose.
252.34 Definitions.
252.35 Emergency management powers; Division of Emergency Management.
252.60 Radiological emergency preparedness.

252.32 Policy and purpose.—

(1) Because of the existing and continuing possibility of the occurrence of emergencies of unprecedented size and destructiveness resulting from enemy attack, sabotage, or other hostile action or from natural or manmade causes; in order to ensure that preparations of this state will be adequate to deal with, reduce vulnerability to, and recover from such emergencies; generally to provide for the common defense and to protect the public peace, health, and safety; and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary:

(a) To create a state emergency management agency to be known as the "Division of Emergency Management," to authorize the creation of local organizations for emergency management in the political subdivisions of the state, and to authorize cooperation with the Federal Government and the governments of other states.

(b) To confer upon the Governor, the Division of Emergency Management, and the governing body of each political subdivision of the state the emergency powers provided herein.

(c) To provide for the rendering of mutual aid among the political subdivisions of the state, with other states, and with the Federal Government with respect to carrying out all emergency management functions and responsibilities.

(d) To authorize the establishment of such organizations and the development and employment of such measures as are necessary and appropriate to carry out the provisions of ss. 252.31-252.60.

(e) To provide the means to assist in the prevention or mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.

(2) It is further declared to be the purpose of ss. 252.31-252.60 and the policy of the state that all emergency management functions of the state be coordinated to the maximum extent with comparable functions of the Federal Government, including its various departments, agencies of other states and localities, and private agencies of every type, to the end that the most effective preparation and use may be made of the manpower, resources, and facilities of the nation for dealing with any emergency that may occur.

History.—s. 1, ch. 74-285; s. 18, ch. 81-169; s. 14, ch. 83-334; s. 6, ch. 84-241.

cf.—s. 255.042 Shelter in public buildings.

252.34 Definitions.—As used in ss. 252.31-252.60:

(1) "Division" means the Division of Emergency Management of the Department of Community Affairs, or the successor to that division.

(2) "Emergency" means any occurrence, or threat thereof, whether accidental, natural, or caused by man, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

(3) "Emergency management" means the preparation for, and the carrying out of, all emergency responsibilities and functions, other than those for which military forces or other federal agencies are primarily responsible, to prevent, mitigate, or repair injury and damage resulting from the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from emergencies. These responsibilities include, but are not limited to:

(a) Reduction of vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural or manmade catastrophes or hostile military or paramilitary action.

(b) Preparation for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disasters.

(c) Provision of a setting conducive to the rapid and orderly start of restoration and rehabilitation of persons and property affected by emergencies.

(d) Provision of an emergency management system embodying all aspects of preemergency preparedness and postemergency response.

(e) Assistance in anticipation, recognition, appraisal, prevention, and mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.

(4) "Local emergency management agency" means an organization created in accordance with the provisions of ss. 252.31-252.60 to discharge the emergency management responsibilities and functions of a political subdivision.

(5) "Political subdivision" means any county or municipality created pursuant to law.

History.—s. 1, ch. 74-285; s. 19, ch. 81-169; s. 22, ch. 83-55; s. 16, ch. 83-324; s. 7, ch. 84-241.

252.35 Emergency management powers; Division of Emergency Management.—

(1) The division shall be responsible for carrying out the provisions of ss. 252.31-252.60.

(2) In performing its duties under ss. 252.31-252.60, the division is authorized and empowered:

(a) In accordance with the provisions of chapter 120, to make, amend, and rescind rules, programs, and plans to carry out the provisions of ss. 252.31-252.60 with due consideration for, and in cooperation with, the plans and programs of the Federal Government.

(b) To prepare a comprehensive plan and program for emergency management in this state, such plan and program to be integrated into, and coordinated with, the survival plans and programs of the Federal Government.

(c) In accordance with such plan and program for emergency management, to ascertain the requirements of the state and its political subdivisions for equipment and supplies of all kinds in the event of emergency; to plan for and procure supplies, medicines, materials, and equipment; to use and employ from time to time any of the property, services, and resources within the state in accordance with ss. 252.31-252.60; to institute training programs and public information programs; and to take all other preparatory steps, including the partial or full mobilization of emergency management forces and organizations in advance of actual emergency, to ensure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

(d) To cooperate with the President, the heads of the Armed Forces, the various federal emergency management agencies, and the officers and agencies of other states in matters pertaining to emergency management in the state and the nation and incidents thereof and, in connection therewith, to take any measures which it may deem proper to carry into effect any request of the President and the appropriate federal officers and agencies for any emergency management action, including the direction or control of:

1. Emergency management drills, tests, or exercises of whatever nature.

2. Warnings and signals for tests and drills, attacks, or other imminent emergencies or threats thereof and the mechanical devices to be used in connection with such warnings and signals.

(e) To make recommendations for zoning, building, and other land use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other prevention, mitigation, and preparedness measures designed to eliminate emergencies or reduce their impact.

(f) To render assistance to political subdivisions in designing emergency action plans.

(g) To prepare and distribute to appropriate state and local officials catalogs of federal, state, and private assistance programs.

(h) To coordinate federal, state, and local emergency management activities.

(i) To promulgate standards and requirements for political subdivision emergency management plans.

(j) To review periodically political subdivision emergency management plans.

(k) To make such surveys of industries, resources, and facilities within the state, both public and private, as are necessary to carry out the purposes of ss. 252.31-252.60.

(l) To prepare, for issuance by the Governor, such executive orders, proclamations, and rules as are necessary or appropriate in coping with emergencies.

(m) To cooperate with the Federal Government and any public or private agency or entity in achieving any purpose of ss. 252.31-252.60 and in implementing programs for emergency prevention, mitigation, preparation, response, and recovery.

(n) To delegate authority vested in it under ss. 252.31-252.60 and to provide for the subdelegation of such authority.

(o) To report annually to the Governor and the Legislature, no later than February 1, the status of the emergency management capabilities of the state and its political subdivisions.

(p) To do other things necessary, incidental, or appropriate for the implementation of ss. 252.31-252.60.

History.—s. 1, ch. 74-285; s. 20, ch. 81-169; s. 17, ch. 83-334; s. 8, ch. 84-241.

252.60 Radiological emergency preparedness.—

(1) PURPOSE AND INTENT.—It is the purpose of this section to establish the means by which certain radiological emergency response plans and preparedness requirements of the United States Nuclear Regulatory Commission and the Federal Emergency Management Agency can be developed and tested by the state, the appropriate counties, and each operator licensed by the United States Nuclear Regulatory Commission to operate a commercial nuclear electric generating facility. It is the expressed intent of the Legislature that no department, commission, agency, or political subdivision of the state be considered to have assumed or be responsible for the funding of any activity or program required by this section from any sources of funds other than those specifically identified in this section.

(2) DEFINITIONS.—For the purposes of this section, the following terms shall have the meanings indicated:

(a) "Facility" means a commercial nuclear generating reactor operated for the purpose viding heat to produce electricity for sale to pers other than the owner of the facility.

(b) "Operator" means that person who has applied for or who has been granted a license by the United States Nuclear Regulatory Commission for the operation of a facility.

(c) "Appropriate county" means a county which is required by the United States Nuclear Regulatory Commission or the Federal Emergency Management Agency to be designated a risk or a host county.

(d) "Plans" means the radiological emergency response plans and preparedness in support of nuclear power plants requirements, including facilities and equipment, currently contained in NUREG-0654 and FEMA-REP-1 or as may be required by cognizant federal agencies in the future.

(3) EMERGENCY RESPONSE PLANS.—In addition to the other plans required by this chapter, the division shall develop, prepare, test, and implement as needed, in conjunction with the appropriate counties and the affected operator, such radiological emergency response plans and preparedness requirements as may be imposed by the United States Nuclear Regulatory Commission or the Federal Emergency Management Agency as a requirement for obtaining or continuing the appropriate licenses for a commercial nuclear electric generating facility.

(4) POWERS AND DUTIES.—In implementing

the requirements of this section, the secretary of the department, or his designated representative, shall:

(a) Negotiate and enter into such additional contracts and arrangements among the division, appropriate counties, and each operator to provide for the level of funding and the respective roles of each in the development, preparation, testing, and implementation of the plans.

(b) Evaluate and determine the adequacy of the plans based upon consultations with the United States Nuclear Regulatory Commission and other agencies, as appropriate, and upon the results of such tests as may be conducted.

(c) Limited to such funding as is available based upon the requirements of subsection (5), require the participation of appropriate counties and operators in the development, preparation, testing, or implementation of the plans as needed.

(d) Determine the reasonableness and adequacy of the provisions, terms, and conditions of the plans and, in the event the appropriate counties and the operators cannot agree, resolve such differences and require compliance by the appropriate counties and the operators with the plans. In resolving such differences, the secretary shall consider:

1. The requirements and parameters placed on the operators by federal law and agencies;

2. The reasonableness and adequacy of the funding for appropriate counties from any sources of funds other than local revenue sources; and

3. The reasonableness and appropriateness of the costs to the appropriate counties likely to be incurred in complying with provisions, terms, and conditions of the plans.

(e) Receive, expend, and disburse such funds as are made available by each licensee pursuant to this section.

(f) Limited to such funding as is available based upon the requirements of subsection (5), coordinate all activities undertaken pursuant to this section or required of appropriate counties and operators by any federal or state agency.

(5) FUNDING.—All funds for the implementation of this section shall be provided by the operators as required by subsection (4), except that operators may enter into bilateral agreements with other state agencies or appropriate counties when necessary. No political subdivision of the state shall be considered to have obligated or consented to have obligated any funds from any local revenue source whatsoever by complying with the provisions of this section.

History.—s. 26, ch. 83-396; s. 9, ch. 84-241.

CHAPTER 253

STATE LANDS

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253.01 Internal Improvement Trust Fund established.—

(1)(a) So much of the 500,000 acres of land granted to this state for internal improvement purposes by an Act of Congress passed March 3, A. D. 1845, as remains unsold, and the proceeds of the sales of such lands heretofore sold as now remain on hand and unappropriated, and all proceeds that may hereafter accrue from the sales of such lands; and all the swampland or lands subject to overflow granted this state by an Act of Congress approved September 28, A. D. 1850, together with all the proceeds that have accrued or may hereafter accrue to the state from the sale of such lands, are set apart, and declared a separate and distinct fund called the Internal Improvement Trust Fund of the state, and are to be strictly applied according to the provisions of this chapter.

(b) All revenues derived from application fees charged by the Division of State Lands for the use in any manner, lease, conveyance, or release of any interest in or for the sale of state lands shall be placed into the Internal Improvement Trust Fund. The fees charged by the division for reproduction of records relating to state lands shall also be placed into the fund.

(2) All revenues accruing from sources designated by law for deposit in the Internal Improvement Trust Fund shall be used for the acquisition, management,

administration, protection, and conservation of state-owned lands.

History.—s. 1, ch. 610, 1854; RS 428; GS 616; RGS 1054; CGL 1384; s. 2, ch. 61-119; s. 1, ch. 82-185; s. 13, ch. 84-330.

cf.—s. 270.08 Sale of public lands.

253.022 Land Management Advisory Committee.—[Repealed effective October 1, 1990, by s. 2, ch. 84-94, and scheduled for review pursuant to s. 11.611 in advance of that date.]

253.023 Conservation and Recreation Lands Trust Fund; purpose.—

(1) It is the policy of the state that the citizens of this state shall be assured the availability of public lands on which to recreate. In recognition of this policy, it is the intent of the Legislature to provide such public lands for the people residing in urban and metropolitan areas of the state as well as those residing in less populated, rural areas; it is the further intent of the Legislature, with regard to the lands described in paragraph (3)(b), that a high priority be given to the acquisition of such lands in or near counties exhibiting the greatest concentration of population and, with regard to the lands described in subsection (3), that a high priority be given to acquiring lands within any area designated as an area of critical state concern under s. 380.05 which, in the judgment of the selection committee established pursuant to s. 259.035, cannot be adequately protected by application of land development regulations adopted pursuant to s. 380.05.

(2) There is established within the Department of Natural Resources the Conservation and Recreation Lands Trust Fund, to be used as a nonlapsing, revolving fund exclusively for the purposes of this section. To the fund shall be credited 50 percent of the total moneys collected from the excise tax on the severance of:

(a) Oil, such moneys to be taken from the first oil tax provided in s. 211.02(1)(a);

(b) Gas, such moneys to be taken from the first gas tax provided in s. 211.02(1)(c);

(c) Solid minerals other than phosphate rock, such moneys to comprise that portion of the tax paid into the State Treasury in accordance with part II of chapter 211; and

(d) Phosphate rock, such moneys to be taken from that portion of the tax paid into the State Treasury in accordance with part II of chapter 211.

The Department of Revenue, upon compilation of each month's receipts of the severance tax, shall credit the amount provided in this section to the fund, commencing with the funds collected in July 1984; however, if such amount exceeds $25 million in fiscal year 1984-1985, $35 million in fiscal year 1985-1986, or $40 million in any fiscal year thereafter, the department shall deposit the excess into the General Revenue Fund.

(3) The Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund, may allocate moneys from the fund in any one year to acquire the fee or any lesser interest in land in each of the following categories:

(a) Lands qualified for purchase as environmentally endangered lands as defined in s. 259.03(2), or

(b) Lands which the board of trustees determines should be acquired in the public interest for the following purposes:

1. For use and protection as natural flood plain, marsh, or estuary, if the protection and conservation of such lands is necessary to enhance or protect water quality or quantity or to protect fish or wildlife habitat which cannot otherwise be accomplished through local and state regulatory programs;

2. For use as state parks, recreation areas, public beaches, state forests, wilderness areas, or wildlife management areas;

3. For restoration of altered ecosystems to correct environmental damage that has already occurred; or

4. For preservation of significant archaeological or historical sites.

(4) The board of trustees may allocate, in any year, an amount not to exceed 5 percent of the money credited to the fund in that year, such allocation to be used for the initiation and maintenance of a natural areas inventory to aid in the identification of areas to be acquired pursuant to this section.

(5) Moneys in the fund not needed to meet obligations incurred under this section shall be deposited with the Treasurer to the credit of the fund and may be invested in the manner provided by law. Interest received on such investments shall be credited to the Conservation and Recreation Lands Trust Fund.

(6)(a) The board of trustees may enter into any contract necessary to accomplish the purposes of this section.

(b) On behalf of the board and before the appraisal of parcels approved for purchase under chapter 259, the executive director of the Department of Natural Resources or the director of the Division of State Lands may enter into option contracts to buy such parcels. Any such option contract shall state that the final purchase price is subject to approval by the board and that the final purchase price may not exceed the maximum offer allowed by law. The consideration for such an option may not exceed $1,000 or 0.01 percent of the estimate by the department of the value of the parcel, whichever amount is greater.

(7) Prior to or concurrent with the acquisition under this section of any interest in lands, the board of trustees shall designate an agency or agencies to manage such lands and shall make a preliminary determination as to the extent and nature of public for which the lands will be available.

(8) Lands to be considered for purchase under this section are subject to the selection procedures of s. 259.035 and shall be acquired in accordance with acquisition procedures for state lands provided for in s. 253.025, except as otherwise provided by the Legislature. An inholding or an addition to a project selected for purchase pursuant to this chapter or s. 259.035 is not subject to the selection procedures of s. 259.035 if the estimated value of such inholding or addition does not exceed $250,000. Moneys from the fund may be used for title work, appraisal fees, and survey costs related to acquisition expenses for lands to be acquired, donated, or exchanged which qualify under the categories of this section, at the discretion of the board. When the Legislature has authorized the Department of Natural Resources to condemn a specific parcel of land and such parcel has already been approved for acquisition under this section, the

land may be acquired in accordance with the provisions of chapter 73 or chapter 74, and the fund may be used to pay the condemnation award and all costs, including a reasonable attorney's fee, associated with condemnation.

(9) Agencies designated to manage lands under this section shall develop and adopt, with the approval of the board of trustees, individual management plans for each project designed to conserve and protect such lands and their associated natural resources.

(10) The board of trustees may allocate, in any year, an amount not to exceed 10 percent of the moneys credited to the fund in that year, such allocation to be used for maintenance and management of any lands acquired pursuant to this section.

(11) All lands managed under this section shall be open for public use and enjoyment to the extent the board of trustees find compatible with the conservation and protection of public lands. Such public use may include, upon approval of the board of trustees, fishing, hunting, camping, hiking, nature study, swimming, boating, and canoeing.

(12) The board of trustees may adopt rules to further define the categories of land for acquisition under this section and under chapter 259.

History.—s. 8, ch. 79-255; s. 16, ch. 80-256; s. 5, ch. 81-75; s. 1, ch. 81-210; s. 165, ch. 81-259; s. 1, ch. 82-152; s. 2, ch. 83-80; s. 1, ch. 83-114; s. 10, ch. 84-330.

253.025 Acquisition of state lands.—

(1) Neither the Board of Trustees of the Internal Improvement Trust Fund nor its duly authorized agent shall commit the state, through any instrument of negotiated contract or agreement for purchase, to the purchase of lands with or without appurtenances unless the provisions of this section have been fully complied with. However, the board of trustees may substitute federally mandated acquisition procedures for the provisions of this section when federal funds are available and will be utilized for the purchase of lands title to which will vest in the board of trustees, and qualification for such federal funds requires compliance with federally mandated acquisition procedures. The board of trustees may waive any provision of this section when land is being conveyed from a state agency to the board.

(2) Prior to any state agency initiating any land acquisition, except as pertains to the purchase of rights-of-way and borrow pits for road building purposes, the agency shall coordinate with the Division of State Lands to determine the availability of existing, suitable state-owned lands in the area and the public purpose for which the acquisition is being proposed. If the state agency determines that no suitable state-owned lands exist, the state agency may proceed to acquire such lands by employing all available statutory authority for acquisition.

(3) Land acquisition procedures provided for in this section are for voluntary, negotiated acquisitions.

(4) For the purposes of this section, the term "negotiations" does not include preliminary contacts with the property owner to determine the availability of the property, existing appraisal data, existing abstracts, and surveys.

(5)(a) Purchase negotiations for the acquisition of any land from the Conservation and Recreation Lands Trust Fund or Land Acquisition Trust Fund shall be initiated within 6 months of approval by the Governor and Cabinet of the lists developed pursuant to s. 259.035.

(b) Title shall be conveyed, or a written agreement to transfer title shall be executed, within 6 months of the initiation of purchase negotiations unless the Department of Natural Resources formally abandons that acquisition prior to the conclusion of such 6-month period.

(c) If, within such 6-month period, title is not conveyed, an agreement to purchase is not executed, or a project is not formally abandoned, the Division of State Lands shall notify the Governor and Cabinet. Within 30 days after such notification, the Governor and Cabinet shall instruct the division to continue or abandon the project, in whole or in part.

(6) Evidence of marketable title shall be provided by the landowner prior to the conveyance of title, as provided in the final agreement for purchase. Such evidence of marketability shall be in the form of title insurance or an abstract of title with a title opinion. The board of trustees may waive the requirement that the landowner provide evidence of marketable title, and, in such case, the acquiring agency shall provide evidence of marketable title.

(7) Prior to approval by the board of trustees of any agreement to purchase land pursuant to s. 253.023, chapter 259, or chapter 375, and prior to negotiations with the parcel owner to purchase any other land, title to which will vest in the board of trustees, an appraisal of the parcel shall be required as follows:

(a) Each parcel to be acquired shall have at least one appraisal. Two appraisals are required when the value of the first appraisal exceeds $250,000. However, when the values of both appraisals exceed $250,000 and differ significantly, a third appraisal may be obtained.

(b) Appraisal fees shall be paid by the agency proposing the acquisition. The board of trustees shall approve qualified fee appraisal organizations which shall include, but not be limited to, the American Association of Certified Appraisers, the American Institute of Real Estate Appraisers, the American Society of Appraisers, the American Society of Farm Managers and Rural Appraisers, the National Association of Independent Fee Appraisers, the National Society of Fee Appraisers, and the Society of Real Estate Appraisers. The Division of State Lands shall maintain a current list of all fee appraisers who are members of the professional organizations approved by the board of trustees and who desire to conduct appraisals under contract for the division. The list of qualified fee appraisers shall contain information relative to the fee appraiser's qualifications, location of practice, business reputation, and areas of specialization, if any. The board of trustees shall adopt minimum criteria for selection of prequalified fee appraisers in order to solicit proposals for appraisal services under this section. The Division of State Lands shall maintain a current list of prequalified fee appraisers from which selection will be made by the division when appraisals are required by an acquiring agency under this section. Each fee appraiser selected to appraise a particular parcel shall, prior to contracting with the agency, submit to that agency an affidavit substanti-

ating that he has no vested or fiduciary interest in such parcel.

(c) After the contract between the agency and the fee appraiser is signed, the agency shall transmit to the fee appraiser all pertinent title information developed, pursuant to rules adopted by the board of trustees; a specification of the rights to be acquired; a list of items, if any, considered to be noncompensable; minimum appraisal requirements that apply; required appraisal forms; and a certified survey which meets the minimum requirements for upland parcels established by the "Minimum Technical Standards for Land Surveying in Florida" of the Department of Professional Regulation and which accurately portrays to the greatest extent practicable the condition of the parcel as it currently exists. However, in cases in which a survey cannot be practically completed or in which the cost of the survey will be prohibitive relative to the expected value of the parcel, the requirement for such certified survey may, in part or in whole, be waived by the board of trustees any time prior to submission of the agreement for purchase to the division. When an existing boundary map and description of a parcel are determined by the division to be sufficient for appraisal purposes, the division director may temporarily waive a survey until any time prior to conveyance of title to such parcel. The fee appraiser and the review appraiser for the agency shall not act in any way that may be construed as negotiating with the property owner. Appraisal reports are confidential and exempt from the provisions of chapter 119, for use by the agency and the board of trustees, until an option contract is executed or, if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. The agency may release an appraisal report when the passage of time has rendered the conclusions of value in the report invalid.

(d) Prior to acceptance, the agency shall submit a copy of such report to the Division of State Lands. The division shall review such report in accordance with generally accepted professional standards of appraisal review. With respect to proposed purchases in excess of $250,000, this review shall include a general field inspection of the subject property by the review appraiser. The review appraiser may reject an appraisal report following a desk review, but is prohibited from approving an appraisal report in excess of $250,000 without a field review. This review shall include a check for comparable sales which may have been omitted by the fee appraiser. Prior to acceptance of an appraisal report, the review appraiser shall request the appropriate local property appraiser's comments on the value of the proposed acquisition. Any questions of applicability of laws affecting an appraisal shall be addressed by the legal office of the agency.

(e) Techniques and methods used by a fee appraiser shall be consistent with generally accepted appraisal standards. If the fee appraiser uses comparable sales in determining value, he shall thoroughly describe each such sale including the date of sale, the legal description, the present use, the highest and best use, the official record book and page where the transaction is recorded, the grantor and grantee, the purchase price, the terms and conditions of the sale, and when and with whom verified. The fee appraise shall consider any enhanced value to adjoining prop erty of the landowner whose land is being considere for acquisition and which may occur as a proximat result of the proposed acquisition.

(f) The appraisal report shall state any assump tion made by the appraiser in determining land valu and shall document and adequately support the fe appraiser's estimate of conclusion as to value. The re port shall include a description of the location, size shape, topography, access, highway frontage, an present zoning of the property. The report shall ad dress other factors relevant to the potential of th property for development, including, but not limite to, local government land use restrictions and permi moratoria, environmental sensitivity of the property and the likelihood of obtaining any pending or re quired local, state, or federal permits. In determinin land value, the fee appraiser shall primarily conside the present market value of the property, which i the amount a willing purchaser would pay a willin seller, exclusive of reasonable fees and costs of pur chase, in cash or the immediate equivalent thereof i a transaction at arm's length. This fair market valu should, as much as practicable, be based on compara ble arm's length sales of similar property. The fee ap praiser shall also consider:

1. The present use of the property, taking int consideration any applicable local or state land us regulation and any moratorium imposed by executiv order, law, ordinance, regulation, resolution, or proc lamation adopted by any governmental body or agen cy or the Governor when the moratorium prohibits o restricts the development or improvement of proper ty as otherwise authorized by applicable law;

2. The highest and best use to which the propert can be expected to be put in the immediate future The term "immediate future" as used in this sectio means a period of time not to exceed 5 years;

3. The location of the property;

4. The quantity or size of the property;

5. The cost of the property and the present de preciated reproduction costs of any improvement thereon;

6. The condition of the property; and

7. The income from the property.

The availability of utilities, if any, and a detailed de scription of any appurtenances shall also be included

(g) The appraisal report shall be accompanied b the sales history of the parcel for at least the prior years. Such sales history shall include all parties an considerations with the amount of consideration veri fied, if possible, and the amount of assessed value o the parcel. If a sales history would not be useful, o its cost prohibitive compared to the value of a parce the sales history may be waived by the executive di rector of the Department of Natural Resources or th director of the Division of State Lands. The depart ment shall adopt a rule specifying guidelines fo waiver of a sales history.

(h) The board of trustees may consider an ap praisal acquired by a seller, or any part thereof, in ne gotiating to purchase a parcel, but such appraise may not be used in lieu of an appraisal required b this subsection or to determine the maximum offe allowed by law.

(a)(a) When the owner is represented by an agent or broker, negotiations may not be initiated or continued until a written statement verifying such agent's or broker's legal or fiduciary relationship with the owner is on file with the agency.

(b) Upon the initiation of negotiations, the state agency shall inform the owner in writing that all agreements for purchase are subject to approval by the board of trustees.

(c) All offers or counteroffers shall be in writing and shall be confidential and exempt from the provisions of chapter 119 until an option contract is executed, or if no option contract is executed, until 2 weeks before a contract or agreement for purchase is considered for approval by the board of trustees. The agency shall maintain complete and accurate records of all offers and counteroffers for all projects.

(d) No offer by a state agency may exceed the value for that parcel as determined pursuant to a single appraisal, the average of two appraisals if two are obtained, or the average of the two closest appraisals if more than two are obtained. The provisions of this paragraph do not apply to the acquisition of historically unique or significant property as determined by the Division of Archives of the Department of State.

(e) When making an offer to a landowner, a state agency shall consider the desirability of a single cash payment in relation to the maximum offer allowed by law.

(f) The state shall have the authority to reimburse the owner for the cost of the survey when deemed appropriate. The reimbursement shall not be considered a part of the purchase price.

(g) All offers by the agency, including the final offer, shall be reviewed by the legal counsel of the agency. A final offer shall be in the form of an option contract or agreement for purchase and shall be signed and attested to by the owner and the representative of the agency. Before the agency signs the agreement for purchase or exercises the option contract, the provisions of s. 286.23 shall be complied with. Within 10 days after the signing of the agreement for purchase, the state agency shall furnish the Division of State Lands with the original of the agreement for purchase along with copies of the disclosure notice, evidence of marketability, the accepted appraisal report, the fee appraiser's affidavit, a statement that the inventory of existing state-owned lands was examined and contained no available suitable land in the area, and a statement outlining the public purpose for which the acquisition is being made and the statutory authority therefor.

(h) Within 45 days of receipt by the Division of State Lands of the agreement for purchase and the required documentation, the board of trustees shall either reject or approve the agreement. An approved agreement for purchase is binding on both parties. Any agreement which has been disapproved shall be returned to the agency, along with a statement as to the deficiencies of the agreement or the supporting documentation. An agreement for purchase which has been disapproved by the board of trustees may be resubmitted when such deficiencies have been corrected.

(9) No dedication, gift, grant, or bequest of lands and appurtenances may be accepted by the board of trustees until the receiving state agency supplies sufficient evidence of marketability of title. The board of trustees may not accept by dedication, gift, grant, or bequest any lands and appurtenances that are determined as being owned by the state either in fee or by virtue of the state's sovereignty or which are so encumbered so as to preclude the use of such lands and appurtenances for any reasonable public purpose. The state is not required to appraise the value of such donated lands and appurtenances as a condition of receipt.

(10) Any conveyance to the board of trustees of fee title shall be made by no less than a special warranty deed, unless the conveyance is from the Federal Government or another state agency. The title to lands acquired pursuant to this section shall vest in the board of trustees as provided in s. 253.03(1). All such lands, title to which is vested in the board pursuant to this section, shall be administered pursuant to the provisions of s. 253.03.

(11) The Auditor General shall conduct performance postaudits of acquisitions and divestitures which according to his review of the overall land acquisition program he deems necessary. These selected reviews will be initiated within 60 days following the final approval by the board of land acquisitions under this section. The Auditor General shall submit an audit report to the board of trustees, the President of the Senate, the Speaker of the House of Representatives, and their designees.

(12) The board of trustees and all affected agencies shall adopt and may modify or repeal such rules and regulations as are necessary to carry out the purposes of this section, including rules governing the terms and conditions of land purchases. Such rules shall address the procedures to be followed, when multiple landowners are involved in an acquisition, in obtaining written option agreements so that the interests of the state are fully protected.

History.—s. 9, ch. 79-255; s. 7, ch. 80-356; s. 166, ch. 81-259; s. 2, ch. 82-152; s. 2, ch. 83-114; s. 14, ch. 84-330.

[1]Note.—The official name of the division to which reference is made is the "Division of Archives, History and Records Management", see s. 20.10.

253.03 Board of trustees to administer state lands; lands enumerated.—

(1) The Board of Trustees of the Internal Improvement Trust Fund of the state is vested and charged with the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by, or which may hereafter inure to, the state or any of its agencies, departments, boards, or commissions, excluding lands held for road and canal rights-of-way, spoil areas and lands required for disposal of materials, or borrow pits; any land, title to which is vested or may become vested in any port authority, flood control district, water management district, or navigation district or agency created by any general or special act; and any lands, including the Camp Blanding Military Reservation, which have been conveyed to the state for military purposes only, and which are subject to reversion if conveyed by the original grantee or if the conveyance to the Board of Trustees of the Internal Improvement Trust Fund under this act would work a reversion from any other cause, or where any conveyance of lands held by a state agency which are encumbered by or subject to liens, trust agreements, or any form of contract which encumbers

state lands for the repayment of funded debt. Lands vested in the Board of Trustees of the Internal Improvement Trust Fund shall be deemed to be:

(a) All swamp and overflowed lands held by the state or which may hereafter inure to the state;

(b) All lands owned by the state by right of its sovereignty;

(c) All internal improvement lands proper;

(d) All tidal lands;

(e) All lands covered by shallow waters of the ocean or gulf, or bays or lagoons thereof, and all lands owned by the state covered by fresh water;

(f) All parks, reservations, or lands or bottoms set aside in the name of the state, excluding lands held for road and canal rights-of-way;

(g) All lands which have accrued, or which may hereafter accrue, to the state from any source whatsoever, excluding lands held for road and canal rights-of-way, spoil areas, or borrow pits or any land, the title to which is vested or may become vested in any port authority, flood control district, water management district, or navigation district or agency created by any general or special act.

(2) It is the intent of the Legislature that the Board of Trustees of the Internal Improvement Trust Fund continue to receive proceeds from the sale or disposition of the products of lands and the sale of lands of which the use and possession are not subsequently transferred by appropriate lease or similar instrument from the board of trustees to the proper using agency. Such using agency shall be entitled to the proceeds from the sale of products on, under, growing out of, or connected with lands which such using agency holds under lease or similar instrument from the board of trustees. The Board of Trustees of the Internal Improvement Trust Fund is directed and authorized to enter into leases or similar instruments, without consideration, for the use, benefit, and possession of public lands by state agencies which may properly use and possess them for the benefit of the state.

(3) The provisions of s. 270.11, requiring the board of trustees to reserve unto itself certain oil and mineral interests in all deeds of conveyances executed by the board of trustees, shall not have application to any lands that inure to the board of trustees from other state agencies, departments, boards, or commissions under the terms and provisions of this act.

(4) It is the intent of the Legislature that, when title to any lands is in the state, with no specific agency authorized by the Legislature to convey or otherwise dispose of such lands, the Board of Trustees of the Internal Improvement Trust Fund be vested with such title and hereafter be authorized to exercise over such lands such authority as may be provided by law.

(5) It is the specific intent of the Legislature that this act repeal any provision of state law which may require the Board of Trustees of the Internal Improvement Trust Fund to pay taxes or assessments of any kind to any state or local public agency on lands which are transferred or conveyed to the Board of Trustees of the Internal Improvement Trust Fund under the terms of this act and which at the time of the passage of this act are entitled to tax-exempt status under the constitution or laws of the state.

(6) Commencing September 1, 1967, all land held in the name of the state or any of its boards, departments, agencies, or commissions shall be deemed to be vested in the Board of Trustees of the Internal Improvement Trust Fund for the use and benefit of the state. By October 1, 1967, any board, commission, department, or agency holding title to any state lands used for public purpose shall execute all instruments necessary to transfer such title to the Board of Trustees of the Internal Improvement Trust Fund for the use and benefit of the state, except lands which reverted to the state under the provisions of chapter 18296, Laws of Florida, 1937, commonly known and referred to as the "Murphy Act."

(7) The Board of Trustees of the Internal Improvement Trust Fund is hereby authorized and directed to administer all state-owned lands and shall be responsible for the creation of an overall and comprehensive plan of development concerning the acquisition, management, and disposition of state-owned lands so as to ensure maximum benefit and use. The Board of Trustees of the Internal Improvement Trust Fund shall adopt rules and regulations necessary to carry out the purposes of this act as herein set forth.

(8)(a) The Board of Trustees of the Internal Improvement Trust Fund shall prepare, using tax roll data provided by the Department of Revenue, an annual inventory of all publicly owned lands within the state. Such inventory shall include all lands owned by any unit of state government or local government; by the Federal Government, to the greatest extent possible; and by any other public entity. The board shall submit a summary report of the inventory and a list of major discrepancies between the inventory and the tax roll data to the President of the Senate and the Speaker of the House of Representatives on or before March 1 of each year.

(b) In addition to any other parcel data available, the inventory shall include a legal description or proper reference thereto, the number of acres or square feet within the boundaries, and the assessed value of all publicly owned uplands. To the greatest extent practicable, the legal description or proper reference thereto and the number of acres or square feet shall be determined for all publicly owned submerged lands. For the purposes of this subsection, the term "submerged lands" means publicly owned lands below the ordinary high-water mark of fresh waters and below the mean high-water line of salt waters extending seaward to the outer jurisdiction of the state. By October 31 of each year, the Department of Revenue shall furnish, in machine-readable form, annual, current tax roll data for public lands to the board to be used in compiling the inventory.

(c) By December 31 of each year, the board shall prepare and provide to each state agency and local government and any other public entity which holds title to real property, including any water management district, drainage district, navigation district, or special taxing district, a list of the real property owned by such entity, required to be listed on county assessment rolls, using tax roll data provided by the Department of Revenue. By March 31 of the following year, each such entity shall review its list and inform the appropriate property appraiser of any corrections to the list. The Department of Revenue shall

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provide for entering such corrections on the appropriate county tax roll.

(9) The Board of Trustees of the Internal Improvement Trust Fund is responsible for the acquisition and disposal of federal lands and buildings which are declared surplus or excess. The Board of Trustees of the Internal Improvement Trust Fund shall establish regular procedures to assure that state and local agencies are made aware of the availability of federal lands and buildings.

(10) The Board of Trustees of the Internal Improvement Trust Fund and the state through any of its agencies are hereby prohibited from levying any charge, by whatever name known, or attaching any lien, on any and all materials dredged from state-sovereignty tidal lands or submerged bottom lands or on the lands constituting the spoil areas on which such dredged materials are placed, except as otherwise provided for in this subsection, when such materials are dredged by or on behalf of the United States or the local sponsors of active federal navigation projects in the pursuance of the improvement, construction, maintenance, and operation of such projects or by a public body authorized to operate a public port facility (all such parties referred to herein shall hereafter be called "public body") in pursuance of the improvement, construction, maintenance, and operation of such facility, including any public transfer and terminal facilities, which actions are hereby declared to be for a public purpose. The term "local sponsor" means the local agency designated pursuant to an act of Congress to assume a portion of the navigation project costs and duties. Active federal navigation projects are those congressionally approved projects which are being performed by the United States Army Corps of Engineers or maintained by the local sponsors.

(a) Except for beach nourishment seaward of existing lines of vegetation on privately owned or publicly owned uplands fronting on the waters of the Atlantic Ocean or Gulf of Mexico and authorized pursuant to the provisions of part I of chapter 161, no materials dredged from state-sovereignty tidal or submerged bottom lands by a public body shall be deposited on private lands until:

1. The United States Army Corps of Engineers or the local sponsor has first certified that no public lands are available within a reasonable distance of the dredging site; and

2. The public body has published notice of its intention to utilize certain private lands for the deposit of materials, in a newspaper published and having general circulation in the appropriate county at least three times within a 60-day period prior to the date of the scheduled deposit of any such material, and therein advised the general public of the opportunity to bid on the purchase of such materials for deposit on the purchaser's designated site, provided any such deposit shall be at no increased cost to the public body. Such notice shall state the terms, location, and conditions for receipt of bids and shall state that the public body shall accept the highest responsible bid. All bids shall be submitted to the Trustees of the Internal Improvement Trust Fund. All moneys obtained from such purchases of materials shall be remitted forthwith to the Trustees of the Internal Improvement Trust Fund. Compliance with this subsection shall vest, without any obligation, full title to the materials in the owner of the land where deposited.

(b) When public lands on which are deposited materials dredged from state-sovereignty tidal or submerged bottom lands by the public body are sold or leased for a period in excess of 20 years, which term includes any options to a private party, 50 percent of any remuneration received shall forthwith be remitted to the Trustees of the Internal Improvement Trust Fund and the balance shall be retained by the public body owning the land.

(c) Any materials which have been dredged from state-sovereignty tidal or submerged bottom lands by the public body and deposited on public lands may be removed by the public body to private lands or interests only after due advertisement for bids, which means a notice published at least three times within a 60-day period in a newspaper published and having general circulation in the appropriate county. The purchase price submitted by the highest responsible bidder shall be remitted to the Trustees of the Internal Improvement Trust Fund. If no bid is received, the public body shall have the right to fully convey title to, and dispose of, any such material on its land, with no requirement of payment to the Trustees of the Internal Improvement Trust Fund.

(d) Nothing in this subsection shall affect any preexisting contract or permit to engage in dredging of materials from state-sovereignty tidal and submerged bottom lands, nor shall it be construed to void any preexisting agreement or lien against the lands upon which dredged materials have been placed or to have any retroactive effect.

(11) The Board of Trustees of the Internal Improvement Trust Fund may adopt rules to provide for the assessment and collection of reasonable fees, commensurate with the actual cost to the board, for disclaimers, easements, exchanges, gifts, leases, releases, or sales of any interest in lands or any applications therefor and for reproduction of documents.

(12) The Board of Trustees of the Internal Improvement Trust Fund is hereby authorized to administer, manage, control, conserve, and protect all real property forfeited to the state pursuant to ss. 895.01-895.09. The board is directed to immediately determine the value of all such property and shall ascertain whether the property is in any way encumbered. If the board determines that it is in the best interest of the state to do so, funds from the Land Acquisition Trust Fund may be used to satisfy any such encumbrances. All property acquired by the board pursuant to ss. 895.01-895.09 shall be sold as soon as commercially feasible. The proceeds of the sale shall be distributed as follows:

(a) After satisfaction of any valid claims arising under the provisions of s. 895.09(1)(a) or (b), any moneys used to satisfy encumbrances and expended as costs of administration, appraisal, management, conservation, protection, and sale shall be replaced in the Land Acquisition Trust Fund; and

(b) The remainder shall be distributed as set forth in s. 895.09.

(13) Within 30 days after receipt of an application for the use of state-owned submerged lands in connection with a permit under chapter 403, including a purchase, lease, easement, disclaimer, or other consent to use such lands requiring action by the

Board of Trustees of the Internal Improvement Trust Fund, the Division of State Lands shall review such application or request and shall request submittal of all additional information necessary to process the application. Within 30 days after receipt of such additional information, the division shall review the information submitted and may request only that information needed to clarify such additional information, to process the appropriate form of approval indicated by the additional information, or to answer those questions raised by, or directly related to, such additional information. An application for the authority to use state-owned submerged land which requires board action shall be submitted to the board for its approval or denial within 90 days after receipt of the original application or the last item of timely requested additional information. This [1]time shall be tolled by any notice requirements and public hearing held pursuant to s. 253.115, or any hearing held pursuant to s. 120.57. If the review of the application is not completed within the 90-day period, the division shall submit in the quarterly report of the department to the board the reasons for not completing the review of the application and an estimated date by which the application will be submitted to the board for its action.

History.—s. 1, ch. 15642, 1931; CGL 1936 Supp. 1446(139); s. 2, ch. 61-119; ss. 2, 3, ch. 67-269; s. 2, ch. 67-2236; ss. 27, 35, ch. 69-106; s. 8, ch. 71-286; s. 1, ch. 75-76; s. 1, ch. 78-251; s. 10, ch. 79-255; s. 15, ch. 80-356; s. 2, ch. 82-144; s. 2, ch. 83-223; s. 10, ch. 84-79; s. 4, ch. 84-249.

[1]Note.—The word "time" was substituted by the editors for the word "timeframe."

253.034 State-owned lands; uses.—

(1) As used in this section, the following phrases have the following meanings:

(a) "Multiple use" means the harmonious and coordinated management of timber, recreation, wildlife, forage, archaeological and historic sites, or water resources so that they are utilized in the combination that will best serve the people of the state, making the most judicious use of the land for some or all of these resources and giving consideration to the relative values of the various resources.

(b) "Single use" means management for one particular purpose to the exclusion of all other purposes, except that the using agency shall have the option of including in its management program compatible secondary purposes which will not detract from or interfere with the primary management purpose. Such single uses may include, but are not necessarily restricted to, the use of agricultural lands for production of food and livestock, the use of improved sites and grounds for institutional purposes, and the use of lands for parks, preserves, wildlife management, archaeological or historic sites, or wilderness areas where the maintenance of essentially natural conditions is important. All submerged lands shall be considered single-use lands and shall be managed primarily for the maintenance of essentially natural conditions, the propagation of fish and wildlife, and public recreation, including hunting and fishing where deemed appropriate by the managing agency.

(2) All lands owned by the Board of Trustees of the Internal Improvement Trust Fund shall be managed in a manner that will provide the greatest combination of benefits to the people of the state. All such lands not designated in the land-management plan required by subsection (4) for a specific single use shall receive multiple-use management.

[1](3) No management agreement, lease, or other instrument authorizing the use of lands owned by the Board of Trustees of the Internal Improvement Trust Fund shall be executed for a period greater than is necessary to provide for the reasonable use of the land for the existing or planned life cycle or amortization of the improvements. An agency managing or leasing state-owned lands from the Board of Trustees of the Internal Improvement Trust Fund may not sublease such lands without prior review by the division and by the Land Management Advisory Committee created in s. 253.022 and approval by the board. The Land Management Advisory Committee is not required to review subleases of parcels which are less than 160 acres in size.

[1](4) Each state agency managing lands owned by the Board of Trustees of the Internal Improvement Trust Fund shall submit to the Division of State Lands a land-management plan no later than July 1, 1984, and at least every 5 years thereafter, in a form and manner prescribed by rule by the board no later than January 1, 1984. All management plans, whether for single-use or multiple-use properties, shall specifically describe how the managing agency plans to identify, locate, protect and preserve, or otherwise use fragile nonrenewable resources, such as archaeological and historic sites, as well as other fragile resources, including endangered plant and animal species. Land-management plans submitted by an agency shall include reference to appropriate statutory authority for such use or uses and shall conform to the appropriate policies and guidelines of the state land-management plan.

(a) The Division of State Lands shall submit a copy of each land-management plan for parcels which exceed 160 acres in size to each member of the Land Management Advisory Committee. The committee shall, within 60 days after receiving a plan from the division, review each plan for compliance with the requirements of this subsection and with the requirements of the rules established by the board pursuant to this subsection. The committee shall also consider the propriety of the recommendations of the managing agency with regard to the future use of the property, the protection of fragile or nonrenewable resources, the potential for alternative or multiple uses not recognized by the managing agency, and the possibility of disposal of the property by the board. After its review, the committee shall submit the plan, along with its recommendations and comments, to the board. The committee shall specifically recommend to the board whether to approve the plan as submitted, approve the plan with modifications, or reject the plan.

(b) The Board of Trustees of the Internal Improvement Trust Fund shall consider the land-management plan submitted by each state agency and the recommendations of the Land Management Advisory Committee and the Division of State Lands and shall approve the plan with or without modification or reject such plan. The use or possession of any such lands which is not in accordance with an approved land-management plan is subject to termination by the board.

[1](5) The Board of Trustees of the Internal Im-

provement Trust Fund shall determine which lands, the title to which is vested in the board, are of no benefit to the public and shall dispose of such lands pursuant to law.

(a) No later than July 1, 1984, and at least every 5 years thereafter, in a form and manner prescribed by rule by the board, each state agency shall indicate to the board those lands which the agency manages which are not being used for the purpose for which they were originally leased. Such lands shall be reviewed by the Land Management Advisory Committee for its recommendation as to whether such lands shall be disposed of by the board.

(b) Lands owned by the board which are not actively managed by any state agency or for which a land-management plan has not been completed pursuant to subsection (4) shall be reviewed by the Land Management Advisory Committee for its recommendation as to whether such lands shall be disposed of by the board.

(c) In reviewing lands owned by the board pursuant to paragraphs (a) and (b), the Land Management Advisory Committee shall consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located. The committee shall recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interests of the state and local government. The provisions of this paragraph in no way limit the provisions of ss. 253.111 and 253.115.

(d) After reviewing the recommendations of the Land Management Advisory Committee, the board shall determine whether lands identified in paragraphs (a) and (b) shall be held for other public purposes or whether such lands are of no benefit to the public. The board may require an agency to release its interest in such lands. Lands determined to be of no benefit to the public shall be disposed of pursuant to law. The proceeds from the disposal of such lands shall be placed in the Conservation and Recreation Lands Trust Fund.

(6) This section shall not be construed so as to affect:

(a) Other provisions of this chapter relating to oil, gas, or mineral resources.

(b) The exclusive use of state-owned land subject to a lease authorized and executed by the Board of Trustees of the Internal Improvement Trust Fund leasing state-owned land for private uses and purposes.

(c) Sovereignty lands not leased for private uses and purposes.

History.—s. 2, ch. 80-290; s. 167, ch. 81-259; s. 1, ch. 82-36; s. 3, ch. 83-223; s. 2, ch. 84-94; s. 4, ch. 84-197.

[1]Note.—Repealed effective October 1, 1990, by s. 2, ch. 84-94, and scheduled for review pursuant to s. 11.611 in advance of that date.

cf.—s. 159.705 Leases to research and development authorities.

253.04 Duty of board to protect, etc., state lands; state may join in any action brought.—

(1) The Board of Trustees of the Internal Improvement Trust Fund may police; protect; conserve; improve; and prevent trespass, damage, or depredation upon the lands and the products thereof, on or under the same, owned by the state as set forth in s. 253.03. The board may bring in the name of the board all suits in ejectment, suits for damage, and suits in trespass which in the judgment of the board may be necessary to the full protection and conservation of such lands, or it may take such other action or do such other things as may in its judgment be necessary for the full protection and conservation of such lands; and the state may join with the board in any action or suit, or take part in any proceeding, when it may deem necessary, in the name of this state through the Department of Legal Affairs.

(2) In lieu of seeking monetary damages pursuant to subsection (1) against any person or the agent of any person who has been found to have willfully damaged lands of the state, the ownership or boundaries of which have been established by the state, or willfully damaged or removed products thereof in violation of state or federal law or to have knowingly refused to comply with or willfully violated the provisions of this chapter, the board may impose a fine for each offense in an amount up to $10,000 to be fixed by rule and imposed and collected by the board in accordance with the provisions of chapter 120. Each day during any portion of which such violation occurs constitutes a separate offense. This subsection does not apply to any act or omission which is currently subject to litigation wherein the state or any agency of the state is a party as of October 1, 1984, or to any person who holds such lands under color of title. Nothing contained herein impairs the rights of any person to obtain a judicial determination in a court of competent jurisdiction of such person's interest in lands that are the subject of a claim or proceeding by the department under this subsection.

(3) Whenever any person or the agent of any person knowingly refuses to comply with or willfully violates any of the provisions of this chapter so that such person causes damage to the lands of the state or products thereof, including removal of those products, such violator is liable for such damage. Whenever two or more persons or their agents cause damage, and if such damage is indivisible, each violator is jointly and severally liable for such damage; however, if such damage is divisible and may be attributed to a particular violator or violators, each violator is liable only for that damage and subject to the fine attributable to his violation.

(4) All fines imposed hereunder and damages awarded are a lien upon the real and personal property of the violator or violators, enforceable by the Department of Natural Resources as are statutory liens under chapter 85.

(5) All moneys collected pursuant to fines imposed or damages awarded shall be deposited into the Internal Improvement Trust Fund created by s. 253.01 and used for the purposes defined in that section.

History.—s. 2, ch. 15642, 1931; CGL 1936 Supp. 1446(141); s. 11, ch. 25035, 1949; s. 2, ch. 61-119; ss. 11, 27, 35, ch. 65-106; s. 11, ch. 84-79.

253.123 Restrictions on filling land and dredging.—[Repealed by s. 15, ch. 84-79.]

253.124 Application for filling land.—[Repealed by s. 15, ch. 84-79.]

253.1245 Consideration by local government.—[Repealed by s. 15, ch. 84-79.]

253.76 Appeals; proceedings.—[Repealed by s. 15, ch. 84-79.]

253.77 State lands; state agency authorization for use prohibited without consent of agency in which title vested.—

(1) No person may commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund or the Department of Natural Resources under this chapter, until such person has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use.

(2) The permitting agency shall, within 30 days after receipt of a permit application, notify the applicant and the executive director of the Department of Natural Resources or his designee that a lease, license, easement, or other form of consent of the Board of Trustees of the Internal Improvement Trust Fund authorizing the proposed use may be required. However, this subsection does not apply to any permit, license, or other form of consent to take the regulated action which was issued and outstanding on July 1, 1980.

(3) This act does not apply to any permit, license, or other form of consent to take the regulated action which was issued and outstanding on June 23, 1976.

History.—ss. 1, 2, ch. 76-245; s. 11, ch. 80-66; s. 12, ch. 84-79.

[1]253.781 Retention of state-owned lands in the Oklawaha River and Valley; transfer to the Federal Government for inclusion in Ocala National Forest.—

(1) It is the intent of the Legislature to conserve and protect the natural resources and scenic beauty of the Oklawaha River and Valley bounding the Ocala National Forest in Putnam and Marion Counties. It is the finding of the Legislature that said Oklawaha River and Valley bounding the Ocala National Forest are areas containing and having a significant impact upon environmental and recreational resources of statewide importance and that public ownership of and access to such areas are necessary and desirable to protect the health, welfare, safety, and quality of life of the residents of this state and to implement s. 7, Art. II of the State Constitution. It is further the finding of the Legislature that retention of ownership and control of the lands by the state or their ownership and control by the Federal Government as part of the Ocala National Forest will properly protect and conserve the natural resources and scenic beauty of Florida, enhance recreational opportunities, and be in the public interest.

(2) The Department of Natural Resources is authorized and directed to transfer ownership of all lands or interests in lands previously owned by the canal authority contained within the existing boundary of the Ocala National Forest and any extension of the boundary of the Ocala National Forest in Putnam County to the United States Department of Agriculture for the purpose of inclusion in the Ocala National Forest. The Department of Natural Resources shall make such conveyance for payment of no less than the fair market value for such lands as authorized by the head of the Department of Natural Resources.

(3) The Department of Natural Resources is directed to grant to the Federal Government a perpetual easement for flooding in all lands which are associated with the Cross Florida Barge Canal Project from the Eureka Lock and Dam site to the St. Johns River and to which the department has retained or acquired fee title. The department is further directed to assign to the Federal Government any and all easements for flooding which the state may hold or acquire on lands associated with the Cross Florida Barge Canal Project from the Eureka Lock and Dam site to the St. Johns River.

(4) The Governor and Cabinet as the head of the Department of Natural Resources are empowered and authorized to acquire by purchase, exchange of other state lands, or the exercise of the power of eminent domain the fee title to lands acquired in less-than-fee title along the canal route within the area described in subsection (2). The Legislature finds that such exercise of the power of eminent domain to accomplish the purposes of this section is necessary and for a public purpose. Such power of eminent domain shall be exercised pursuant to the provisions of chapter 73.

(5) Lands transferred pursuant to this section by the Department of Natural Resources may reserve existing road rights-of-way.

History.—s. 2, ch. 79-167; ss. 1, 5, ch. 84-287.

[1]Note.—Effective only upon deauthorization of the Cross Florida Barge Canal Project by the United States Congress, on the effective date of such deauthorization by the United States Congress.

[1]253.782 Retention of state-owned lands in and around Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau west to the Withlacoochee River.—

(1) It is the intent of the Legislature to conserve, protect, and maintain the natural resources, recreational values, and water management capabilities of Lake Rousseau and the Withlacoochee River. It is the finding of the Legislature that said lands and water are areas containing and having a significant impact on environmental and recreational resources of statewide importance and that public ownership of and access to such areas are necessary and desirable to protect the health, welfare, safety, and quality of life of the residents of this state and to implement s. 7, Art. II of the State Constitution. It is further the finding of the Legislature that retention of ownership and control of said lands by the state will properly protect and conserve the natural resources of Florida, enhance recreational opportunities, and be in the public interest.

(2) The Department of Natural Resources is authorized and directed to retain ownership of and maintain all lands or interests in land owned by the Board of Trustees of the Internal Improvement Trust Fund including all fee and less-than-fee interests in lands previously owned by the canal authority in Lake Rousseau and the Cross Florida Barge Canal right-of-way from Lake Rousseau at U.S. Highway 41 west to and including the Withlacoochee River.

(3) The Governor and Cabinet as head of the Department of Natural Resources are empowered, authorized, and directed to acquire by purchase, exchange of other state [illegible] or the exercise of the

power of eminent domain the fee title to any less-than-fee title interest in land owned by the Board of Trustees of the Internal Improvement Trust Fund, *including interests previously owned by the canal* authority, as described in subsection (2). The Legislature finds that such exercise of the power of eminent domain to accomplish the purposes of this section is necessary and for a public purpose. Such power of eminent domain shall be exercised pursuant to the provisions of chapter 73.

(4) The Department of Natural Resources shall recommend to the Governor and Cabinet the establishment of an interagency advisory committee to report to the department regarding restoration and management of the Withlacoochee River, with special emphasis on control of saltwater intrusion.

History.—s. 3, ch. 79-167; s. 5, ch. 84-287.

[1]Note.—*Effective only upon deauthorization of the Cross Florida Barge Canal Project by the United States Congress, on the effective date of such deauthorization by the United States Congress.*

253.7829 Management plan for retention or disposition of Cross Florida Barge Canal lands; authority to manage lands until disposition and to dispose of surplus lands.—It is declared to be in the public interest that the Department of Natural Resources shall do and is hereby authorized to do any and all things and incur and pay from the Cross Florida Barge Canal Trust Fund, for the public purposes described herein, any and all expenses necessary, convenient, and proper to:

(1) Develop a management plan for the retention or disposition of lands acquired for the Cross Florida Barge Canal to be submitted to the Legislature no later than 1 year from the deauthorization of the Cross Florida Barge Canal, which plan shall reflect a consideration of alternatives for disposition of all lands in fee or less than fee owned by the Board of Trustees of the Internal Improvement Trust Fund, including those lands previously owned by the canal authority and the United States Army Corps of Engineers, from the North/South midsection line of sections 20 and 29, township 15 south, range 23 east, west to U.S. Highway 41, and the Cross Florida Barge Canal right-of-way from the Withlacoochee River west to the Gulf of Mexico. Such alternatives for disposition will include possible retention by any interested state agency for specific public purposes and a declaration of lands not to be retained as surplus lands to be disposed of pursuant to subsection [1](3) of this section and s. 253.783(2)(c)-(f). The management plan shall also address any remedial measures necessary to correct any environmental or economic damage caused by works constructed as a part of or as a result of the uncompleted sections of the Cross Florida Barge Canal.

(2) Operate and maintain existing lands and interests in lands, appurtenances, structures, and facilities until further disposition is directed by the Legislature pursuant to the management plan.

(3) Offer any land declared to be surplus, at current appraised value, to the counties in which the surplus land lies, for acquisition for specific public purposes. Any such sale price at current appraised value shall be charged against the dollar figure, including interest, of the repayment to be made to that county. These offers will be valid for 6 calendar months from the date the management plan is adopted by the Legislature.

History.—s. 6, ch. 84-287.

[1]Note.—Reference to "subsection (3)" was substituted by the editors for a reference to "subsection (4)" to correct an apparent error in s. 6, ch. 84-287, Laws of Florida.

[1]253.783 Additional powers and duties of the Department of Natural Resources.—

(1) The Department of Natural Resources shall make no further expenditures for the purpose of acquiring land for constructing, operating, or promoting a canal across the peninsula of Florida connecting the waters of the Atlantic Ocean with the waters of the Gulf of Mexico via the St. Johns River.

(2) It is declared to be in the public interest that the department shall do and is hereby authorized to do any and all things and incur and pay from the Cross Florida Barge Canal Trust Fund, for the public purposes described herein, any and all expenses necessary, convenient, and proper to:

(a) Develop a management plan for the retention or disposition of lands acquired for the Cross Florida Barge Canal to be submitted to the Legislature no later than 1 year from the deauthorization of the Cross Florida Barge Canal, which plan shall reflect a consideration of alternatives for disposition of all lands in fee or less than fee owned by the Board of Trustees of the Internal Improvement Trust Fund, including those lands previously owned by the canal authority and the United States Army Corps of Engineers, from the North/South midsection line of sections 20 and 29, township 15 south, range 23 east, west to U.S. Highway 41, and the Cross Florida Barge Canal right-of-way from the Withlacoochee River west to the Gulf of Mexico. Such alternatives for disposition will include possible retention by any interested state agency for specific public purposes and a declaration of lands not to be retained as surplus lands to be disposed of pursuant to paragraphs (c)-(f). The management plan shall also address any remedial measures necessary to correct any environmental or economic damage caused by works constructed as a part of or as a result of the uncompleted sections of the Cross Florida Barge Canal.

(b) Operate and maintain existing lands and interests in lands, appurtenances, structures, and facilities until further disposition is directed by the Legislature pursuant to the management plan.

(c) Offer any land declared to be surplus, at current appraised value, to the counties in which the surplus land lies, for acquisition for specific public purposes. Any such sale price at current appraised value shall be charged against the dollar figure, including interest, of the repayment to be made to that county. These offers will be valid for 6 calendar months from the date the management plan is adopted by the Legislature.

(d) Extend the second right of refusal, at current appraised value, to the original owner from whom the Canal Authority of the State of Florida or the United States Army Corps of Engineers acquired the land or his heirs. The department shall offer and is authorized to reconvey, for no consideration, any donated land declared to be surplus and not sold pursuant to paragraph (c) to the original donor or his heirs. These offers shall be made by public advertisement in not fewer than three newspapers of general circulation

under this subsection are all rights in the land, including state-held subsurface rights.

(b) Upon request by any person, the county tax collector shall record in the official records of the county in which the land is located a certificate that the taxes have been paid for the preceding 20 years by the landowner or his predecessor in title, if in fact the taxes have been paid. Such certificate is conclusive evidence of that fact.

(2)(a) The title to any land which was acquired by the state under chapter 18296, Laws of Florida, 1937, except those parcels which have been sold, conveyed, dedicated, or released by the state pursuant to subsection (1), is hereby vested in the Board of Trustees of the Internal Improvement Trust Fund.

(b) Land to which title is vested in the board of trustees by paragraph (a) shall be treated in the same manner as other nonsovereignty lands owned by the board, and all revenues derived from such land shall be deposited into the Internal Improvement Trust Fund.

(c) The holder of a claim or lien against land vested in the board of trustees by paragraph (a), including a municipality or special taxing district, has until October 1, 1985, to institute suit in a court of competent jurisdiction to establish or enforce the claim or lien. The failure to institute suit by October 1, 1985, is conclusive evidence of abandonment of the claim or lien, and such claim or lien will become unenforceable. This paragraph shall not operate to revive any claim or lien previously extinguished by operation of law.

(3) Any person who has a claim to Murphy Act lands based upon a defect in a deed executed by the Board of Trustees of the Internal Improvement Trust Fund has until October 1, 1985, to institute suit in a court of competent jurisdiction to establish the claim, or it will be forever barred.

(4) This section does not affect marketability of title established pursuant to chapter 712 prior to October 1, 1984.

(5) Nothing herein affects the validity of previous conveyances of Murphy Act lands by the board of trustees or previous reservations or restrictions in such conveyances.

History.—s. 2, ch. 84-197.

253.83 Construction of recodification.—The recodification of the sections relating to chapter 18296, Laws of Florida, 1937, by chapters 72-268 and 84-197, Laws of Florida, shall not serve to reinstate any right to maintain any action that had expired prior to October 1, 1984.

History.—s. 1, ch. 72-268; s. 3, ch. 84-197.
Note.—Former s. 197.391.

CHAPTER 255

PUBLIC PROPERTY AND PUBLICLY OWNED BUILDINGS

255.04 Preference to home industries in building public buildings.
255.05 Bond of contractor constructing public buildings; form; action by materialmen.
255.22 Reconveyance of lands not used for purpose specified.
255.23 Conclusive presumption of abandonment of purpose in certain circumstances.
255.24 Safety of Capitol building.
255.25 Approval of the Division of Building Construction and Property Management prior to construction or lease of buildings.
255.29 Construction contracts; department rules.
255.45 Correction of firesafety violations in certain state-owned property.
255.451 Electronic firesafety and security system.

255.04 Preference to home industries in building public buildings.—Every official board in the state, whether of the state, a county, or a municipality, which may be charged with the duty of erecting or constructing any public administrative or institutional building shall give preference, in the purchase of material and in letting contracts for the construction of such building, to materialmen, contractors, builders, architects, and laborers who reside within the state, whenever such material can be purchased or the services of such materialmen, contractors, builders, architects, and laborers can be employed at no greater expense than that which would obtain if such purchase was made from, or contract let or employment given to, a person residing beyond the limits of the state. However, this section in no way prohibits the right of any such official board to compare the quality of materials proposed for purchase and to compare the qualifications, character, responsibility, and fitness of materialmen, contractors, builders, and architects proposed for employment in its consideration of the purchase of materials or employment of persons. Notwithstanding the foregoing, no county official, board of county commissioners, school board, city council or city councilmen, or other public official, state board, or state agency charged with the letting of contracts or purchase of materials for the construction, modification, alteration, or repair of any publicly owned facility may specify the use of materials or systems by a sole source, unless:

(1) The governmental body, after consideration of all available alternative materials and systems, determines that the specification of a sole material or system is justifiable based upon its cost or interchangeability;

(2) The sole source specification has been recommended by the architect or engineer of record; and

(3) The consideration by, and the justifications of, the governmental body are documented, in writing, in the project file.

History.—s. 1, ch. 9146, 1923; CGL 1686; s. 2, ch. 83-266; s. 1, ch. 84-258.

255.05 Bond of contractor constructing public buildings; form; action by materialmen.—

(1) Any person entering into a formal contract with the state or any county, city, or political subdivision thereof, or other public authority, for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work shall be required, before commencing the work, to execute a payment and

ensuring that firesafety violations that are noted by the State Fire Marshal pursuant to s. 633.085 are corrected as soon as practicable for all state-owned property which is leased from the Department of General Services.

History.—s. 4, ch. 84-143.

255.451 Electronic firesafety and security system.—The management responsibility of the electronic firesafety and security system located within the Capitol and any system associated therewith is vested in the Division of Building Construction and Property Management of the Department of General Services.

History.—s. 5, ch. 84-143.

CHAPTER 258

STATE PARKS AND PRESERVES

258.024 Police powers of director and park officers.
258.031 Department of Transportation to assist division.
258.39 Boundaries of preserves.
258.393 Terra Ceia Aquatic Preserve wastewater or effluent discharge activities.

258.024 Police powers of director and park officers.—

(1) The Governor and Cabinet as the head of the Department of Natural Resources are authorized to designate the director of the Division of Recreation and Parks. The director and such number of park officers as may be deemed necessary at each park site shall be constituted police officers having the following powers:

(a) To make arrests without warrant under circumstances set forth in s. 901.15 only when the violations occur upon lands under jurisdiction of the division and only if the director and the park officers have been certified in compliance with s. 943.1395 or are on temporary waiver as provided by s. 943.131 until certified; however, such employees are not eligible for membership in the Special Risk Class of the Florida Retirement System.

(b) To bear arms while in the performance of their official duties.

(c) To have the powers of search and seizure, as set forth in s. 901.21.

(2) The park officers so designated as officers having the power to arrest shall:

(a) Meet the requirements of the Criminal Justice Standards and Training Commission; and

(b) Be assigned to one regular duty station only and perform such services in addition to their other regular duties as park officers.

(3) The Division of Recreation and Parks is not authorized by this section to establish a special law enforcement unit or division within that agency, and the park officers designated as having arrest powers shall not be employed as a patrol to move from one state park to another.

(4) It is unlawful for any person to resist arrest or otherwise interfere with the director or park officers in the performance of their lawful duties.

History.—s. 1, ch. 70-106; s. 8, ch. 73-333; s. 1, ch. 80-201; s. 169, ch. 81-259; s. 9, ch. 83-167; s. 27, ch. 84-258.

Note.—Former s. 592.075.

258.031 Department of Transportation to assist division.—[Repealed by s. 262, ch. 84-309.]

258.39 Boundaries of preserves.—The submerged lands included within the boundaries of Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Charlotte, Pinellas, Martin, Palm Beach, Broward, Dade, Monroe, Collier, Lee, Citrus, Franklin, Gulf, Bay, Okaloosa, Santa Rosa, and Escambia Counties, as hereinafter described, with the exception of privately held submerged lands lying landward of established bulkheads and of privately held submerged lands within Monroe County where the establishment of bulkhead lines is not required, are hereby declared to be aquatic preserves. Such aquatic preserve areas include:

(1) The Fort Clinch State Park Aquatic Preserve, as described in the Official Records of Nassau County in Book 108, pages 343-346, and in Book 111, page 409.

(2) Nassau River-St. Johns River Marshes Aquatic Preserve, as described in the Official Records of Duval County in Volume 3183, pages 547-552, and in the Official Records of Nassau County in Book 108, pages 232-237.

(3) Pellicer Creek Aquatic Preserve, as described in the Official Records of St. Johns County in Book 181, pages 363-366, and in the Official Records of Flagler County in Book 33, pages 131-134.

(4) Tomoka Marsh Aquatic Preserve, as described in the Official Records of Flagler County in Book 33, pages 135-138, and in the Official Records of Volusia County in Book 1244, pages 615-618.

(5) Mosquito Lagoon Aquatic Preserve, as described in the Official Records of Volusia County in Book 1244, pages 619-623, and in the Official Records of Brevard County in Book 1143, pages 190-194.

(6) Banana River Aquatic Preserve, as described in the Official Records of Brevard County in Book 1143, pages 195-198.

(7) Indian River-Malabar to Sebastian Aquatic Preserve, as described in the Official Records of Brevard County in Book 1143, pages 199-202, and in the Official Records of Indian River County in Book 368, pages 5-8.

(8) Indian River-Vero Beach to Fort Pierce Aquatic Preserve, as described in the Official Records of Indian River County in Book 368, pages 9-12, and in the Official Records of St. Lucie County in Book 187, pages 1083-1086.

(9) Jensen Beach to Jupiter Inlet Aquatic Preserve, as described in the Official Records of St. Lucie County in Book 218, pages 2865-2869.

(10) Loxahatchee River-Lake Worth Creek Aquatic Preserve, as described in the Official Records of Martin County in Book 320, pages 193-196, and in the Official Records of Palm Beach County in Volume 1860, pages 806-809.

(11) Biscayne Bay-Cape Florida to Monroe County Line Aquatic Preserve, as described in the Official Records of Dade County in Book 7055, pages 852-856, less, however, those lands and waters as described in s. 258.165.

(12) North Fork, St. Lucie Aquatic Preserve, as described in the Official Records of Martin County in Book 337, pages 2159-2162, and in the Official Records of St. Lucie County in Book 201, pages 1676-1679.

(13) Yellow River Marsh Aquatic Preserve, as described in the Official Records of Santa Rosa County in Book 206, pages 568-571.

(14) Fort Pickens State Park Aquatic Preserve, as described in the Official Records of Santa Rosa County in Book 220, pages 60-63, and in the Official Records of Escambia County in Book 518, pages 659-662.

(15) Rocky Bayou State Park Aquatic Preserve, as described in the Official Records of Okaloosa County in Book 593, pages 742-745.

(16) St. Andrews State Park Aquatic Preserve, as described in the Official Records of Bay County in Book 379, pages 547-550.

(17) St. Joseph Bay Aquatic Preserve, as described in the Official Records of Gulf County in Book 46, pages 73-76.

(18) Apalachicola Bay Aquatic Preserve, as described in the Official Records of Gulf County in Book 46, pages 77-81, and in the Official Records of Franklin County in Volume 98, pages 102-106.

(19) Alligator Harbor Aquatic Preserve, as described in the Official Records of Franklin County in Volume 98, pages 82-85.

(20) St. Martins Marsh Aquatic Preserve, as described in the Official Records of Citrus County in Book 276, pages 238-241.

(21) Matlacha Pass Aquatic Preserve, as described in the Official Records of Lee County in Book 800, pages 725-728.

(22) Pine Island Sound Aquatic Preserve, as described in the Official Records of Lee County in Book 648, pages 732-736.

(23) Cape Romano-Ten Thousand Islands Aquatic Preserve, as described in the Official Records of Collier County in Book 381, pages 298-301.

(24) Lignumvitae Key Aquatic Preserve, as described in the Official Records of Monroe County in Book 502, pages 139-142.

(25) Coupon Bight Aquatic Preserve, as described in the Official Records of Monroe County in Book 502, pages 143-146.

(26) Lake Jackson Aquatic Preserve, as established by chapter 73-534, Laws of Florida, and defined as authorized by s. 253.151 or as otherwise authorized by law.

(27) Pinellas County Aquatic Preserve, as established by chapter 72-663, Laws of Florida; Boca Ciega Aquatic Preserve, as established by s. 258.16; and the Biscayne Bay Aquatic Preserve, as established by s. 258.165. If any provision of this act is in conflict with an aquatic preserve established by s. 258.16, chapter 72-663, Laws of Florida, or s. 258.165, the stronger provision for the maintenance of the aquatic preserve shall prevail.

(28) Estero Bay Aquatic Preserve, the boundaries of which are generally: All of those sovereignty submerged lands located bayward of the mean high-water line being in Sections 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 35, and 36, Township 46 South, Range 24 East; and in Sections 19, 20, 28, 29, and 34, Township 46 South, Range 24 East, lying north and east of Matanzas Pass Channel; and in Sections 19, 30, and 31, Township 46 South, Range 25 East; and in Sections 6, 7, 17, 18, 19, 20, 29, 30, 31, and 32, Township 47 South, Range 25 East; and in Sections 1, 2, 3, 11, 12, 13, 14, 24, and 25, Township 47 South, Range 24 East, in Lee County, Florida. Any and all submerged lands conveyed by the Trustees of the Internal Improvement Trust Fund prior to October 12, 1966, and any and all uplands now in private ownership are specifically exempted from this preserve.

(29) Cape Haze Aquatic Preserve, the boundaries of which are generally: That part of Gasparilla Sound, Catfish Creek, Whiddon Creek, "The Cutoff," Turtle Bay, and Charlotte Harbor lying within the following described limits: Northerly limits: Commence at the northwest corner of Section 18, Township 42 South, Range 21 East, thence south along the west line of said Section 18 to its intersection with the Government Meander Line of 1843-1844, and the point of beginning, thence southeasterly along said meander line to the northwesterly shoreline of Catfish Creek, thence northeasterly along said shoreline to the north line of said Section 18, thence east along said north line to the easterly shoreline of Catfish Creek, thence southeasterly along said shoreline to the east line of said Section 18; thence south along said east line, crossing an arm of said Catfish Creek to the southerly shoreline of said creek, thence westerly along said southerly shoreline and southerly along the easterly shoreline of Catfish Creek to said Government Meander Line, thence easterly and southeasterly along said meander line to the northerly shoreline of Gasparilla Sound in Section 21, Township 42 South, Range 21 East, thence easterly along said northerly shoreline and northeasterly along the westerly shoreline of Whiddon Creek to the east west quarter line in Section 16, Township 42 South, Range 21 East, thence east along said quarter line and the quarter Section line of Section 15, Township 42 South, Range 21 East to the easterly shoreline of Whiddon Creek, thence southerly along said shoreline to the northerly shoreline of "The Cutoff, thence easterly along said shoreline to the westerly shoreline of Turtle Bay, thence northeasterly along said shoreline to its intersection with said Government Meander Line in Section 23, Township 42 South, Range 21 East, thence northeasterly along said meander line to the east line of Section 12, Township 42 South, Range 21 East, thence north along the east line of said Section 12, and the east line of Section 1, Township 42 South, Range 21 East to the northwest corner of Section 6, Township 42 South, Range 22 East, thence east along the north line and extension thereof of said Section 6 to a point 2,640 feet east of the westerly shoreline of Charlotte Harbor and the end of the northerly limits. Easterly limits: Commence at the northwest corner of Section 6, Township 42 South, Range 22 East, thence east along the north line of said Section 6 and extension thereof to a point 2,640 feet east of the westerly shoreline of Charlotte Harbor and the point of beginning, thence southerly along a line 2,640 feet easterly of and parallel with the westerly shoreline of Charlotte Harbor and along a southerly extension of said line to the line dividing Charlotte and Lee Counties

and the end of the easterly limits. Southerly limits: Begin at the point of ending of the easterly limits, above described, said point being in the line dividing Charlotte and Lee Counties, thence southwesterly along a straight line to the most southerly point of Devil Fish Key; thence continue along said line to the easterly right-of-way of the Intracoastal Waterway and the end of the southerly limits. Westerly limits: Begin at the point of ending of the southerly limits as described above, thence northerly along the easterly right-of-way line of the Intracoastal Waterway to its intersection with a southerly extension of the west line of Section 18, Township 42 South, Range 21 East, thence north along said line to point of beginning.

(30) Wekiva River Aquatic Preserve, the boundaries of which are generally: All the state-owned sovereignty lands lying waterward of the ordinary high-water mark of the Wekiva River and the Little Wekiva River and their tributaries lying and being in Lake, Seminole, and Orange counties and more particularly described as follows:

(a) In Sections 15, 16, 17, 20, 21, 22, 27, 28, 29, and 30, Township 20 South, Range 29 East. These sections are also depicted on the Forest City Quadrangle (U.S.G.S. 7.5 minute series-topographic) 1959 (70PR); and

(b) In Sections 3, 4, 8, 9, and 10, Township 20 South, Range 29 East and in Sections 21, 28, and 33, Township 19 South, Range 29 East lying north of the right-of-way for the Atlantic Coast Line Railroad and that part of Section 33, Township 19 South, Range 29 East lying between the Lake and Orange County lines and the right-of-way of the Atlantic Coast Line Railroad. These sections are also depicted on the Sanford SW Quadrangle (U.S.G.S. 7.5 minute series-topographic) 1965 (70-1); and

(c) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wekiva River and the Little Wekiva and their tributaries within the Peter Miranda Grant in Lake County lying below the 10 foot m.s.l. contour line nearest the meander line of the Wekiva River and all state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wekiva River and the Little Wekiva and their tributaries within the Moses E. Levy Grant in Lake County below the 10 foot m.s.l. contour line nearest the meander lines of the Wekiva River and Black Water Creek as depicted on the PINE LAKES 1962 (70-1), ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1), and SANFORD S.W. 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute topographic); and

(d) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wekiva River and the Little Wekiva River and their tributaries lying below the 10 foot m.s.l. contour line nearest the meander line of the Wekiva and St. John's Rivers as shown on the ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1), and SANFORD S.W. 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute topographic) within the following described property: Beginning at a point on the south boundary of the Moses E. Levy Grant, Township 19 South, Range 29 East, at its intersection with the meander line of the Wekiva River; thence south 60½ degrees east along said boundary line 4,915.68 feet; thence north 29½ degrees east 15,516.5 feet to the meander line of the St. John's River; thence northerly along the meander line of the St. John's River to the mouth of the Wekiva River; thence southerly along the meander line of the Wekiva River to the beginning; and

(e) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wekiva River and the Little Wekiva River and their tributaries within the Peter Miranda Grant lying east of the Wekiva River, less the following:

1. State Road 46 and all land lying south of said State Road No. 46.

2. Beginning 15.56 chains West of the Southeast corner of the SW ¼ of the NE ¼ of Section 21, Township 19 South, Range 29 East, run east 600 feet; thence north 960 feet; thence west 340 feet to the Wekiva River; thence southwesterly along said Wekiva River to point of beginning.

3. That part of the east ¼ of the SW ¼ of Section 22, Township 19 South, Range 29 East, lying within the Peter Miranda Grant east of the Wekiva River.

(31) Rookery Bay Aquatic Preserve, the boundaries of which are generally: All of the state-owned sovereignty lands lying waterward of the mean high-water line in Rookery Bay and in Henderson Creek and the tributaries thereto in Collier County, Florida. Said lands are more particularly described as lying and being in Sections 27, 34, 35, and 36, Township 50 South, Range 25 East; in Section 31, Township 50 South, Range 26 East; in Sections 1, 2, 3, 10, 11, 12, 13, 14, 23, 24, and 25, Township 51 South, Range 25 East; and in Sections 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 30, and 31, Township 51 South, Range 26 East, Collier County, Florida.

Any and all submerged lands theretofore conveyed by the Trustees of the Internal Improvement Trust Fund and any and all uplands now in private ownership are specifically exempted from this dedication.

History.—s. 1, ch. 75-172; s. 1, ch. 76-169; s. 1, ch. 76-211; s. 84, ch. 77-104; sec. 5, 83-62; s. 2, ch. 84-312.

[1]Note.—See former s. 253.151, F.S. '81.

258.393 Terra Ceia Aquatic Preserve wastewater or effluent discharge activities.—

(1) The following described area in Manatee County is hereby designated by the Legislature for inclusion in the aquatic preserve system under the Florida Aquatic Preserve Act of 1975. Such area, to be known as the Terra Ceia Aquatic Preserve, shall be included in the aquatic preserve system and shall include the following described real property: Begin at a point 165 feet north of the southwest corner of the northwest quarter of Section 12, Township 33 South, Range 17 East, Manatee County, thence run west to the mean high-water line of Tampa Bay, said point being the point of beginning. From said point of beginning, run northwesterly into the waters of Tampa Bay and parallel to the Port Manatee ship channel to the Manatee-Hillsborough county line; thence run southwest along the Manatee-Hillsborough county line to its intersection with the Intracoastal Waterway; thence run south-southwesterly along the Intracoastal Waterway to a

point on a line connecting the westernmost tip of Snead Island (Manatee County) to the southernmost tip of Mullet Key (Pinellas County); thence run southeasterly along said line to the westernmost tip of Snead Island (also known as Emerson Point); thence run in a northeasterly direction along the mean high-water line of Tampa Bay, Terra Ceia Bay, Miguel Bay, Joe Bay, and Bishop Harbor to the point of beginning, including tidal waters of all tributaries; less all privately titled submerged lands and uplands.

(2) Wastewater or effluent discharge activities from an existing stationary facility or existing stationary installation which has been approved pursuant to state law or federal law or for which facility or installation an application has been filed before June 24, 1984, are exempt from the requirements of this chapter.

History.—s. 1, ch. 84-312.

CHAPTER 265

MEMORIALS, MUSEUMS, AND FINE ARTS

265.285 Florida Arts Council; membership, duties.

[1]265.285 Florida Arts Council; membership, duties.—

(1)(a) The Florida Arts Council is created in the department as an advisory body, as defined in s. 20.03(7), to consist of 15 members appointed by the Secretary of State. In making the appointments, the secretary shall give due consideration to geographical representation so that every area of the state will have a voice on the council. The term of office of each appointed member shall be 4 years; however, of the members first appointed, three shall be appointed for terms of 1 year, four for terms of 2 years, four for terms of 3 years, and four for terms of 4 years. No appointed member of the council who serves a full 4-year term will be eligible for reappointment during a 1-year period following the expiration of his term. Any vacancy on the council shall be filled for the remainder of the unexpired term in the same manner as for the original appointment.

(b) The members shall elect a chairman from their number annually. The council shall meet at the call of its chairman, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules.

(c) The secretary may appoint review panels representing various artistic disciplines to assist the Florida Arts Council in the grant review process. Review panel members shall serve for 1-year terms. Each panel shall include practicing artists or other persons actively involved in the specific discipline for which the panel is to review grants. The panels shall review grant applications and make recommendations to the council concerning the relative merits of the applicants. The division shall, by rule, establish criteria for reviewing grant applications to ensure compliance with applicable federal and state laws relating to discrimination and conflicts of interest.

(d) Members of the council and panels shall not receive any compensation for their services, but shall be reimbursed for travel and expenses incurred in t performance of their duties, as provided in s. 112.06

(e) If a member of the council is absent from t consecutive meetings or any two regularly schedul meetings in any calendar year, the council membe appointment shall be terminated, unless the secr tary determines that extenuating circumstances e ist.

(f) The secretary may remove any member fro the council for misconduct or malfeasance in offic neglect of duty, incompetence, or permanent inabi ty to perform official duties or if there has been adjudication that the member is guilty of a felony.

(2) The duties of the council shall be to:

(a) Advise the Secretary of State in all matte pertaining to art, specifically with respect to any pr grams operated by the department as authoriz hereunder.

(b) Stimulate and encourage throughout the ste the study and presentation of the arts and public i terest and participation therein.

(c) Make such surveys as may be advisable public and private institutions which are engag within the state in artistic and cultural activities.

(d) Encourage the participation in and appreci tion of the arts to meet the needs and aspirations persons in all parts of the state.

(e) Encourage public interest in the cultural he tage of this state and expand the cultural resources the state.

(f) Encourage and assist freedom of artistic e pression essential for the well-being of the arts.

(g) Advise the Secretary of State in all matte concerning the awarding of grants for the arts und this act.

(h) Promote the decoration and beautification the interiors of the Capitol Building and other pub buildings and advise appropriate state officers, ste agencies, and the Department of General Services this regard.

History.—ss. 1, 4, ch. 80-319; ss. 2, 4, 5, ch. 81-127; ss. 1, 4, ch. 82-46; s. 2, 83-265; s. 1, ch. 84-8.

[1]Note.—Repealed effective October 1, 1990, by s. 1, ch. 82-46, as amended s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of t date.

CHAPTER 266

HISTORIC PRESERVATION BOARDS

PART I HISTORIC ST. AUGUSTINE PRESERVATION BOARD OF TRUSTEES

PART II HISTORIC PENSACOLA PRESERVATION BOARD OF TRUSTEES

PART III HISTORIC TALLAHASSEE PRESERVATION BOARD OF TRUSTEES

PART IV HISTORIC KEY WEST PRESERVATION BOARD OF TRUSTEES

PART V HISTORIC BOCA RATON PRESERVATION BOARD OF COMMISSIONERS

CHAPTER 259

LAND ACQUISITIONS FOR CONSERVATION OR RECREATION

259.01 Short title.
259.02 Authority; full faith and credit bonds.
259.03 Definitions.
259.035 Selection committee; powers and duties.
259.04 Board; powers and duties.
259.045 Purchase of lands in areas of critical state concern; recommendations by department.
259.05 Issuance of bonds.
259.06 Construction.
259.07 Public meetings.

259.01 Short title.—This chapter shall be known and may be cited as the "Land Conservation Act of 1972."

History.—s. 1, ch. 72-300.

259.02 Authority; full faith and credit bonds.—Pursuant to the provisions of s. 11(a) of Art. VII of the State Constitution and s. 215.59, the issuance of state bonds pledging the full faith and credit of the state in the principal amount, including any refinancing, not to exceed $200 million for state capital projects for environmentally endangered lands and $40 million for state capital projects for outdoor recreation lands is hereby authorized, subject to the provisions of ss. 259.01-259.06.

History.—s. 1, ch. 72-300.

259.03 Definitions.—The following terms and phrases when used in ss. 259.01-259.06 shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Selection committee" means that committee established pursuant to s. 259.035.

(2) "State capital projects for environmentally endangered lands" means a state capital project, as required by s. 11(a) of Art. VII of the State Constitution, which shall have as its purpose the conservation and protection of environmentally unique and irreplaceable lands as valued ecological resources of this state.

(3) "State capital project for outdoor recreation lands" means a state capital project, as required by s. 11(a) of Art. VII of the State Constitution, which shall be for the purposes set out in chapter 375.

(4) "Board" means the Governor and Cabinet, as the Board of Trustees of the Internal Improvement Trust Fund.

(5) "Division" means the Division of Bond Finance of the Department of General Services.

History.—s. 1, ch. 72-300; s. 13, ch. 79-255; s. 2, ch. 81-210.

[1]259.035 Selection committee; powers and duties.—

(1) There is created a selection committee to be composed of the secretary of the Department of Environmental Regulation, the executive director of the Department of Natural Resources, the director of the Division of Forestry of the Department of Agriculture and Consumer Services, the executive director of the Game and Fresh Water Fish Commission, the director of the Division of Archives, History and Records Management of the Department of State, and the secretary of the Department of Community Affairs, or their respective designees. The chairmanship of the committee shall rotate annually in the foregoing order. The committee shall hold periodic meetings at the request of the chairman. The Division of State Lands shall provide primary staff support to the committee and shall ensure that committee meetings are electronically recorded. Such recordings shall be preserved pursuant to chapters 119 and 267.

(2)(a) The committee shall, by the time of the first board meeting in July of each year, establish or update a list of acquisition projects selected for purchase pursuant to this chapter or s. 253.023 and, by the time of the first board meeting in January of each year, establish or update a list of acquisition projects valued in excess of $250,000 for purchase pursuant to chapter 375. The lists shall be mutually exclusive. Acquisition projects shall be ranked in order of priority individually or in groups not to exceed 10 in number. Each project on an acquisition list shall include the best estimate of land value available to the department, a boundary map and description, preacquisition planning and budgeting, a preliminary statement of the extent and nature of public use, and designation of a management agency or agencies. The Division of State Lands shall prepare the information required by this section for each acquisition project selected for purchase pursuant to this chapter or s. 253.023. The Division of Recreation and Parks shall prepare the information required by this section for each acquisition project to be purchased pursuant to chapter 375.

(b) An affirmative vote of four members of the committee shall be required in order to place a proposed project on a list. Each list shall contain at least twice the number of projects in terms of estimated cost as there are anticipated funds for purchase. The anticipated cost of each project shall include proposed costs for development of the lands necessary to meet the public purpose for which such lands are to be purchased.

(c) All proposals for acquisition projects pursuant to this chapter, chapter 375, or s. 253.023 shall originate from the committee. The committee shall consider and evaluate in writing the merits and demerits of each proposed project submitted for acquisition and shall ensure that each proposed acquisition project will meet a stated public purpose for the preservation of environmentally endangered lands, for the development of outdoor recreation lands, or as provided in s. 253.023(3)(b) and shall determine whether each acquisition project conforms with the comprehensive plan developed pursuant to s. 259.04(1)(a), the comprehensive outdoor recreation and conservation plan developed pursuant to s. 375.021, and the state lands management plan adopted pursuant to s. 253.03(7). Copies of a written report on each project evaluated or considered for acquisition shall be submitted to the board of trustees. The committee shall

consider and include in each report its assessment of a project's ecological value, vulnerability, endangerment, ownership pattern, utilization, location, and cost and other pertinent factors in determining whether to recommend for or against a purchase.

History.—s. 14, ch. 79-255; s. 3, ch. 81-210; s. 1, ch. 82-46; s. 6, ch. 82-152; s. 21, ch. 83-55; s. 3, ch. 83-114; s. 2, ch. 83-203.

[1]Note.—Repealed effective October 1, 1989, by s. 1, ch. 82-46, as amended by s. 2, ch. 83-203, and scheduled for review pursuant to s. 11.611 in advance of that date.

259.04 Board; powers and duties.—

(1) For state capital projects selected for purchase pursuant to s. 259.035:

(a) The board is given the responsibility, authority, and power to develop and execute a comprehensive plan to conserve and protect environmentally endangered lands in this state. This plan shall be kept current through continual reevaluation and revision.

(b) The board may enter into contracts with the government of the United States or any agency or instrumentality thereof; the state or any county, municipality, district authority, or political subdivision; or any private corporation, partnership, association, or person providing for or relating to the conservation or protection of certain lands in accomplishing the purposes of ss. 259.01-259.06.

(c) Within 45 days after the selection committee submits either list of acquisition projects to the board, the board shall approve, in whole or in part, the list of acquisition projects in the order of priority in which such projects are presented. To the greatest extent practicable, projects on the list shall be acquired in their approved order of priority.

(d) The board is authorized to acquire, by purchase, gift, or devise or otherwise, the fee title or any lesser interest of lands, water areas, and related resources sufficient to meet the purposes specified in s. 259.03(2) for environmentally endangered lands.

(2) For state capital projects for outdoor recreation lands, the provisions of chapter 375 and s. 253.025 shall also apply.

History.—s. 1, ch. 72-300; s. 15, ch. 79-255; s. 4, ch. 81-210; s. 4, ch. 83-114.

259.045 Purchase of lands in areas of critical state concern; recommendations by department.—Within 45 days of the designation by the Administration Commission of an area as an area of critical state concern under s. 380.05, the Department of Natural Resources shall consider the recommendations of the state land planning agency pursuant to s. 380.05(1)(a) relating to purchase of lands within the proposed area and shall make recommendations to the board with respect to the purchase of the fee or any lesser interest in any lands situated in such area of critical state concern as environmentally endangered lands or outdoor recreation lands. The department may make recommendations with respect to additional purchases which were not included in the state land planning agency recommendations.

History.—s. 2, ch. 79-73.

259.05 Issuance of bonds.—

(1) Upon request of the board, by appropriate resolution, the Division of Bond Finance from time to time, subject to the debt limitation provided herein, may issue bonds pledging the full faith and credit of the state as shall be necessary to provide sufficient funds to achieve the purposes set out in such request.

(2) The issuance of such bonds to finance state capital projects for environmentally endangered lands or outdoor recreation lands is authorized in the manner, and subject to the limitations, provided by the State Bond Act, except as otherwise expressly provided herein.

History.—s. 1, ch. 72-300.

cf.—ss. 215.57-215.83 State Bond Act.

259.06 Construction.—The provisions of ss. 259.01-259.06 shall be liberally construed in a manner to accomplish the purposes thereof.

History.—s. 1, ch. 72-300.

259.07 Public meetings.—The Department of Natural Resources, before making recommendations to the board for the purchase of any environmentally endangered land, shall hold a public meeting on the proposed purchase of such land in the county where a major portion of such land is situated. At least 30 days in advance of such public meeting, notice shall be published in a newspaper of general circulation in the area where such land is located, indicating the date, time, and place of such public meeting. A report of the public meeting shall be submitted to the board along with the recommendation for purchase of such land.

History.—s. 1, ch. 7[illegible]

CHAPTER 260

RECREATIONAL TRAILS SYSTEM

260.011 Short title.
260.012 Declaration of policy and legislative intent.
260.013 Definitions.
260.014 Florida Recreational Trails System.
260.015 Acquisition of land.
260.016 General powers of Division of Recreation and Parks.
260.017 Restrictions; rules.
260.018 Agency recognition.

260.011 Short title.—Sections 260.011-260.018 shall be known and may be cited as the "Florida Recreational Trails Act of 1979."

History.—s. 1, ch. 79-110.

260.012 Declaration of policy and legislative intent.—

(1) In order to provide the public with access to the use, enjoyment, and appreciation of the outdoor areas of Florida, and in order to conserve, develop, and use the natural resources of this state for healthful and recreational purposes, it is declared to be the public policy of this state and the purpose of ss. 260.011-260.018 to provide the means and procedures for establishing and expanding a network of recreational and scenic trails designated as the "Florida Recreational Trails System." The standards by which the trails system shall be administered, maintained, used, and expanded shall be consistent with the provisions of ss. 260.011-260.018. It is the intent of the Legislature that these recreational trails will serve to encourage horseback riding, hiking, bicycling, canoeing, and jogging and thereby improve the health and welfare of the people.

(2) It is the intent of the Legislature that recreational trails be established within and without boundaries of state parks and state forests and, when feasible, to interconnect units of the state park and forest system, as well as national forests and parks and such locally maintained parks as may be appropriate. It is also the intent of the Legislature to perpetuate the use of and provide access to regions and trails of special historic interest within the state; to encourage the multiple use of public rights-of-way and use to the fullest extent existing and future scenic roads, highways, park roads, parkways, and national recreational trails; to encourage the development of recreational trails by counties, cities, and special districts and to assist in such development by any means available; to coordinate recreational trail plans and development by local governments with one another and with the state government and Federal Government; and to encourage, whenever possible, the development of recreational trails on federal lands by the Federal Government.

(3) The planning, development, operation, and maintenance of the Florida Recreational Trails System authorized by ss. 260.011-260.018 is declared to be a public purpose, and the Department of Natural Resources, together with other governments and agencies of this state and all counties, municipalities, and special districts of this state, is authorized to spend public funds for such purposes and to accept gifts and grants of funds, property, or property rights from public or private sources to be used for such purposes.

(4) The provisions of s. 375.251 relating to the liability of persons making lands available for outdoor recreational purposes shall be applicable to ss. 260.011-260.018.

History.—s. 2, ch. 79-110.

260.013 Definitions.—As used in ss. 260.011-260.018, unless the context otherwise requires:

(1) "Recreational trails" means riding, hiking, canoeing, bicycling, or jogging trails for the use of the public.

(2) "Riders" and "riding" mean horseback riders and horseback riding.

(3) "Department" means the Department of Natural Resources.

(4) "Division" means the Division of Recreation and Parks of the Department of Natural Resources.

History.—s. 3, ch. 79-110.

260.014 Florida Recreational Trails System.—

(1) The Florida Recreational Trails System shall consist of individual trails and networks of trails designated as a part of the Florida Recreational Trails System by the department and administered in accordance with the rules published by the department.

(2) Insofar as is practicable, maps indicating the location of Florida recreational trails shall be published and distributed by the division. The description of canoe trails shall include a generalized map delineating the water body or section thereof designated, locations of suitable launch and takeout sites, as well as other points of interest to enhance the recreational opportunities of the public.

History.—s. 4, ch. 79-110.

260.015 Acquisition of land.—

(1) The division is authorized to acquire by gift or purchase the fee title or any lesser interest in land, including easements, for the purposes of ss. 260.011-260.018 pursuant to the provisions of chapter 375, except that no power of eminent domain is conveyed to the division by ss. 260.011-260.018.

(2) Easements and rights-of-way upon, over, under, across, or along any land, the fee title of which has been acquired for the purposes of ss. 260.011-260.018, may be granted by the division so long as the use permitted by the easement does not interfere with the purposes of ss. 260.011-260.018.

(3) The division may transfer any recreational trail or easement to a local governmental agency having jurisdiction over the area in which the easement is located upon agreement by such local agency to maintain and operate the recreational trail in a manner consistent with department rules and the intent of ss. 260.011-260.018.

History.—s. 5, ch. 79-110.

260.016 General powers of Division of Recreation and Parks.—The Division of Recreation and Parks may:

(1) Publish and distribute appropriate maps of recreational trails, including recommended extensions thereof.

(2) Establish access routes and related primitive public-use facilities along recreational trails which will not substantially interfere with the nature and purposes of the trail.

(3) Promulgate appropriate rules for the use of recreational trails.

(4) Coordinate the activities of all governmental units and bodies and special districts that desire to participate in the development of the Florida Recreational Trails System.

History.—s. 6, ch. 79-110.

260.017 Restrictions; rules.—The department may establish restrictions on the use of motorized watercraft within any defined canoe trail necessary to ensure the safe use of a water body for canoes. Restrictions established pursuant to this section must be adopted as a rule pursuant to s. 120.54, after proper notice and hearing, and may be enforced by any state or local law enforcement agency having jurisdiction over the area within which the trail is designated.

History.—s. 7, ch. 79-110.

260.018 Agency recognition.—All agencies of the state shall recognize the special character of the waters designated as canoe trails and shall not take any action which will impair their use as designated.

History.—s. 8, ch. 79-110.

such terms and conditions as the board finds in its best interest, with respect to the establishment, construction, operation, and financing of the facilities of the board in its respective county or counties.

(12) To make and enter into all contracts or agreements with private individuals, corporations, organizations, historical societies, and others with reference to facilities and to enter into contracts and agreements, with or without competitive bidding as the board determines, which are necessary, expedient, or incidental to the performance of its duties or the execution of its powers under this part.

(13) To engage in any lawful business or activity deemed by it necessary or useful in the full exercise of its powers to establish, finance, maintain, and operate the facilities contemplated by this part, including the renting or leasing for revenue of any land, improved or restored real estate, or personal property directly related to carrying out the purposes for which the board is created.

(14) To fix and collect charges for admission to any of the facilities operated and maintained by the board under the provisions of this part and to adopt and enforce reasonable rules to govern the conduct of the visiting public.

(15) To borrow money for any of its authorized purposes and for expenses incidental thereto, including expenses incurred during the period of organization, restoration, and construction prior to the operation of the facilities of the board, and to issue negotiable revenue certificates payable solely from revenue from the operation of such facilities and from authorized activities incidental thereto.

(16) To cooperate and coordinate all of its activities on a permissive basis through any statewide board, including the Division of Archives, History and Records Management of the Department of State, and to participate in any overall statewide plan of historical development.

(17) To cooperate and coordinate its activities with any national project of historical development and to coordinate and cooperate with any other agency, state, local, or national, undertaking historical objectives, if the same are not in conflict with the objectives of the board. The boards shall not be placed within a division of the Department of State, but, administratively, shall be directly under the supervision of the Secretary of State.

(18) To research, prepare, publish, and procure books, reports, articles, pamphlets, brochures, documents, maps, photographs, films, sound recordings, and other products of a similar nature in fulfillment of its purpose and function for use by the board or for use by or distribution to any person or entity, public or private, with or without charge or profit.

(19) To perform all lawful acts necessary, convenient, and incident to the effectuating of its function and purpose.

History.—s. 1, ch. 77-263; s. 1, ch. 82-46; s. 2, ch. 83-263; s. 14, ch. 84-46.
[1]Note.—Repealed effective October 1, 1999), by s. 1, ch. 82-46, as amended by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

CHAPTER 267

ARCHIVES, HISTORY, AND RECORDS MANAGEMENT

267.0617 Historic Preservation Trust Fund.
Vertebrate paleontological sites and remains; legislative intent and state policy.
267.151 Program of vertebrate paleontology within Florida State Museum.
267.152 Destruction, purchase, and sale of vertebrate fossils prohibited, exceptions; field investigation permits required; penalty for violation.
267.153 Certain rights of mine or quarry operators and dragline or heavy equipment operators preserved.

267.0617 Historic Preservation Trust Fund.—(1) There is hereby created within the Division of Archives, History and Records Management of the Department of State the Historic Preservation Trust Fund, which shall consist of moneys appropriated by the Legislature, moneys deposited pursuant to s. 550.03(2)(l), and moneys contributed to the fund from any other source. The fund shall be administered by the Department of State through the Division of Archives, History and Records Management for the purpose of financing grants in furtherance of the purposes of this section.

(2) The division is authorized to conduct and carry out a program of historic preservation grants-in-aid, including matching grants, to any department or agency of the state; any unit of county, municipal, or other local government; any corporation, partnership, or other organization, whether public or private or whether or not for profit; or any individual for projects having as their purpose the identification, acquisition, protection, preservation, rehabilitation, restoration, or construction of historic sites and properties, or the planning of any such activities. Funds appropriated from general revenue for the historic preservation grants-in-aid program shall not be provided for a project owned by private individuals or owned by for-profit corporations. All moneys received from any source as appropriations, deposits, or contributions to this program shall be paid and credited to the Historic Preservation Trust Fund.

History.—s. 3, ch. 78-357; s. 1, ch. 81-126; s. 170, ch. 81-259; s. 1, ch. 84-248.

267.15 Vertebrate paleontological sites and remains; legislative intent and state policy.—(1) It is the declared intention of the Legislature that vertebrate paleontological sites be protected and preserved and that, pursuant thereto, vertebrate paleontological field investigation activities, including, but not limited to, collection, excavation, salvage, restoration, and cataloging of fossils, be discouraged except when such activities are carried on in accordance with both the provisions and the spirit of this act. However, it is not the intention of the Legislature that the provisions of this act impede mining or quarrying for rock, gravel, fill, phosphate, and other minerals, or the construction of canals or similar excavations, when such activities are permitted by la

(3) The Florida State Museum may institute a civil action in the appropriate circuit court for recovery of any unlawfully taken vertebrate fossil. The fossil shall be forfeited to the state if the Florida State Museum shows, by the greater weight of the evidence, that the fossil has been taken from a particular site within this state and that the person found in possession of the fossil is not authorized by law to possess such fossil.

History.—s. 2, ch. 84-316.

267.153 Certain rights of mine or quarry operators and dragline or heavy equipment operators preserved.—Nothing in ss. 267.15-267.152 shall infringe upon the right of a legitimate mine or quarry operator to extract rock, gravel, fill, phosphate, or other minerals, or infringe upon the right of a legitimate operator of draglines or similar heavy dredging, trenching, or digging equipment from constructing drainage canals or other excavations because of the actual or potential destruction of vertebrate fossils.

History.—s. 2, ch. 84-316.

CHAPTER 272

CAPITOL CENTER

272.161 Rental of reserved parking spaces.

272.161 Rental of reserved parking spaces.—(1)(a) The Department of General Services may assign a reserved parking space to any state employee, provider of essential services to the state, or state agency for reassignment to its employees. Any state agency assigned a reserved parking space shall charge the user of such space a fee in accordance with guidelines established by the department.

(b) Any state agency assigned a reserved parking space which is not rented for a period of 7 consecutive days shall return such space to the department for reassignment. All state agencies assigned reserved parking spaces shall assure the timely payment of assessed rent to the department.

(c) Assignments of reserved parking spaces shall be limited to the amount of available parking under the supervision of the department. A state agency, employee, or provider of essential services may request a reserved parking space in a manner prescribed by the department.

(2) All employee parking fees shall be payable by the payroll deduction plan, periodically according to the employee's pay schedule, to the Department of General Services or to the contracting agency.

(3) All fees collected by the Department of General Services under the provisions of this section shall be deposited in the Paid Parking Trust Fund, which is hereby created. The department shall account for the revenues and expenditures related to the paid parking program in compliance with the provisions of s. 215.32(2)(b). The revenues collected from parking fees shall be used for the maintenance, minor construction, enforcement, security, and administration of parking facilities and programs.

(4) The Department of General Services shall adopt such rules as are necessary to carry out the purposes of this section.

(5) The Department of General Services shall establish fees on all state-owned reserved parking spaces under the jurisdiction of the department.

(6) The Department of General Services shall have the authority to remove or tow away, or cause to be removed or towed away, any wrongfully parked vehicle in any assigned or reserved parking space or area under the control of the Department of General Services throughout the state at the expense of the owner of the wrongfully parked vehicle.

History.—s. 1, ch. 70-249; s. 1, ch. 72-124; s. 2, ch. 80-225; s. 1, ch. 84-118.

CHAPTER 280

SECURITY FOR PUBLIC DEPOSITS

280.02 Definitions.

280.02 Definitions.—As used in this chapter, the term:

(1) "Default or insolvency" includes, without limitation, the failure or refusal of a qualified public depository to pay any check or warrant drawn upon sufficient and collected funds by any public depositor or to return any deposit on demand or at maturity together with interest as agreed; the issuance of an order by any supervisory authority restraining such depository from making payments of deposit liabilities; or the appointment of a receiver for such depository.

(2) "Eligible collateral" means securities as designated in ss. 280.13 and 280.14.

(3) "Public deposit" means the moneys of the state or of any county, school district, community college district, special district, metropolitan government, or municipality, including agencies, boar bureaus, commissions, and institutions of foregoing, or of any court, and includes the all county officers, including constitutional that are placed on deposit in a bank or savings ation.

(4) "Public depositor" means the Treasurer or other chief financial officer or designee responsible for handling public deposits.

(5) "Qualified public depository" means any bank or savings association organized and existing under the laws of this state and any bank or savings association organized under the laws of the United States that has its principal place of business in this state or has a branch office which is authorized under the laws of this state or of the United States to receive deposits in this state, that meets all of the requirements of this chapter, and that has been designated by the Treasurer as a qualified public depository.

(6) "Required collateral" of a qualified public depository means eligible collateral having a value equal to 50 percent of the average daily balance for each month of all public deposits in excess of any applicable deposit insurance held by such depository during the 12 calendar months immediately preceding the date of any c ation of such balance. However, in no case s required collateral be

til July 1, 1984. Beginning July 1, 1984, the Department of Highway Safety and Motor Vehicles shall use a reporting system approved by the division. The division shall assist the Department of Highway Safety and Motor Vehicles in developing or implementing a reporting system prior to July 1, 1984, which shall specifically address the needs and requirements of the division and the Department of Highway Safety and Motor Vehicles.

(9) To establish and operate central facilities to determine the mode of transportation to be used by state employees traveling on official state business and to schedule and coordinate use of state-owned or state-leased aircraft and passenger-carrying vehicles to assure maximum utilization of state aircraft, motor vehicles, and employee time by assuring that employees travel by the most practical and economical mode of travel. The division shall consider the number of employees making the trip to the same location, the most efficient and economical means of travel considering the time of the employee, transportation cost and subsistence required, the urgency of the trip, and the nature and purpose of the trip.

(10) To provide the Legislature annual reports at the end of each calendar year concerning the utilization of all aircraft in the executive pool and special purpose aircraft.

History.—s. 22, ch. 69-106; s. 1, ch. 70-328; ss. 1, 2, ch. 72-207; s. 3, ch. 77-112; s. 1, ch. 77-396; s. 3, ch. 83-304; s. 1, ch. 84-263.

CHAPTER 288

COMMERCIAL DEVELOPMENT AND CAPITAL IMPROVEMENTS

288.03 Powers and duties of division.
288.063 Contracts for transportation projects.
288.385 International currency and barter exchanges.
288.39 Assistance to small businesses.

288.03 Powers and duties of division.—The general purposes of the Division of Economic Development of the Department of Commerce shall be to guide, stimulate, and promote the coordinated, efficient, and beneficial development of the state and its regions, counties, and municipalities in accordance with present and future needs and resources and the requirements of the prosperity, convenience, comfort, health, safety, and general welfare of the people of the state. For the accomplishment of such purposes, the division shall have the power and authority to make expenditures for and to:

(1) Create and build Florida industries.

(2) Promote commerce and the sale of Florida products.

(3) Encourage employment for Florida citizens.

(4) Raise the earning level of Florida's citizens.

(5) In order to promote and develop business, agriculture, industry, commerce, and employment for citizens of the state, plan and conduct a campaign of information, advertising, and publicity relating to the business, industrial, commercial, agricultural, educational, transportation, and residential facilities, advantages, and products of the state and all parts thereof.

(6) Disseminate any such information pertaining to Florida by:

(a) Preparing and circulating motion pictures.

(b) Preparing, purchasing, and distributing by mail or other means of advertising, literature, and other material, including exhibits.

(c) Although not specifically detailed but nevertheless included in such media, promoting and encouraging of, and, if necessary, contributing to, the happening and the holding of events and activities within the state, including follow-up contacts by personnel of the division within or without the state which in the judgment of the division will beneficially publicize the state in furtherance of the purposes, powers, and duties of the division as prescribed in this chapter.

(7) Encourage and cooperate with other public and private organizations or groups in their efforts to publicize the agricultural and industrial advantages of the state, including the establishment of, and expenditure for, a program of cooperative advertising with such public and private organizations or groups in accordance with rules promulgated by the division pursuant to chapter 120.

(8) Plan and carry out programs designed to enlarge and improve trade with other states and with foreign countries, and particularly with countries in the Western Hemisphere.

(9) Study trends and developments in the industries of the state and analyze the reasons underlying such trends; study current business activities in the state, with emphasis to be placed on major changes in employment by industrial classification, changes in the number of establishments, and changes in sales volume; study employment trends by standard industrial classification and geographic distribution in manufacturing and any other industries pertinent to the economic development program of the state and monitor manufacturing companies of 100 employees or more to determine trends or patterns of changes in new establishments, establishments halting operations, and major employment expansions or layoffs; investigate significant issues pertaining to barriers to the free and advantageous flow of commerce, restrictions and burdens imposed by law or otherwise which retard or adversely affect the legitimate expansion and development of commerce and industry, and costs and other facts affecting successful operation of business within the state; and make an annual report by January 15 to the Governor and to the Legislature of the findings of the foregoing studies and investigations with a list of policy alternatives, when indicated.

(10) Encourage research designed to further new and more extensive uses of the natural and other resources of the state, with a view to the development of new products and industrial processes.

(11) Promote and encourage the expansion and development of markets for Florida products.

(12) Serve as a clearinghouse for research, planning, and programs to relieve the industrial problems of the state.

(13) Investigate and study conditions affecting Florida business, industry, and commerce; collect and disseminate information; and encourage technical studies, scientific investigations, statistical research, and educational activities necessary or useful for the proper execution of the powers and duties of the Division of Economic Development.

(14) Plan and develop an effective business information service that will directly assist Florida industry and also encourage industries outside the state to use business facilities within the state.

(15) Compile, collect, and periodically make available scientific indexes and other information relating to current business conditions.

(16) Upon request of the Governor, inquire into and report to him concerning any program of public state improvements and the financing thereof.

(17) Advise, assist, and cooperate with municipal, county, regional, metropolitan area, and other local planning and development agencies within the state in preparing plans and programs for physical and economic development of such areas.

(18) In accordance and compliance with any federal law or regulation now enacted or hereafter to be enacted, act as the official agency of the state to work with federal agencies in matters affecting any purpose as to which the Legislature has not designated another state officer, board, bureau, commission, department, or agency in relation thereto; state, regional, county, metropolitan area or municipal planning, planning or construction of public works, urban redevelopment, and other matters concerning the acquisition, planning, construction, development, financing, control, improvement, or distribution of lands, buildings, structures, facilities, goods or services in the interest of the public, or for public purposes, or involving the expenditure of public funds, and act as the official agency of the state in connection with the grant or advance of any federal or other funds or credits to the state or through the state to its local governing bodies, in compliance with any such federal law.

(19) Accept and expend any gift or grant of money made to the division for any or all of the purposes specified in this section.

(20) Charge and collect registration fees at any conference, seminar, or other meeting conducted in furtherance of the duties, powers, and purposes of the division. Such fees shall be deposited in the State Treasury and restored to the expense appropriation of the division and shall be disbursed exclusively for the reasonable and necessary expenses of the conference, seminar, or meeting for which they were collected. Any funds collected pursuant to this subsection which remain unexpended after the expenses of the conference, seminar, or meeting have been paid shall be deposited into the General Revenue Fund, unallocated.

(21) Subject to the concurrence of the Treasurer, deposit sufficient state funds in a foreign bank, or purchase foreign currency at the current market rate, for the purpose of paying for salaries, expenses, promotional activities, and other services and material rendered in connection with the operation of division offices outside the United States or in the conduct of any statutory duties by the division outside the United States. The amount of state funds deposited in any foreign bank, or the amount of foreign currency bought, for the operation of any single office, or any division promotional activity, outside the United States shall not exceed at any time an amount equal to 25 percent of the annual budget of such division offices. All payments from these funds must have prior audit approval from the office of the Comptroller.

(22) Make grants of funds in accordance with this section pursuant to appropriations for such grants made by the Legislature.

(23) Notwithstanding the provisions of part I of chapter 287, promulgate rules for the purpose of entering into contracts which are primarily for promotional and advertising services and promotional events which may include commodities involving a service. Such rules shall include the authority to negotiate costs with the offerors of such services and commodities who have been determined to be qualified on the basis of technical merit, creative ability, and professional competency.

(24) Provide and arrange for reasonable and necessary items and services for such necessary persons as the division deems proper in connection with the performance of promotional and other duties of the division.

(25) Promote the establishment, preservation, and expansion of small businesses by providing assistance and information through programs designed to achieve these objectives.

(26) Promote the expansion of the motion picture, television, and recording industry by sponsoring and contracting for technical training programs with educational institutions in this state. However, any agreement entered into pursuant to such a contract shall require the educational institution to provide the division with quarterly progress reports and a final report. Further, any such agreement shall require that all records, including records of all payments made by the educational institution in connection with such technical training programs, be retained and maintained by the educational institution in accordance with accepted governmental accounting principles and practices and be subject to periodic financial audit. Payment of travel expenses pursuant to such contracts shall be made in accordance with s. 288.011. Such contracts may provide for the advancement of funds by the division to the educational institutions, if appropriate. The division shall seek the recommendation of the Motion Picture, Television, and Recording Industry Advisory Council, established pursuant to s. 20.17(3)(a), prior to selection of any contractor educational institution.

History.—s. 3, ch. 29768, 1955; s. 1, ch. 65-8; s. 2, ch. 65-173; ss. 1, 3, ch. 65-178; ss. 17, 35, ch. 69-106; s. 82, ch. 71-355; s. 1, ch. 73-263; s. 1, ch. 74-[illegible]; s. 1, ch. 76-202; s. 1, ch. 77-18; s. 1, ch. 77-174; s. 1, ch. 78-154; s. 1, ch. 78-[illegible]; s. 1, ch. 80-209; s. 2, ch. 80-224; s. 9, ch. 80-374; s. 2, ch. 81-244; s. 160, ch. 81-[illegible]; s. 2, ch. 84-294.

288.063 Contracts for transportation projects.—

(1) The Division of Economic Development is authorized to make expenditures and enter into contracts for direct costs of transportation projects with the appropriate governmental body.

(2) Any contract with a governmental body for construction of any transportation project, executed by the Division of Economic Development, shall:

(a) Specify and identify the transportation project to be constructed, under construction, or which was constructed after July 1, 1980, for a new or expanding business.

(b) Effective December 1, 1981, require that the

appropriate governmental body award the construction of the particular transportation project to the lowest and best bidder in accordance with applicable state and federal statutes or regulations when the construction cost exceeds $50,000, not inclusive of local in-kind costs. If no bids are received, the work may be performed by the appropriate governmental body.

(c) Require that the appropriate governmental body provide the division with quarterly progress reports. Each quarterly progress report shall contain a narrative description of the work completed according to the project schedule, a description of any change orders executed by the appropriate governmental body, and a budget summary detailing planned expenditures versus actual expenditures. Records of all progress payments made for work in connection with such transportation projects, and any change orders executed by the appropriate governmental body and payments made pursuant to such orders, shall be maintained by that governmental body in accordance with accepted governmental accounting principles and practices and shall be subject to financial audit as required by law. In addition, the appropriate governmental body, upon completion and acceptance of the transportation project, shall make certification to the division that the project has been completed in compliance with the terms and conditions of the contractual agreements between the division and the appropriate governmental body and meets minimum construction standards established in accordance with s. 336.045.

(d) Require that the Division of Economic Development transfer funds for each transportation project to the designated governmental body when the contract or agreement is executed by the division.

(e) Require that the governing board of the appropriate local governmental body agree by resolution to accept future maintenance and other attendant costs occurring after completion of the transportation project if the project is construction on a county or municipal system.

(3) With respect to any contract executed pursuant to this section, the term "transportation project" means a road as defined in s. 334.03(17) which is necessary in the judgment of the Division of Economic Development to facilitate the economic development and growth of the state.

(4) The Division of Economic Development shall promulgate rules pursuant to chapter 120 setting forth the criteria by which transportation projects are to be specified and identified.

(5) No project that has not been specified and identified by the division in accordance with subsection (4) prior to the initiation of construction shall be eligible for funding after December 1, 1981.

(6) The Department of Transportation shall be the contracting agency when the project is on the state highway system. In addition, upon request by the appropriate governmental body, the department may advise and assist it or plan and construct other such transportation projects for it.

(7) Notwithstanding the provisions of s. 216.301, funds appropriated for this purpose shall not be subject to reversion.

History.—s. 80-239, s. 1, ch. 81-171; s. 3, ch. 84-294; s. 266, ch. 84-369.

288.385 International currency and barter exchanges.—

(1) There may be created one or more international currency and barter exchanges, with one or more offices each, upon a determination by the secretary of the Department of Commerce that each such exchange can operate in an economic and beneficial manner. This determination shall be based on the results of a feasibility study concerning the possible structure, operation, scope of activities and transactions, and regulation of each such exchange, which study shall be carried out under the supervision of the secretary of the Department of Commerce. Nothing in this section, however, shall be construed to require the expenditure of state funds for the purpose of conducting any such feasibility study. For the purposes of this section, the term "exchange" applies to any such international currency and barter exchange proposed or created under this section.

(2) The initial central office of the first exchange shall be located in Dade County. This exchange may enter into cooperative working arrangements with the Insurance Exchange of the Americas or the Greater Miami Foreign Trade Zone. Such cooperative arrangements may include, but need not be limited to, the sharing of physical facilities, personnel, and information. The initial exchange may relocate its central office and may establish additional offices as provided in subsection (3). This section shall not be construed to prohibit the formation of other exchanges if the initial exchange located in Dade County is not created by October 1, 1987.

(3) Each exchange created under this section may locate its central office in any area of the state and may have additional offices around the state as it deems necessary. The Comptroller shall determine whether such central office locations or such additional offices will be in the public interest.

(4) The purpose of the exchange is to provide a marketplace for the negotiation, arrangement, exchange, sale, purchase, brokerage, syndication, underwriting, and all activities incidental thereto, of foreign currency and exchange, and of services, goods, commodities, raw materials, and interests therein, in an institutionalized and, to the maximum extent possible, self-regulated fashion.

(5) Within 30 days following a determination by the secretary of the Department of Commerce that the exchange could operate in an economic and beneficial manner, a committee shall be appointed to write the constitution and bylaws of the exchange. The committee shall consist of 15 members, 11 to be appointed by the Governor, 2 to be appointed by the President of the Senate, and 2 to be appointed by the Speaker of the House of Representatives. A chairman shall be elected from the members of the committee by a majority of the committee. The committee shall submit the proposed constitution, bylaws, and other recommendations to the Comptroller for approval no later than 90 days following the first meeting of the committee. In reviewing the constitution and the bylaws of the exchange, as well as any other recommendations made to the Comptroller by the committee, the Comptroller shall consider whether such constitution, bylaws, and recommendations are consistent with the public interest and the efficient functioning of the exchange. The Comptroller shall approve the

constitution and bylaws of the exchange based upon a finding that they describe the types of activity and transactions that the exchange will conduct, that such business activities do not violate state or federal law, that the form of the business organization of the exchange complies with statutory requirements, and that the interest of the members of the exchange and its customers will be adequately protected. The Comptroller shall have 30 days within which to approve or reject the constitution and bylaws. The Comptroller shall work closely with the committee on the development of the constitution and bylaws of the exchange. The Comptroller shall have the authority to promulgate rules allowing for review of recommendations made from time to time by the committee.

(6) The exchange shall have full authority to function 60 days after its constitution and bylaws have been approved by the Comptroller. The initial board of governors of the exchange shall consist of the members of the committee, who shall serve until the first election of the board of governors by the members of the exchange pursuant to the constitution and bylaws. In the event that the constitution and bylaws are disapproved by the Comptroller, the committee, in consultation with the Comptroller, shall have 60 days from the date of such disapproval within which to submit an alternative constitution and bylaws. The Comptroller shall have 30 days within which to approve or reject the alternative constitution and bylaws.

(7) The constitution and bylaws of the exchange shall include provision that:

(a) There be no fewer than 9 or more than 15 governors of the exchange, at least one-third of whom may not be members of the exchange.

(b) The principal offices of the exchange and the principal offices of its members be located within this state for the purpose of conducting the type of business described in subsection (4).

(c) All members and applicants for membership on the exchange submit all financial information reasonably required by the Comptroller.

(d) The exchange adopt rules including, but not limited to, requirements prescribing eligibility for membership and the voting power, duties, and rights to participate in the conduct and management of the affairs of the exchange by the members thereof, such rights and duties to include the manner and form of conducting business, financial stability requirements, dues, membership fees, and resolution of dispute mechanisms and all other matters necessary or appropriate to conduct any business permitted by this section.

(e) An election to the board of governors of the exchange by the members of the exchange be held once every 2 years, with those persons receiving the greatest number of votes cast being elected thereto.

(8) Any amendments to the constitution and bylaws shall be subject to the approval of the Comptroller.

(9) The Comptroller shall require each member of the exchange who holds custody of any funds or property belonging to any person or entity, other than a member, which person or entity is transacting business through the exchange, to post a security bond for the protection of all such persons or entities transacting business through the exchange. The amount of the security bond shall be determined by the Comptroller by rule. The security bond shall be in a form acceptable to the Comptroller, and the surety for the bond shall be a surety company authorized to do business in this state. In lieu of the security bond, the Comptroller may require another form of protection or insurance, provided the amount of such protection or insurance does not exceed the amount imposed for a security bond. Nothing in this section prohibits any transacting person or entity from reaching an agreement with a member of the exchange, as a matter of contract, for the posting of additional security or protection.

(10) The Comptroller may by rule establish limitations on investments in members of the exchange by any person or company, which limitations are consistent with the public interest and the efficient functioning of the exchange.

(11) The exchange or any member thereof shall reimburse the Comptroller for the actual costs incurred by the Comptroller in connection with the regulation and supervision of the exchange. The Comptroller shall adopt rules specifying the procedure for reimbursement. As used in this section, the term "actual costs" means all direct and indirect costs and expenses incurred by the Comptroller in connection with the regulation and supervision of the exchange, including general administrative costs, travel expenses, and salaries involved in the regulation and supervision of the exchange. The Comptroller may require the exchange or any members to pay interim assessments related to estimated final assessments.

(12) The state securities laws and rules apply to the exchange and to its members.

(13) The exchange formed under the provisions of this section shall not be subject to any state or local taxes or fees which are measured by income, transaction amounts, or gross receipts, nor shall such exchange be required to report in respect to such income or transactions under state law and local law. Nothing in this subsection shall be construed to give any member of the exchange any tax exemption. The exemption granted by this subsection does not apply to any tax imposed under part II of chapter [illegible] under chapter 220.

(14) The Comptroller may adopt reasonabl[illegible] necessary to implement this section.

History.—s. 1, ch. 84-61.

288.39 Assistance to small businesses.—

(1) SHORT TITLE.—This section may be cited as the "Small Business Assistance Act."

(2) LEGISLATIVE PURPOSE.—The purpose of this section is to promote the establishment, preservation, and strengthening of small businesses in this state by:

(a) Promoting and coordinating activities of federal, state, and local governments and of business and trade associations, universities, foundations, professional organizations, and similar groups, which activities are of benefit to small businesses.

(b) Providing technical and managerial assistance to small businesses.

(c) Encouraging state agencies and persons under contract with state agencies to contract with small businesses for commodities and services.

(3) DUTIES OF THE DIVISION OF ECONOMIC DEVELOPMENT OF THE DEPARTMENT OF COMMERCE.—The Division of Economic Development of the Department of Commerce shall establish and administer programs to:

(a) Provide a system for the development, collection, summarization, and dissemination of information helpful to any person in establishing or operating a small business, including information on:

1. Identification and development of new business opportunities.
2. Feasibility studies.
3. Market research.
4. The operation, management, and financing of small businesses.
5. Programs of federal, state, and local governmental agencies which benefit small businesses.
6. The incentives and programs listed in s. 290.007 which are available in enterprise zones in this state.

(b) Assist and counsel small businesses on:

1. How to deal with federal, state, or local governmental agencies.
2. How to meet federal, state, or local regulation.
3. Policies of federal, state, and local governments relating to procurement and disposal of government property and government contracts.
4. How to utilize the incentives and programs listed in s. 290.007 that are available in enterprise zones in this state.

(c) Receive complaints and suggestions concerning policies and activities of federal, state, and local governmental agencies which affect small businesses; develop, in cooperation with the agency, proposals for changes in policies or activities to alleviate any unnecessary adverse effects to small businesses; and work with the agency in implementing the changes.

(d) Conduct studies, workshops, and seminars dealing with small businesses.

(4) ANNUAL REPORTS.—On March 1 of each year, beginning with March 1, 1978, the Division of Economic Development of the Department of Commerce shall make a written report to the Governor, the President of the Senate, and the Speaker of the House of Representatives with respect to the implementation of this section. The report shall contain information on:

(a) The establishment and administration of the information system, including:

1. The information available.
2. How the information is disseminated.
3. The number and types of small businesses which have used the information system and what percentage the number using the system represents of the total number of small businesses in the state.

(b) The types of assistance and counseling that are available to small businesses from the department and contract agents; the number and types of businesses which have requested assistance or counseling, whether or not the assistance or counseling requested was provided, and, if such assistance or counseling was provided, the nature of the assistance or counseling; and what percentage the number of businesses assisted or counseled represents of the total number of small businesses in the state.

(c) The types of assistance, counseling, and information on the incentives and programs available in enterprise zones in this state that are available to small businesses from the department and its agents; the number and types of businesses which have requested assistance, counseling, and information regarding incentives and programs available in enterprise zones in this state, whether or not the assistance, counseling, or information requested was provided, and, if such assistance, counseling, or information requested was provided, the nature of the assistance, counseling, or information; and what percentage of the number of businesses assisted or counseled regarding the enterprise zone incentives and programs represents to the total number of small businesses in the state.

(d) The activity of the certified development corporation to which the division provided assistance in the past year, including, without limitation, the number of loans made by such corporation to small businesses; the total amount of loans made by such corporation to small businesses; the number of jobs created or preserved by small businesses which received loans from such corporation; the total cost of the assistance provided to such corporation; and the amount of any reimbursement for the assistance and support received by the division from such corporation.

(e) The complaints and suggestions received by the department or contract agents and any changes in policies which have been developed or implemented to alleviate unnecessary adverse effects to small businesses.

(f) How the appropriations to carry out this section were spent and will be spent for the remainder of the current fiscal year.

(g) Plans and specific objectives to be accomplished by the department in the next fiscal year to further the purpose of this section. Except for the first report required by this section, each report shall contain information on whether or not the plans and specific objectives of the department were accomplished.

(h) Recommended amendments to this section.

(i) The budget for the next fiscal year.

(5) COOPERATION WITH FEDERAL AGENCIES.—The Division of Economic Development of the Department of Commerce, with the approval of the Legislature, shall cooperate with any federal agency which offers any program that is of benefit to small businesses and that is consistent with the purpose and the programs of this section.

(6) ASSISTANCE TO CERTIFIED DEVELOPMENT CORPORATION.—The Division of Economic Development is authorized to enter contracts to provide assistance to a nonprofit, statewide development corporation certified pursuant to s. 503 of the Small Business Investment Act of 1958, as amended, in the form of administrative and technical staff assistance and support, including, without limitation, assistance to the development corporation in the packaging and servicing of loans for the purpose of stimulating and expanding the availability of private equity capital and long-term loans to small businesses. Any contract between the division and such corporation shall provide that the corporation must reimburse, to the extent possible, the division for expenses resulting from the provision of administrative and technical staff assistance and support and that

such assistance and support will cease when the corporation has attained a revenue-generating capacity sufficient to defray on its own the expense for such assistance and support. Any contract between the division and such corporation shall specify that the records of the corporation must be available for audit by the division and by the Auditor General to verify the extent of the ability of the corporation to reimburse the division for, or to defray entirely, the expense of such administrative and technical staff assistance and support.

(7) FOUR-YEAR REPORT; TERMINATION OF PROGRAMS; AUTOMATIC TERMINATION.—

(a) On March 1, 1981, in addition to the annual report required by subsection (4), the Department of Commerce shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a comprehensive analysis of the cost of each program provided under subsection (3) or any amendment thereto, as compared to the benefits which have accrued to small businesses of this state and to the economy of this state as a result of that program and a recommendation as to whether or not that program should be continued.

(b) If the Legislature fails to enact legislation to continue any program provided under subsection (3) or any amendment thereto in the regular session which follows the date the report required by this subsection is made, or if the Governor vetoes such legislation, that program shall be terminated by the department as of July 1, 1981. If no program provided under subsection (3) or any amendment thereto is continued, this section and all amendments hereto are repealed effective July 1, 1981.

History.—ss. 1, 2, 3, 4, 5, 6, 7, 8, ch. 77-218; s. 4, ch. 78-323; s. 119, ch. 79-400; s. 1, ch. 80-284; s. 15, ch. 83-85; s. 7, ch. 84-294.

CHAPTER 290

URBAN REDEVELOPMENT

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290.001 Florida Enterprise Zone Act; short title of ss. 290.001-290.015.—

(1) Sections 290.001-290.015 may be cited as the "Florida Enterprise Zone Act."

(2) This section shall stand repealed on December 31, 1994.

History.—s. 1, ch. 82-119; ss. 42, 57, ch. 84-356.

290.002 Legislative findings.—

(1) It is hereby found and declared that:

(a) Within the urban communities of this state, there exist areas that chronically display extreme and unacceptable levels of unemployment, physical deterioration, and economic disinvestment.

(b) Each such area is a blight on the community as a whole, tarnishes the image and reputation of the community in the eyes of its residents, and reduces the desirability of the community as a place to work and live.

(c) Such severely distressed areas have high crime rates and provide environments detrimental to the physical and emotional health of their residents.

(d) The revitalization and redevelopment of each such area for the ultimate benefit of its residents and the community as a whole is of critical importance to the individual community and to this state.

(e) The resources of all levels of government are insufficient, and often inappropriate, to undertake successfully the massive task of restoring the social and economic productivity of such areas.

(f) The ultimate revitalization of such areas can occur only if the private sector can be induced to invest its own resources in productive enterprises that rebuild the industrial and commercial viability of the areas and provide jobs for residents of the areas.

(g) In order to provide the private sector with the necessary incentives to invest in such distressed areas, governments at all levels should seek ways to relax or eliminate fiscal and regulatory constraints and should seek to identify supportive actions that facilitate business investment in such distressed areas and overcome business objections to distressed area site locations.

(2) This section shall stand repealed on December 31, 1994.

History.—s. 1, ch. 82-119; s. 136, ch. 83-217; ss. 43, 57, ch. 84-356.

290.003 Policy and purpose.—

(1) It is the policy of this state to provide the necessary means to assist local communities, their resi-

CHAPTER 315

PORT FACILITIES FINANCING

315.01 Short title.
315.02 Definitions.
315.03 Grant of powers.
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315.01 Short title.—This law shall be known and may be cited as the "1959 Port Facilities Financing Law."

History.—s. 1, ch. 59-411.

315.02 Definitions.—As used in this law, the following words and terms shall have the following meanings:

(1) The term "port district" or the word "district" shall mean any district created by or pursuant to the provisions of any general or special law and authorized to own or operate any port facilities.

(2) The term "port authority" or the word "authority" shall mean any port authority in Florida created by or pursuant to the provisions of any general or special law or any district or board of county commissioners acting as a port authority under or pursuant to the provisions of any general or special law.

(3) The word "county" shall mean any county and the word "municipality" shall mean any municipality in Florida.

(4) The word "unit" shall mean any county, port district, port authority or municipality.

(5) The term "governing body" shall mean the board or body in which the general legislative powers of a unit shall be vested.

(6) The term "port facilities" shall mean and shall include harbor, shipping, and port facilities, and improvements of every kind, nature, and description, including, but without limitation, channels, turning basins, jetties, breakwaters, public landings, wharves, docks, markets, parks, recreational facilities, structures, buildings, piers, storage facilities, public buildings and plazas, anchorages, utilities, bridges, tunnels, roads, causeways, and any and all property and facilities necessary or useful in connection with the foregoing, and any one or more or any combination thereof and any extension, addition, betterment or improvement of any thereof.

(7) The word "cost" as applied to any port facilities shall mean and shall include the cost of acquisition or construction, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights, easements and franchises acquired, financing charges, interest prior to and during construction and for 1 year after completion of construction, cost of plans and specifications, surveys and estimates of cost and of revenues, cost of engineering and legal services, all other expenses necessary or incident to determining the feasibility or practicability of such construction, the cost of acquiring or improving, enlarging and extending existing port facilities and preparing the same for sale or lease to provide funds for financing port facilities under the provisions of this law if, in the determination of the governing body, such acquisition, such improvement, enlargement and extension or such preparation for sale or lease are necessary to such financing, administrative expenses and such other expenses as may be necessary or incident to any financing herein authorized. Any obligation or expense heretofore or hereafter incurred by a unit in connection with any of the foregoing items of cost may be regarded as a part of such cost and reimbursed to the unit out of the proceeds of port facilities bonds issued under the provisions of this law.

History.—s. 2, ch. 59-411; s. 1, ch. 67-317.

315.03 Grant of powers.—Each unit is hereby authorized and empowered:

(1) To acquire, construct, lease, operate and maintain any port facilities either within or without or partly within and partly without the corporate limits of the unit, or within or partly within the corporate limits of any other unit on property owned or acquired by it; provided, however, that no unit shall acquire, construct, lease, operate or maintain port facilities other than channels or turning basins in any county of the state other than the county in which such unit is located without securing the prior approval or consent of the unit or units in which such port facilities are proposed to be located, which approval or consent, if given, shall be evidenced by a resolution or ordinance duly adopted.

(2) To acquire by purchase, grant, gift or lease or by the exercise of the right of eminent domain and to hold and dispose of any property, real or personal, tangible or intangible, or any right or interest in any such property, for or in connection with any port facilities, whether or not subject to mortgage, liens, charges or other encumbrances.

(3) To add to or extend, or cause or permit to be added to or extended, any existing lands or islands now or hereafter owned by a unit bordering on or being in any waters by the pumping of sand or earth from any land under water or by any other means of construction, as a part of or for the purpose of providing any port facilities or for the purpose of improving, creating or extending any property of the unit for use of or disposal by the unit.

(4) To construct, or cause or permit to be constructed, an island or islands in any waters by the pumping of sand or earth from any land under water or by any other means of construction, as a part of or for the purpose of providing any port facilities.

(5) To construct any bridge, tunnel, road or causeway, or any combination thereof, to, from or between any port facilities.

(6) To dredge or deepen harbors, channels and turning basins, to cooperate with the United States or any agency thereof in the dredging or deepening of any harbor, channel or turning basin, to enter into contracts with the United States or with any agency thereof concerning any such dredging or deepening project, and to pay such amounts to the United States or any agency thereof or to others as shall be required by the terms of any such contract.

(7) To fill in, extend and enlarge, or cause or permit to be filled in, extended and enlarged, any existing port facilities, to demolish and remove any and all structures thereon or constituting a part thereof, and otherwise to prepare the same for sale or lease to provide funds for financing port facilities under the provisions of this law.

(8) To acquire any existing port facilities and to fill in, extend, enlarge or improve the same, or to cause or permit the same to be extended, enlarged or improved, for any public purpose or for sale or lease for the purpose of providing funds for the acquisition by the unit of any port facilities or for the payment of bonds, notes or other obligations of the unit for or in connection with any port facilities.

(9) To sell at public or private sale or lease for public or private purposes all or any portion of any port facilities now or hereafter owned by the unit, including any such facilities as extended, enlarged or improved, and all or any portion of any property of the unit improved, created, extended or enlarged under the authority of this law, on such terms and subject to such conditions as the governing body shall determine to be in the best interests of the unit.

(10) To contract for the purchase by the unit of any port facilities to be constructed, enlarged, extended or improved by any public body, agency or instrumentality or by any private person, firm or corporation, and to provide for payment of the purchase price thereof in such manner as may be deemed by the governing body to be in the best interests of the unit, including, but without limitation, the sale or exchange of any property of the unit therefor or the issuance of bonds or other obligations of the unit.

(11) To accept loans or grants of money or materials or property at any time from the United States or the State of Florida or any agency, instrumentality or subdivision thereof, upon such terms and conditions as the United States, the State of Florida, or such agency, instrumentality or subdivision may impose.

(12) To exercise jurisdiction, control and supervision over any port facilities now or hereafter acquired, owned or constructed by the unit.

(13) To operate and maintain, and to fix and collect rates, rentals, fees and other charges for any of the services and facilities provided by the port facilities now or hereafter acquired, owned or constructed by the unit including state bar pilots.

(14) To lease or rent, or contract with others for the operation of all or any part of any port facilities now or hereafter acquired, owned or constructed by the unit, on such terms and for such period or periods and subject to such conditions as the governing body shall determine to be in the best interests of the units.

(15) To contract debts for the acquisition or construction of any port facilities or for any other purposes of this law, to borrow money, to make advances, and to issue bonds or other obligations to finance all or any part of such acquisition or construction or in the carrying out of any other purposes of this law.

(16) To make advances to the United States or any agency or instrumentality thereof in connection with any port facilities, including the dredging or deepening of any harbor, channel or turning basin to serve any port facilities.

(17) To enter on any lands, waters or premises, within or without the unit or within the corporate limits of any other unit, for the purpose of making surveys, soundings and examinations with relation to any existing or proposed port facilities.

(18) To contract with the United States or the State of Florida or any agency or instrumentality thereof or with any public body or political subdivision or with any private person, firm or corporation with reference to any of the powers hereby granted.

(19) To perform any of the acts hereby authorized through or by means of its own officers, agents or employees or by contract.

(20) To do all acts and things and to enter into all contracts and agreements necessary or convenient to carry out the purposes of this law.

History.—s. 3, ch. 59-411; s. 1, ch. 67-317.

315.031 Promoting and advertising port facilities.—

(1) Each unit is authorized and empowered:

(a) To publicize, advertise and promote the activities and port facilities herein authorized;

(b) To make known the advantages, facilities, resources, products, attractions and attributes of the activities and port facilities herein authorized;

(c) To create a favorable climate of opinion concerning the activities and port facilities herein authorized;

(d) To cooperate with other agencies, public and private, in accomplishing these purposes;

(e) To enter into agreements with the purchaser or purchasers of port facilities bonds issued under the provisions of this law to establish a special fund to be set aside from the proceeds of the revenues collected under the provisions of s. 315.03(13), during any fiscal year, for the promotional activities authorized herein.

Nothing herein shall be construed to authorize any unit to expend funds for meals, hospitality, amusement or any other purpose of an entertainment nature.

(2) All obligations, expenses and costs incurred under the provisions of this section shall be paid from such fund when vouchers thereof, approved by the governing body of the unit, are exhibited to the responsible authority making disbursements for the governing body.

History.—s. 1, ch. 67-324.

315.04 Other consents or approvals; use of state lands.—Except as hereinafter provided in this section, and except as provided in s. 315.03(1), the approval or consent of any other political subdivision or public body, agency or instrumentality of the State of Florida, except the Board of Trustees of the Internal Improvement Trust Fund, shall not be required for the exercise of any of the powers granted by this law. Any municipality located in a county authorized by law to operate port facilities or in which there is a port district or a port authority shall exercise any powers granted by this law only if the governing body of such county, port district or port authority shall by resolution determine that the best interests of the county will be served thereby and consent thereto. The State of Florida hereby consents to the exercise of any and all powers granted by this law without further authorization or approval thereof by any of its agencies or instrumentalities, except as may be required from the Board of Trustees of the Internal Improvement Trust Fund as to the use of any state lands lying under water which are necessary for the accomplishment of the purposes of this law.

History.—s. 4, ch. 59-411; ss. 27, 28, ch. 69-106.

315.05 Port facilities bonds.—

(1) The governing body is authorized to provide by resolution, at one time or from time to time, for the issuance of bonds of a unit for the purpose of paying all or a part of the cost of any one or more port facilities. The bonds of each issue or series shall be dated, shall bear interest at such rate or rates, and shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the governing body, and may be made redeemable before maturity, at the option of the unit, at such price or prices and under such terms and conditions as may be fixed by the governing body prior to the issuance of the bonds.

(2) The governing body shall determine the form of the bonds including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds, and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and any bond may bear the facsimile signature of, or may be signed by, such persons as at the actual time of the execution of such bond shall be the proper officers to sign such bond although at the date of such bond such persons may not have been such officers.

(3) Notwithstanding any other provisions of this law or any recitals in any bonds issued under the provisions of this law, all such bonds shall be deemed to be negotiable instruments under the laws of Florida. The bonds may be issued in coupon or in registered form, or both, as the governing body may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of coupon and registered bonds. The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law, and any bonds issued by a unit under this law shall not be considered in computing the amount of indebtedness which the unit may incur under any other law.

(4) The governing body may sell such bonds in such manner, either at public or private sale, and for such price as it may determine to be for the best interests of the unit. Prior to the delivery of definitive bonds, the unit may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(5) The governing body may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost. Bonds may be issued under the provisions of this law without obtaining the consent of any commission, board, bureau or agency of the state, and without any other proceeding or the happening of any other condition or thing than those proceedings, conditions or things which are specifically required by this law.

History.—s. 5, ch. 59-411; s. 26, ch. 73-202; s. 1, ch. 79-401.

315.06 Sources of payment and security for bonds.—

(1) The governing body may provide that bonds issued under the provisions of this law shall be payable from and secured by a pledge of any one or more of the following sources:

(a) Revenues of any one or more port facilities now owned or hereafter acquired or constructed by the unit;

(b) Proceeds of the sale or lease of all or any part of any port facilities now or hereafter owned by the unit as such facilities may be extended, enlarged or improved, or of any property of the municipality improved, created, extended or enlarged or prepared for sale or lease under the authority of this law;

(c) Any money received by the unit from the United States or any agency or instrumentality thereof in connection with any port facilities or in repayment of any advances made by the unit for all or any part of the cost of any port facilities.

(2) The governing body may provide that such bonds shall be general obligations of the unit for which the full faith, credit and taxing power of the unit shall be additionally secured by a pledge of revenues, sale or lease proceeds or money received by the unit from the United States or any agency or instrumentality thereof as herein authorized. The governing body of such unit may provide that such bonds shall be payable as to principal and interest in the first instance from such revenues, sale or lease proceeds or money received by the unit from the United States or any agency or instrumentality. The governing body of any unit may additionally secure any such bonds by a mortgage or other encumbrance, subject to such terms and conditions as it shall provide, upon all or any part of any port facilities now or hereafter owned by the unit, as such facilities may be extended, enlarged or improved, or of any property of

the unit improved, created, extended or enlarged or prepared for sale or lease under the authority of this law, and the governing body is hereby authorized to sell at public or private sale or lease any of such port facilities or property, subject to such terms and conditions and for such price, payable at one time or from time to time in installments as the governing body may provide, and to apply the proceeds of any such sale or lease, after paying all costs in connection therewith, to payment of the cost of any port facilities financed under the provisions of this law or to the payment of the principal of or the interest or redemption premiums on any bonds issued hereunder or to the payment of any other obligation or obligations herein authorized.

History.—s. 6, ch. 59-411.

315.07 Contracts for borrowing of money.—The governing body may contract with any person, firm, corporation or public body or with the United States or any agency or instrumentality thereof for the borrowing of money for paying all or any part of the cost of any one or more port facilities, and any such contract may contain such terms, conditions or provisions as the governing body may determine not in conflict with the provisions of this law. The provisions of s. 315.06 applicable to bonds shall be applicable also to contracts entered into under the above provisions of this section. Any such contract may be hypothecated by the unit, and the unit may borrow money under such terms and conditions as it shall determine in anticipation of the receipt of funds under such contract.

History.—s. 7, ch. 59-411.

315.08 Trust agreement or resolution.—In the discretion of the governing body, any bonds issued under the provisions of this law may be secured by a trust agreement by and between the unit and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the unit in relation to the acquisition of property and the acquisition, construction, improvement, maintenance, repair, lease, operation and insurance of any port facilities in connection with which such bonds shall have been authorized, the custody, safeguarding or application of all moneys, and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any bank or trust company incorporated under the laws of Florida which may act as depositary of the proceeds of bonds or of revenue or other funds to furnish such indemnifying bonds or to pledge such securities as may be required by the governing body. Any such trust agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee under any such trust agreement, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the governing body may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution shall be treated as a part of the cost of the operation of the port facilities.

History.—s. 8, ch. 59-411.

315.09 Remedies.—Any holder of bonds issued under the provisions of this law or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement or the resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement or resolution, and may enforce and compel the performance of all duties required by this law or by such trust agreement or resolution to be performed by the unit or by any officer thereof, including the fixing, charging and collecting of rates, rentals and other charges.

History.—s. 9, ch. 59-411.

315.10 Refunding bonds.—The governing body is hereby authorized to provide by resolution for the issuance of refunding bonds of the unit for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this law or which shall have been issued to provide funds for the payment of the cost of any port facilities under the provisions of any other law, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the governing body, for the additional purpose of acquiring or constructing additional port facilities. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the unit in respect of the same, shall be governed by the provisions of this law insofar as the same may be applicable.

History.—s. 10, ch. 59-411.

315.11 Exemption from taxation.—As adequate port facilities are essential for the welfare of the inhabitants and the industrial and commercial development of the area within or served by the unit, and as the exercise of the powers conferred by this law to effect such purposes constitutes the performance of proper public and governmental functions, and as such port facilities constitute public property and are used for public purposes, the unit shall not be required to pay any state, county, municipal or other taxes or assessments thereon, whether located within or without the territorial boundaries of the unit, or upon the income therefrom, and any bonds issued under the provisions of this law, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the state. The exemption granted by this section shall not be applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

History.—s. 11, ch. 59-411; s. 8, ch. 73-327.

315.12 Bonds, legal investments.—Bonds issued by a unit under the provisions of this law are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or unit officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the unit is now or may hereafter be authorized by law.

History.—s. 12, ch. 59-411.

315.13 Action by resolution.—All action required or authorized to be taken under the provisions of this law by the governing body may be by resolution, which resolution may be adopted at the meeting of the governing body at which such resolution is introduced and shall take effect immediately upon such adoption. Except as otherwise provided in this law, no resolution under this law need be published or posted, nor shall any such resolution require for its passage more than a majority of all the members of the governing body then in office.

History.—s. 13, ch. 59-411.

315.14 Public purposes.—It is hereby determined and declared that each and all of the powers conferred by this law and the exercise thereof are proper public and municipal purposes.

History.—s. 14, ch. 59-411.

315.15 Additional and alternative method.—This law shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to the powers conferred by any other law, either general, special or local, and shall not be regarded as in derogation of any power now existing. Bonds may be issued and any other action may be taken hereunder notwithstanding that any other law, either general, special or local, may provide for the issuance of bonds for a like purpose or for the taking of like action and without regard to the requirements, restrictions or procedural provisions contained in any other law, either general, special or local.

History.—s. 15, ch. 59-411; s. 1, ch. 67-[illegible].

315.16 Liberal construction.—This law, being necessary for the welfare of the inhabitants of the state, shall be liberally construed to effect the purposes thereof.

History.—s. 16, ch. 59-411.

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TITLE XXVI

PUBLIC TRANSPORTATION

CHAPTER 334

TRANSPORTATION ADMINISTRATION

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334.01 Short title.—Chapters 334-339 and 341 may be cited as the "Florida Transportation Code."

History.—s. 168, ch. 29965, 1955; s. 1, ch. 73-89; s. 72, ch. 79-164.

334.02 Declaration of legislative intent.—Recognizing that safe and efficient transportation is a matter of important interest to all the people of the state, the Legislature hereby determines and declares that:

(1) The development of a balanced and efficient transportation system adequate to meet the current and future transportation needs of the state is essential to the commercial life and general welfare of the people of the state and to the national defense;

(2) Present transportation facilities, transportation planning, and transportation development are inadequate to meet the minimum current and future transportation needs of the people of the state;

(3) The preservation and enhancement of the environment, the conservation of natural resources, including scenic, historic, and recreation assets, and the strengthening of long-range land use planning are vital to the health and welfare of the people of Florida, and the planning and development of transportation facilities should be consistent with these goals;

(4) Systematic and coordinated planning and development of balanced transportation facilities within and between all regions of Florida must be encouraged and should be vigorously pursued as provided in this chapter;

(5) To this end, it is the intent of the Legislature to make the Department of Transportation the custodian of the state highway and transportation systems and to provide sufficiently broad authority to enable the department to function adequately and efficiently in all areas of appropriate jurisdiction, subject to the limitations of the Constitution and the legislative mandate hereinafter imposed.

(6) The Legislature intends to declare, in general terms, the powers and duties of the Department of Transportation, leaving specific details to be determined by reasonable rules and regulations which the department may promulgate. The Legislature intends, by a general grant of authority to the Department of Transportation, to delegate sufficient power and authority to enable the department to carry out the broad objectives stated above.

(7) It is the further intent of the Legislature to bestow upon local officials adequate authority with respect to the transportation facilities under their jurisdiction. The efficient management, operation, and control of our county roads, city streets, other public thoroughfares and transportation facilities are likewise a matter of vital public interest.

(8) The problem of establishing and maintaining adequate roads and streets, eliminating congestion, reducing accident frequency, providing parking facilities and taking all necessary steps to ensure safe and convenient transportation on these public ways is no less urgent.

(9) The Legislature, recognizing the necessity of fixing responsibility for the construction, maintenance, and operation of the several systems of highways and other means of public transportation, intends that the state shall have an integrated balanced

system of roads connecting urban streets and other transportation facilities to provide safe and efficient transportation throughout the state. The authority hereinafter granted to the department and to counties and municipalities to assist and cooperate with each other and to coordinate their activities is therefore essential.

(10) The Legislature hereby finds, determines, and declares that this code is necessary for the preservation of the public safety, the promotion of the general welfare, the improvement and development of transportation facilities in the state, including the most effective utilization of parkways, scenic drives, residential streets and roads, elimination of hazards at grade intersections, and other related purposes, and as a contribution to the national defense.

History.—s. 1, ch. 29965, 1955; ss. 23, 35, ch. 69-106; ss. 5, 6, ch. 70-239.

334.021 Integrated balanced state highway system; definitions.—

(1) Every state agency, county, city, public body, authority, special district, expressway authority presently existing under chapter 348 or chapter 349, and any other authority created by special or general law of local application which has authority to expend funds for public transportation or for the maintenance, construction, or development of public roads, streets, bridges, highways, and other ways open to travel by the public is authorized to expend the same for the general purpose of developing an integrated, efficient, and well-balanced transportation system in this state, restrictive provisions of any statutes or other governmental ordinances and regulations to the contrary notwithstanding.

(2) Nothing in the broad authorization set forth in subsection (1) shall be construed to permit the expenditure of public funds in such manner or for such projects as would violate the State Constitution or the trust indenture of any bond issue or which would cause the state to lose any federal aid funds for highway or transportation purposes; and the provisions of this section shall be applied in a manner to avoid such result.

(3) Each expressway authority or transportation, mass transit, or other similar authority existing under law or hereafter created shall submit overall design and construction plans to the Department of Transportation prior to any construction for purposes of correlation with, or incorporation into, the existing state transportation system. The construction of any transportation facility shall be approved by the department prior to the commencement of construction if it:

(a) Requires maintenance through either the utilization of Department of Transportation personnel or the use of primary road funds, or

(b) Entails the substantial use of any gas tax funds other than primary.

However, if no determination is made by the department within 90 days after receiving the plans, they shall become effective.

(4) To assist and aid in the implementation of the Department of Transportation's development of an integrated and balanced transportation system, the following words and phrases shall, for the purposes of attaining this goal, have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(a) "Mass transit facility" means all forms of transportation located on land, water, or air for the mass transportation of people.

(b) "Roads" include streets, sidewalks, alleys, highways, and other ways open to travel by the public, including the roadbed, right-of-way, and all culverts, drain sluices, ditches, water storage areas, waterways, embankments, slopes, retaining walls, bridges, tunnels, and viaducts necessary for the maintenance of travel, and all ferries used in connection therewith. For purposes of public expenditures the term "road" or "roads" also includes all means for the transportation of people and property from place to place constructed, operated, or maintained in whole or in part from public funds.

(c) "Transportation facility" or "transportation facilities" means the property or property rights, both real and personal, of a type used for the establishment of public transportation systems which have heretofore or may hereafter be established by public bodies for the transportation of people and property from place to place.

History.—ss. 1, 4, ch. 70-239; s. 1, ch. 72-38.
Note.—Former s. 334.022.

334.03 Definitions of words and phrases.—The following words and phrases when used in this code shall, unless the context clearly indicates otherwise, have the following meanings:

(1) "Commissioners."—Board of county commissioners.

(2) "Department."—The Department of Transportation.

(3) "Freeway."—An expressway with full control of access.

(4) "Limited access facility."—A street or highway especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement or only a limited right or easement of access, light, air, or view by reason of the fact that their property abuts upon such limited access facility or for any other reason. Such highways or streets may be parkways, from which trucks, buses, and other commercial vehicles shall be excluded; or they may be freeways open to use by all customary forms of street and highway traffic.

(5) "Municipal connecting links."—City and town streets and roads, or portions thereof, including structures, that constitute routes between, or extensions of, said roads in the state highway system and feeder roads from bypassed areas.

(6) "Person."—Any person, firm, partnership, association, corporation, cooperation, organization, or business trust.

(7) "Road."—The term "road" shall be construed to include streets, sidewalks, alleys, highways, and other ways open to travel by the public, including the roadbed, right-of-way, and all culverts, drains, sluices, ditches, water storage areas, waterways, embankments, slopes, retaining walls, bridges, tunnels, and viaducts necessary for the maintenance of travel and all ferries used in connection therewith.

(8) "Right of access."—The right of ingress to a highway from abutting land and egress from a highway to abutting land.

(9) "Right-of-way."—Land in which the state, the department, a county, or a municipality owns the fee or has an easement devoted to or required for the use as a public road.

(10) "State park road system."—Roads embraced in boundaries of state parks and state roads leading to state parks other than roads of the state highway system, county roads, or municipal roads.

(11) "State roads."—All streets, roads, highways, and other public ways open to travel by the public generally and dedicated to the public use, according to law or by prescription, and designated by the department as provided by law as parts of the state highway system, including the roadbed, right-of-way, embankments, slopes, retaining walls, sidewalks, bridges, tunnels, and viaducts necessary for the maintenance of travel thereon and all ferries in connection therewith.

(12) "Structures."—Bridges, viaducts, tunnels, causeways, approaches, ferry slips, culverts, tollhouses, and gates and other similar facilities used in connection with roads.

(13) "Sufficiency rating."—The objective rating of a road or section of a road for the purpose of determining its capability to serve properly the actual or anticipated volume of traffic using the road.

(14) "Functional classification."—The assignment of roads into systems according to the character of service they provide in relation to the total road network. Basic functional categories include arterial, collector, and local roads which may be subdivided into principal, major, or minor levels. Those levels may be additionally divided into rural and urban categories.

(15) "Arterial road."—A route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. In addition, all United States numbered highways shall be arterial roads.

(16) "Collector road."—A route providing service which is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. These routes also collect and distribute traffic between local roads or arterial roads and serve as a linkage between land access and mobility needs.

(17) "Local road."—A route providing service which is of relatively low average traffic volume, short average trip length or minimal through-traffic movements, and high land access for abutting property.

(18) "Urban area."—A geographical region comprising as a minimum the United States Census defined boundary of an urban place of 5,000 population, expanded to include adjacent areas as provided for by federal highway administration regulations.

(19) "Urbanized area."—An urban area having a central city or twin cities of more than 50,000 population.

(20) "Urban principal arterial roads."—Routes which generally serve the major centers of activity of an urban area, the highest traffic volume corridors and the longest trip purpose and carry a high proportion of the total urban area travel on a minimum of mileage. The routes are integrated, both internally and between major rural connections.

(21) "Urban minor arterial roads."—Routes which generally interconnect with, and augment, urban principal arterial routes and provide service to trips of shorter length and a lower level of travel mobility. Minor arterial routes include all arterials not classified as principal and contain facilities that place more emphasis on land access than the higher system.

(22) "State highway system."—The state highway system shall consist of the following:

(a) The interstate system;

(b) All rural arterial routes and their extensions into and through urban areas;

(c) All urban principal arterial routes; and

(d) Those urban minor arterial routes on the existing primary road system as of July 1, 1977, with the addition of segments of such routes which lie between and connect those parts of the routes previously included in the primary system and which are necessary to provide continuity to the system; except that no segment in excess of 2 miles shall be so added.

However, not less than 2 percent of the public road mileage of each urbanized area shall be included as minor arterials in the state highway system. Urbanized areas not meeting the above minimum requirement shall have transferred to the state highway system additional minor arterials of the highest significance, in which case the total minor arterials in the state highway system from any urbanized area shall not exceed 2.5 percent of said area's total public urban road mileage. Excluding the interstate system, the state highway system shall be limited to 11,300 miles.

(23) "County road system."—The county road system of each county shall consist of all collector roads in the unincorporated areas and all extensions of such collector roads into and through any incorporated areas, all local roads in the unincorporated areas, and all urban minor arterials not in the state highway system.

(24) "City street system."—The city street system of each municipality shall consist of all local roads within that municipality, and all collector roads inside that municipality, which are not in the county road system.

(25) "Routine maintenance."—Pavement patching, shoulder repair, cleaning and repair of drainage ditches and structures, mowing, bridge inspection and maintenance, pavement striping, litter cleanup, and such other similar activities of a minor scope as are necessary to maintain a safe and efficient transportation system.

(26) "Periodic maintenance."—Activities which are large in scope and require a major work effort to restore deteriorated components of the transportation system to a safe and serviceable condition, including, but not limited to, the repair of large bridge structures, major repairs to bridges and bridge systems, and the mineral sealing of lengthy sections of roadway. Within the meaning of s. 9, Art. XII of the State Constitution, major resurfacing, widening, and reconstruction of roads shall be considered "construction."

History.—s. 2, ch. 29965, 1955; ss. 1, 2, ch. 57-318; ss. 1, 2, ch. 63-27; s. 1, ch. 67-43; ss. 23, 35, ch. 69-106; s. 105, ch. 71-377; ss. 5, 17, ch. 77-165; s. 1, ch. 79-157; s. 136, ch. 79-400; s. 1, ch. 83-52.

cf.—s. 335.01 State roads designated.

334.05 Headquarters of department; rental of office room, etc.—The headquarters and general office of the department shall be located at the state capital. The department may purchase, build, rent or lease suitable buildings or rooms for its headquarters, general office, branch offices or division offices and for maintenance yards and rooms for equipment and supplies in other cities and towns of this state as the business of the department may necessitate or require, and payment for the purchase, construction, rental or lease of such offices shall be made from any funds provided for the maintenance of the department. The department may condemn property if necessary for the construction of its headquarters in Tallahassee.

History.—s. 4, ch. 29965, 1955; s. 1, ch. 63-330.

334.063 Department of Transportation; statistical studies.—The Department of Transportation shall include in the criteria for the planning, construction, and maintenance of state roads statistical studies of accidents and fatalities as well as traffic count.

History.—s. 1, ch. 69-66; ss. 23, 35, ch. 69-106.

334.11 Coordination of highway program; duties of department.—The Department of Transportation shall have the authority and responsibility for the coordination of the total highway and road program within the state, including the designation of systems and the development of construction standards as hereinafter provided for, and shall review the annual program for each of the major systems to insure coordination of planning and general conformity with the law. Local authorities are hereby authorized to cooperate with it.

History.—s. 10, ch. 29965, 1955; s. 4, ch. 67-461; ss. 23, 35, ch. 69-106.

334.131 Department of Transportation; employees' benefit fund.—The Department of Transportation is authorized to adopt regulations authorizing the creation and operation of an employees' benefit fund for employees of the department. The proceeds of the vending machines located in buildings owned by the department, or such portions thereof as the department by regulation may provide, shall be paid into such fund, to be used for such benefits and purposes as the department by regulation may provide.

History.—s. 1, ch. 69-387; ss. 23, 35, ch. 69-106.

334.14 State highway engineer, deputy and assistants; compensation and duties.—

(1) The department shall employ a State Highway Engineer who shall be a competent highway engineer, certified by the Board of Professional Engineers, with at least 10 years' experience in highway engineering. He shall be required to give bond in the amount of $100,000, payable to the Governor and his successors in office, to be approved by the Department of Banking and Finance, conditioned upon the faithful performance of his duties, the premiums of said bond to be paid from the funds for the maintenance of the department. He shall devote all his time and service to the department and shall exercise such powers and perform such duties as shall be required by law or prescribed by the department and shall be responsible for the efficient operation and administration of the engineering functions of the department.

(2) The department shall employ a Deputy State Highway Engineer who shall be a competent highway engineer, certified by the Board of Professional Engineers, with at least 10 years' experience in highway engineering. He shall be required to give bond in the amount of $50,000, payable to the Governor and his successors in office, to be approved by the Department of Banking and Finance, conditioned upon the faithful performance of his duties, the premiums of said bond to be paid from the funds for the maintenance of the department. He shall devote all his time and service to the department and shall exercise such powers and perform such duties as may be prescribed by law or by regulation of the department or the direction of the State Highway Engineer.

(3) The department shall employ an assistant state highway engineer of planning, an assistant state highway engineer of construction, an assistant state highway engineer of structures and an assistant state highway engineer of maintenance, whose duties shall be determined by the department and who shall be responsible for the efficient operation and administration of their respective divisions.

(4) The department shall employ one district engineer for each of the six respective transportation districts whose duties shall be fixed by the department and who shall be responsible for the efficient operation and administration of their respective districts.

History.—s. 13, ch. 29965, 1955; s. 5, ch. 57-318; s. 5, ch. 67-461; ss. 12, 23, 35, ch. 69-106; s. 2, ch. 72-29; ss. 2, 3, ch. 73-58; s. 2, ch. 78-90; s. 205, ch. 81-259; s. 2, ch. 81-302.

cf.—s. 113.07 Bonds of state officials.

334.17 Engineering consulting services.—The Department of Transportation is authorized to provide consulting engineering services, upon request, to any governmental unit on such terms as may be mutually agreed upon.

History.—s. 16, ch. 29965, 1955; ss. 23, 35, ch. 69-106.

334.171 State to assist counties and municipalities; procedure.—

(1) In all cases where the commissioners request the advice and assistance of the Division of Road Operations of the department in the construction or repair of roads, the division shall, when practicable, send the state highway engineer or any assistant engineer into such county and render all assistance practicable, without expense to the county, except that the actual and necessary expenses that such engineer or assistant may incur in complying with the request shall be paid to the department by the commissioners when properly authorized to by the division.

(2) The department is authorized to enter into contracts and to make such regulations as may be necessary for such road construction and maintenance

nance as may by law or by resolution of any board of county commissioners or board of bond trustees of any county, or district or other subdivision of any county, be placed under its supervision and control, together with all powers for the exercise of the right of eminent domain.

(3) The [1]Division of Road Operations may prepare plans and specifications for all such proposed work, other than maintenance work of a regular or routine nature, and advertise for bids on same at least once a week for not less than 2 consecutive weeks in some newspaper having a general circulation in the county where the proposed work is located; and the department may, at its discretion, award the proposed work to the lowest responsible bidder, or it may reject all bids and proceed to perform the work with convict labor or free labor, and may purchase such equipment and supplies as may be necessary for the efficient and economical prosecution of the work.

(4)(a) In all cases where counties or municipalities request legal assistance of the Division of Administration of the department in connection with matters relating to state roads, including acquisition of rights-of-way, agreements, proposed agreements, road bond issues, or proposed road bond issues, such legal assistance shall be furnished by the resident attorney of the department, who shall assign an assistant attorney to render such legal assistance as the county or municipality may require. Said legal assistance shall be without expense to the county or municipality except that the actual and necessary expenses incurred in complying with the request shall be paid to the department.

(b) Where disagreement arises as to the existence, interpretation, or operation of any agreement or alleged agreement between the county or municipality and the department, or as to any bond issue, or as to secondary road funds, or if in the opinion of the resident attorney there is a conflict between the interest of the department and said county or municipality, the Department of Legal Affairs, at the request of the county or municipality, is authorized to furnish the above described legal assistance; and shall be reimbursed only for actual and necessary expenses incurred in complying with the request of the county or municipality.

(c) In cases in which there appears to be a failure of the department, to abide by agreements with the county or municipality, the Department of Legal Affairs, upon request of the county or municipality, shall, at its discretion, take whatever action is necessary to determine the nature of the agreement and the terms thereof and to enforce compliance therewith.

(d) No agreement between a county or a municipality and the department shall be binding unless said agreement be reduced to writing. Suits at law or in equity for the enforcement of an agreement so recorded may be maintained in the manner provided in s. 337.19.

History.—s. 53, ch. 29965, 1955; s. 1, ch. 61-431; s. 5, ch. 67-461; ss. 11, 23, 35, ch. 69-106.

[1]Note.—See s. 1, ch. 81-209, which reorganized, in part, the division structure within the Department of Transportation.

334.18 Department to employ legal counsel.—The department may employ a resident attorney and as many assistant attorneys as it deems necessary to advise and represent the department in all highway matters. The resident attorney and all assistant attorneys shall be employed on a full-time basis and shall be directly responsible to the department. The Department of Legal Affairs shall represent the department in all matters of litigation. The salaries of all such attorneys shall be fixed by the department. The department may utilize the services of the various county attorneys for acquisition of rights-of-way and pay therefor such sums as the department shall determine is reasonable.

History.—s. 17, ch. 29965, 1955; s. 8, ch. 57-318; s. 6, ch. 67-461; ss. 11, 23, 35, ch. 69-106.

334.19 Employment of comptroller and internal auditor; duties; financial records and accounts; and bond for comptroller.—

(1) The department shall employ a comptroller whose special duty it shall be to examine into and supervise the methods of bookkeeping and accounting of the department and all similar matters relating to its management. He shall be required to give bond in the amount of $100,000, payable to the Governor and his successors in office, to be approved by the Department of Banking and Finance, conditioned upon the faithful performance of his duties, the premiums of said bond to be paid from the funds for the maintenance of the department.

(2) The department shall by regulation provide for the maintenance of records and accounts of the department, by the comptroller, relating to financial transactions, as will afford a full and complete check against improper payment of bills, and provide a system for the prompt payment of the just obligations of the department, which records shall at all times disclose:

(a) The several appropriations available for the use of the department;

(b) The specific amounts of each such appropriation budgeted by the department for each improvement or purpose;

(c) The apportionment or division of all such appropriations among the several counties and districts, where such apportionment or division is made;

(d) The amount or portion of each such apportionment against general contractual and other liabilities then created;

(e) The amount expended and still to be expended in connection with each contractual and other obligation of the department;

(f) The expense and operating costs of the various activities of the department;

(g) The receipts accruing to the department, and the distribution thereof;

(h) The assets, investments and liabilities of the department.

(3) The comptroller shall act under the general supervision and control of the department and shall perform such other related duties as may be designated by the department.

(4) The comptroller shall maintain a separate account for each county for each of the gas tax proceeds referred to in s. 339.08(3) and (4). Upon request, the comptroller shall certify to any county the balance

remaining in either or both of its accounts, after all expenditures duly authorized by its board of county commissioners to be made therefrom, have been met.

(5) The department shall employ an internal auditor whose duties shall include, but not be restricted to, reviewing and appraising policies, plans, procedures, accounting, financial and other operations of the department, and recommending changes for the improvement thereof. He shall have access at all times to any records, data, or other information of the department necessary to carry out his duties.

(6) The internal auditor shall act under the general supervision and control of the department, and shall perform such other related duties as may be designated by the department.

History.—s. 18, ch. 29965, 1955; s. 1, ch. 61-229; s. 2, ch. 61-492; s. 1, ch. 63-87; s. 5, ch. 67-461; ss. 12, 23, 35, ch. 69-106.

334.20 Expenditures.—All expenditures by the department shall be made upon vouchers issued and certified by the department in such manner as the department may by regulation provide and paid by warrants issued by the State Comptroller upon the State Treasurer.

History.—s. 19, ch. 29965, 1955; ss. 23, 35, ch. 69-106.

334.21 Budgets; preparation, adoption, execution, and amendment.—

(1) FISCAL YEAR.—The fiscal year of the department shall begin July 1 of each year and end on June 30 of each succeeding year. Such fiscal year shall constitute a budget year for all operating funds of the department.

(2) FILING OF BUDGET.—The department shall file each budget in the manner required by chapter 216, except that the right-of-way, construction, and maintenance plan expenditures and all grants and aids of the department shall be set forth only in total in such budget, together with sufficient annotation indicating the project numbers and amounts to be spent for unfinished projects for which payments will be made during the fiscal year and indicating the total dollar amount for anticipated expenditures during the fiscal year of funds any portion of which is intended to be encumbered on projects currently to be commenced, with the details being set forth in the final annual program budget of the department. Notwithstanding any other provisions of law, the information required under this subsection shall be transmitted to the legislative appropriations committees not less than 30 days prior to the start of each regular legislative session.

(3) PROPOSED ANNUAL PROGRAM BUDGET.—The department shall prepare a proposed annual program budget pursuant to the budgets submitted as provided by chapter 216. Notwithstanding any other provision of law, the information required under this subsection shall be transmitted to the legislative appropriations committees prior to the start of each regular legislative session.

(4) NATURE AND SCOPE OF THE ANNUAL PROGRAM BUDGETS.—

(a) The proposed and final annual program budgets required by subsections (3) and (7) shall present a complete, balanced financial plan for the state road fund and the restricted road funds.

(b) The receipt side of such budgets shall set forth all anticipated fund balances to be brought forward at the beginning of the budget year. The fund balance shall be the difference between the current assets and current liabilities and reserves, as commonly defined in accounting terminology, of each fund enumerated herein. It shall set forth all estimated revenues and receipts by source anticipated to be available during the ensuing year for which the budgets are prepared, except that no anticipated receipts estimated to be received from various federal aid acts of Congress shall be budgeted in excess of the amount which may be earned by the amount of state receipts set aside to match such federal aid; and the state funds thus set aside to match federal aid funds shall be used only for such matching purposes. The department shall, prior to the preparation of the budgets, ascertain the amount of apportionments of federal aid funds which shall be or which are estimated to be available to the department for expenditure in the fiscal year for which the budgets are prepared; and the department shall budget sufficient funds for matching purposes.

(c) The expenditure side of the annual program budgets shall set forth the proposed expenditures of the department as classified by major program and appropriation categories to accomplish the objectives of the department.

(d) The annual program budgets for the state road fund and restricted funds, unless otherwise provided by law, shall be so planned as to exhaust the estimated resources of each fund for the year, with the exceptions of an emergency reserve, in such amount as the department may deem necessary, for the purpose of doing emergency work which may be found to be necessary to be done during the year in order to prevent the stoppage of travel over any road over which the department has jurisdiction and control, and the reserve required in paragraph (8)(b). At any time during the last 2 months of the fiscal year, the emergency work reserve or any portion of it may be appropriated for road purposes provided for herein.

(e) The budgets must include sufficient data to identify the projects currently in progress and the estimated amounts to be spent in the current fiscal year for construction and maintenance work when funds have been encumbered in prior years as such is required to be set forth in total in subsection (2). The budgets must also include the amounts of those funds that will be encumbered and the amounts of such funds encumbered that will be actually spent in the current fiscal year.

(5) FUNDING AND DEVELOPING A ROAD CONSTRUCTION PLAN.—

(a)1. A road construction plan of work to be undertaken during the ensuing budget year shall be prepared for the state road fund and each restricted fund, unless otherwise provided by law or regulation, setting forth all construction projects, hereinafter referred to as "projects," to be undertaken during such budget year. For the budget year beginning July 1, 1970, and each year thereafter, the road construction plan of the annual program budget shall be for the ensuing five years and shall be referred to as the "5-year construction plan." The total amount of the 5-year construction plan in each fiscal year

exceed an amount that would prevent the department from meeting the expenditure requirements for the projects set forth therein.

2. The 5-year construction plan shall include a summary of construction and rights-of-way land acquisition appropriation categories to show the amounts programmed in each appropriation category by district.

3. Projects shall not be undertaken unless they are listed in the annual construction plan. However, in case any road project listed in such plan cannot be undertaken during that year for any justifiable reason, then another project listed in order of priority in the 5-year construction plan may be undertaken. This provision shall not apply to unforeseen emergency projects approved by the department or to projects which are estimated to cost less than $20,000 and approved by the department and must be undertaken to protect a highway investment or to prevent the closing of an important state road.

(b) In addition to the projects included in the 5-year construction plan of the department, beginning with the budget year which starts on or after July 1, 1970, and each year thereafter, each county, municipality, and other governmental unit responsible for the construction and maintenance of roads and streets shall submit to the appropriate district engineer, with a copy to the department, a plan of work for the construction and maintenance of roads and streets within its jurisdiction for the ensuing 5 years, listing the estimated amounts to be expended on each project during each budget year. The local plan of work for roads and streets as herein provided shall be prepared by the county or city engineer or superintendent of roads for the local authority and approved by the governing body of the political subdivision responsible for the construction and maintenance of such roads and streets.

(c) Prior to the annual adoption of the 5-year construction plan, the department shall hold public hearings in each of the transportation districts to give consideration to the necessity of making any changes to projects included or to be included in the 5-year construction plan and to hear requests for new projects to be added to, or existing projects to be deleted from, the 5-year construction plan.

(d) The 5-year construction plan prepared under the provisions of this subsection shall be submitted to the legislative appropriations committees prior to the start of each regular legislative session.

(e) Beginning with the 1983-1985 biennium, the department shall develop and maintain a list of projects that could be made production-ready within the biennium to use additional sources of state revenue. The list shall consist of projects defining programs for the interstate system; noninterstate road and bridge rehabilitation and replacement; traffic operations; public transportation; and major new road and bridge construction. Program amounts shall equal approximately 50 percent of the corresponding funded program in the biennium plan, except that higher limits may be established by the department to accommodate anticipated federal funding actions. Program amounts shall include all project phases. If any [illegible]se stated programs is not funded in the bienni[illegible]n, the department may determine an appropriate program amount not to exceed $50 million. Projects within each program shall be prioritized based on need. The project list shall be independent of the 5-year construction plan, except that funded projects in later years of such plan may be included in the project list and advanced to an earlier year if justified by priority. The list shall be submitted to the legislative appropriations committees prior to the start of the regular legislative session.

(6) PUBLICATION OF THE PROPOSED ANNUAL PROGRAM BUDGET.—

(a) The department shall appoint a time and place for the public hearing on the proposed annual program budget and 5-year construction plan prepared for the state road fund and restricted funds as required herein, at which time it shall hear all questions, suggestions, or other comments offered by the public in regard to such budget.

(b) At least 5 days prior to the date set for such hearing, there shall be published once in one of the newspapers of general circulation in the state in each of the transportation districts a notice of the time and place of the public meeting for considering such proposed annual program budget, together with a notice that such budget and the 5-year road construction plan of the department are available for inspection by the public at the office of the clerk of the circuit court or chairman of the board of county commissioners.

(c) Five copies of the proposed annual program budget and 5-year construction plan shall be forwarded to the office of the chairman of each board of county commissioners and another copy shall be furnished to each clerk of the circuit court, together with a notice of the public hearing referred to above. The clerk shall post at the front door of the courthouse a copy of the public hearing notice at least 5 days prior to the date of the hearing, along with a notice that the proposed annual program budget and 5-year road construction plan of the department are available for public inspection during his regular office hours.

(7) ADOPTION OF THE FINAL PROGRAM BUDGET OF THE DEPARTMENT.—In accordance with the appropriations act, the department shall, prior to the beginning of the fiscal year, decide upon and make up a final program budget for the ensuing year and 5-year construction plan in accordance with the foregoing requirements, which may include only those projects submitted as part of the 5-year construction plan prepared under the provisions of subsection (5), unless otherwise provided by the appropriations act.

(8) EXECUTION OF THE BUDGET.—

(a) The department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection shall be null and void, and no money shall be paid thereon. The department shall require a statement from the comptroller of the department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the

making of contracts for a period exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the department in excess of $25,000 and having a term for a period of more than 1 year.

(b) In the operation of its state road fund, the department shall have on hand at the close of business, which closing shall not be later than the 10th calendar day of the month following the end of each quarter of the fiscal year, an available cash balance, which shall include cash on deposit with the treasury, short-term investments of the department, and reimbursements due from the Federal Government equivalent to not less than 5 percent of the unpaid balance of all primary fund obligations at the close of such quarter. In the event this cash position is not maintained, no further state road or restricted fund construction contracts or other fund commitments shall be approved, entered into, awarded, or executed until the cash balance, as defined above, has been regained.

(9) AMENDMENT OF THE FINAL ANNUAL PROGRAM BUDGET.—The department shall have the authority to amend its final annual program budget and 5-year construction plan at any time during the fiscal year as follows. It may:

(a) Transfer within the same fund any unencumbered budget item, or any portion thereof, from one activity to another.

(b) Transfer between the state road fund and the restricted funds or between restricted funds, within the provisions of the restrictions by law or by agreement as to the expenditure of such funds, any unencumbered funds.

(c) Budget in the proper fund and expend any receipts not anticipated in the adoption of the budget or receipts in excess of the total anticipated receipts in the adopted budget.

(d) Substitute a project in the funded 5-year construction plan for any other project in the 5-year construction plan; however, when any such substitution results in the delay of the right-of-way or construction phases of a project estimated to cost in excess of $500,000, the department shall notify the legislative appropriations committees and transportation committees. The transportation committees shall notify each member of the Legislature who represents the district or districts affected by the substitution. Such notification shall include the name, location, and estimated costs of any project that is advanced in the 5-year construction plan as a result of the delay of another project.

(e) Add a project as approved by the department within funds available when the project is less than $150,000 in cost and when the addition would not cause a delay of existing projects or add a project as approved by the department when the project is not funded with State Transportation Trust Fund moneys.

(f) Add to, delete from, or reschedule in the funded 5-year construction plan projects implemented from aid to local governments-public transportation matching grants in order to reflect local government decisions; however, when any such addition, deletion, or rescheduling results in the delay of the right-of-way phase or construction phase of a project estimated to cost in excess of $500,000, the notification process required in paragraph (d) shall be observed.

History.—s. 20, ch. 29965, 1955; s. 9, ch. 57-318; s. 1, ch. 61-60; ss. 2, 3, ch. 67-371; s. 1, ch. 69-396; ss. 24, 35, ch. 69-106; ss. 1, 2, ch. 70-996; s. 1, ch. 72-66; ss. 2, 3, ch. 73-58; s. 1, ch. 75-3; s. 1, ch. 82-31; s. 1, ch. 83-232.

334.2105 Working Capital Trust Fund created; expenditure of such funds, etc.—

(1) There is hereby created a Working Capital Trust Fund, into which fund shall be deposited an amount deemed necessary by the Department of Transportation and approved by the Executive Office of the Governor for the efficient operation of the department. Such amount may be obtained from any trust fund or funds under the control and custody of the department. The Working Capital Trust Fund may be used to pay any and all bills of the department; provided, however, in the succeeding month, the appropriate trust fund shall reimburse the Working Capital Trust Fund for all expenditures properly attributable to such reimbursing trust fund; and provided the use of such unexpended trust funds shall not delay or impair a county project of any county contributing to the fund.

(2) The department is authorized to use a single cash control for the fund charges for other budget entities on a unit-cost basis for services rendered by the Burns Data Center and Centralized Mobile Equipment and Warehouse Operations budget entities. The department shall maintain adequate interna records to record these charges and reflect these a commitments on a quarterly funding matrix report t be submitted to the Executive Office of the Governo no later than 20 calendar days after the close of eac calendar quarter. In addition, the appropriation cate gories entitled "Payments for Centralized Suppor Services" and "Data Processing Services" shall con tinue to be reflected in the legislative budget systen as specific appropriations.

History.—s. 1, ch. 72-67; s. 117, ch. 79-190; s. 2, ch. 83-232.

334.211 Transportation planning.—

(1) PURPOSES.—For the purposes of this chap ter, the following definitions shall be employed:

(a) *Local governmental body.*—The term "loca governmental body" means the governing body of th city, town, municipality, county, or other local gov erning unit in the area in which the transportatio facility will be located.

(b) *Major transportation facility.*—The ter "major transportation facility" means:

1. Any facility primarily designed to rapidly an efficiently transport goods and passengers betwee distant points, including, but not limited to, a transport facilities, railroads, bus services, terminal freeways, expressways, major arterial highways, be highways, and port facilities; or

2. Any facility utilized in providing a mass trans system for a standard metropolitan statistical area.

(c) *Standard metropolitan statistical are* —The term "standard metropolitan statistical are means a county or group of contiguous counti which contain at least one central city of 50,000 i

habitants or more or "twin cities" with a combined population of at least 50,000 or such other population estimate as may be provided by law.

(d) *Urban area.*—The term "urban area" means an area including and adjacent to a municipality and other urban centers having a population of 5,000 or more as determined by the latest available federal census or such other population estimates as may be provided by law within boundaries to be fixed by the State Department of Transportation.

(e) *Transportation corridor.*—The term "transportation corridor" means a strip of land between two termini within which traffic, topography, environment and other characteristics are evaluated for transportation purposes.

(2) DUTIES OF DEPARTMENT; COMPREHENSIVE PLANS REQUIRED.—Comprehensive plans shall be developed by the department in conjunction with appropriate local governmental bodies and regional planning agencies, if any, for all standard metropolitan statistical areas and those areas which the department determines, based upon population projections, will become a standard metropolitan statistical area by 1980. Comprehensive plans for other urban areas shall be made when deemed necessary by the department. Priority for developing comprehensive plans shall be given to areas in which immediate construction of major transportation facilities is anticipated. In developing comprehensive plans, the department shall take into account:

(a) Future as well as present needs;

(b) All possible alternative modes of transportation;

(c) The joint use of transportation corridors and major transportation facilities for alternate transportation and community uses;

(d) The integration of any proposed system into all other types of transportation facilities in the community;

(e) The coordination with other development plans in the community so as to facilitate and synchronize growth; and

(f) The total environment of the community and region including land use, entrepreneurial decisions, population, travel patterns, traffic control features, ecology, pollution effects, aesthetics, safety, and social and community values.

(3) COORDINATION WITH OTHER GOVERNMENTAL BODIES.—

(a) In order to insure an integrated transportation system, the location of transportation facilities in urban areas shall be coordinated with the planning agency of the affected local governmental bodies.

(b) In order to insure that the plan includes consideration of the convenience, safety, comfort, aesthetics, and ecology of the state and the community in which the facilities are to be located, the department shall cooperate and consult with the U. S. Department of Transportation and with appropriate departments of state government prior to determining the location of any major transportation facility.

(4) REGIONAL OR LOCAL TRANSPORTATION PLANS.—

(a) The department may adopt local or regional transportation plans as part of, or in lieu of, the department's plans.

(b) Upon request by local governmental bodies, the department may in its discretion develop and design arterial and collector streets, vehicular parking areas, and other support facilities which are consistent with the department's plans for major transportation facilities. The department may render to local governmental bodies or their planning agencies such technical assistance and services as are necessary so that local plans and facilities are coordinated with the department's plans and facilities.

(5) SYSTEMATIC TECHNIQUES FOR PLANNING.—The department shall develop systematic techniques for considering those factors to be used in developing comprehensive plans pursuant to subsection (2) so that any major transportation facility is so planned that it will function as an integral part of the overall plan for community and state development as portrayed in the comprehensive plans.

(6) PROCEDURES FOR PUBLIC PARTICIPATION IN TRANSPORTATION PLANNING.—

(a) The department shall, pursuant to its rules and regulations, hold hearings for standard metropolitan statistical areas and areas projected by the department to become standard metropolitan statistical areas by 1980 as follows:

1. A planning hearing, at which time the factors included in subsection (2) shall be presented for discussion and comment. However, a hearing held on a metropolitan urban area transit study or on an equivalent comprehensive planning study shall satisfy the planning hearing requirement if it is so stated in the public notice of the study hearing.

2. A facility and site or corridor hearing, at a time prior to the selection of the type or types of major transportation facility or facilities to be constructed and prior to the selection of the site or corridor of the proposed facility;

3. A design hearing, at a time after the selection and prior to the department's commitment to a specific design proposal for the facility or facilities.

(b) These public hearings shall be so conducted as to provide an opportunity for effective participation by interested persons in the process of transportation planning and site and route selection and in the specific location and design of transportation facilities. The various factors involved in the decision or decisions and any alternative proposals shall be clearly presented so that the persons attending the hearing may present their views relating to the decision or decisions which will be made.

(c) Opportunity for public hearings:

1. The department, prior to holding a design or planning hearing, shall duly notice all affected property owners of record, as recorded in the property appraiser's office, by mail at least 20 days prior to the date set for said hearing. The affected property owners shall be:

a. Those whose property lies in whole or in part within 300 feet on either side of the center line of the proposed facility.

b. Those who the department determines will be substantially affected environmentally, economically, socially, or safetywise.

2. For all subsequent hearings, the department shall daily publish notices at least 14 days immediately prior to the hearing date in a newspaper of general circulation for the area affected.

3. A copy of the notice of opportunity for public hearing shall be furnished to the U. S. Department of Transportation and to the appropriate departments of the state government at the time of publication.

4. The opportunity for another public hearing shall be afforded in any case when proposed locations or designs are so changed from those presented in the notices specified above or at a public hearing as to have a substantially different social, economic, or environmental effect.

5. The opportunity for a public hearing shall be afforded in each case in which the department is in doubt as to whether a public hearing is required.

(7) RULES AND REGULATIONS.—The Department of Transportation shall promulgate any rules and regulations consistent with its practices that it deems necessary in order to implement the provisions of this section.

History.—s. 3, ch. 70-996; s. 1, ch. 73-355; s. 1, ch. 77-102.
cf.—s. 11.031 Official census.

334.212 Coordination of Central Florida Corridor planning.—All future studies and planning for the Central Florida Corridor shall be coordinated with the legislative transportation committees, local government, and technical advisory committees which shall be recognized as the official policy and technical committees for the Central Florida Corridor project.

History.—s. 4, ch. 75-30.

334.215 Transportation planning organization.—

(1) There shall be a metropolitan planning organization, hereinafter referred to as the "M.P.O.," established within each urbanized area where a planning organization is necessary to meet federal requirements for obtaining and expending federal transportation funds. The M.P.O., a composite local governmental entity, or any successor thereto, shall be so designated by the Governor in any area where an M.P.O. is required by federal law or regulation.

(2) The voting membership of the M.P.O. shall consist of not less than 5 nor more than 15 apportioned members, the exact number to be determined on an equitable geographic-population ratio basis by the Governor, except that in no case shall the county commission members be less than 33⅓ percent of the M.P.O. membership. All voting members shall be elected officials of general purpose government, except local governing bodies having two or more members on the M.P.O. may appoint, as one of their apportioned voting members, a member of a statutorily authorized planning board, transportation or expressway authority, aviation authority, or port authority. In urbanized areas where authorities or other agencies have been, or may be, created by law to perform transportation functions that are not under the jurisdiction of local elected officials, they may be considered by the Governor for one voting membership on the M.P.O. The M.P.O. shall be created under this section and operated under the provisions of s. 163.01, the Florida Interlocal Cooperation Act of 1969. The signatories to the interlocal agreement shall be the governmental entities designated by the Governor for membership in the M.P.O. and the Department of Transportation, hereinafter referred to as the department. In the event there is a conflict between the provisions of this section and s. 163.01, the provisions of this section shall prevail.

(3) The Governor shall apportion the membership among the various governmental entities within the area on the basis of equitable population ratio and geographic factors. The governing body of each governmental entity so designated shall appoint the appropriate number of members to the M.P.O. from eligible officials. Representatives of the department shall serve as nonvoting members of the M.P.O. Nonvoting advisers may be appointed by the M.P.O. as deemed necessary. The Governor shall reapportion the M.P.O. membership at least every 5 years. Metropolitan planning organization members shall serve 4-year terms. Membership shall terminate upon the member leaving his elective or appointive office for any reason, or by a majority vote of the total membership of a county or city governing body represented by the member. Vacancies shall be filled by the original appointing body. Members may be reappointed for one or more additional 4-year terms.

(4) If any municipality or county fails to fill an assigned appointment to the M.P.O. within 60 days after notification by the Governor of its duty to appoint, that appointment shall be made by the Governor from the eligible representatives of that municipality or county.

(5) The authority and responsibility of the M.P.O. is for the management of a continuing, cooperative, and comprehensive transportation planning process that results in the development of plans and programs consistent with the comprehensively planned development of the urbanized area. The M.P.O. shall be the forum for cooperative decision-making by principal elected officials of general purpose local government.

(6) The M.P.O. shall be responsible for initiating federally aided transportation facilities and improvements within its urbanized area in accordance with existing and subsequent federal and state laws and rules and regulations related thereto.

(7) The department shall be responsible for initiating federally aided urban extension and interstate system projects. Subsequent to July 1, 1979, an urban extension or interstate system project, which is part of the approved long-range transportation plan for the urbanized area, shall be initiated by the department and included in the Transportation Improvement Program with the approval of the M.P.O. When such a project has advanced either to the point of acquisition of right-of-way or after completion of all design plans, it can be removed from the Transportation Improvement Program only by joint action of the M.P.O. and the department.

(8) Major federal aid projects in the Transportation Improvement Program, and included in the first 2 years of the department's 5-year construction work program, which must be rescheduled by the department, shall require notification to the M.P.O. at the time such changes are made.

(9) The M.P.O. shall be responsible for transpor-

tation-related air, noise, and water quality planning within the urbanized area as assigned to it by federal or state laws or rules or regulations.

(10) The powers, privileges, and authority of the M.P.O. are those specified in this section and incorporated in the interlocal agreement authorized under s. 163.01. The duties of the M.P.O. are described as those required by federal and state laws and rules and regulations, now and subsequently applicable, necessary to qualify the urbanized areas of the state to receive all federal aid transportation funds for which they are legally eligible as a consequence of the proper exercise of such duties. Such duties shall include, in cooperation with the department, the following functions, and as these functions may subsequently be amended or expanded by federal and state laws and rules and regulations:

(a) Development of:

1. A multiyear planning program.

2. A transportation plan, consisting of a long-range element and a transportation systems management element.

3. An annual unified planning work program.

4. An annually updated Transportation Improvement Program, which shall consist of improvements recommended from the transportation systems management and long-range elements of the transportation plan, and shall:

a. Identify transportation improvements recommended for advancement during the program period.

b. Indicate the area's priorities.

c. Group improvements of similar urgency and anticipated staging into appropriate staging periods.

d. Include realistic estimates of total costs and revenues for the program period.

e. Include a discussion of how improvements recommended from the long-range element and the transportation systems management element were merged into the program.

(b) Recommendation to the department and local county and city governments regarding transportation plans, programs, and projects to better ensure their compatibility with the long-range plans and programs of the M.P.O.

(c) Representation of all the jurisdictional areas within the approved urbanized limits in the formulation of those transportation plans and programs defined herein, and otherwise authorized by state and federal laws and rules and regulations.

(d) Performance of other duties delegated to it by federal and state laws or rules or regulations.

(11) The M.P.O. is to be responsible, in cooperation with the department, for transportation modes under the control of the Federal Highway Administration and the Federal Urban Mass Transportation Administration or any successor agency. Other modes such as, but not limited to, air, intercity rail, water, and pipelines can materially impact on the future land use and transportation accessibility of urbanized areas. It is the intent of this section that an M.P.O. should be involved in planning and programming for such facilities to the extent permitted by federal and state laws, rules, regulations, and available funds.

(12) There shall be a written agreement between the M.P.O. and the department clearly establishing a cooperative relationship essential to accomplish the transportation planning requirements of the applicable federal regulations, this section, and other controlling state statutes, including s. 334.02 and ss. 163.3161-163.3211, the Local Government Comprehensive Planning Act. This agreement shall clearly define the procedures for cooperatively carrying out the continuing, cooperative, and comprehensive transportation planning process for the urbanized area.

(13) The M.P.O. shall execute and maintain an agreement with the metropolitan and regional A-95 agencies serving the urbanized area. Such agreement shall describe the means by which activities will be coordinated and specify how transportation planning and programming will be part of the comprehensive planned development of the urbanized area.

(14) The M.P.O. shall execute and maintain an agreement with publicly owned operators of mass transportation services which specifies interaction essential to an effective consideration of mass transit usage within the urbanized area.

(15) Federal and state laws and rules and regulations presently existing or subsequently enacted requiring other agreements shall be initiated by the M.P.O. if required to enable it to properly accomplish its functions.

(16) The M.P.O. shall appoint a citizens' advisory committee whose members shall serve at its pleasure. The citizens' advisory committee shall be selected to provide a broad cross-section of citizens with an interest in the development of an efficient, safe, and cost-effective transportation system. Minorities, the elderly, and the handicapped shall be adequately represented. However, the M.P.O. may, with department and federal concurrence, adopt an alternate program or mechanism which will ensure adequate citizen involvement in the transportation planning process.

(17) The M.P.O., in cooperation with the department, shall appoint a technical advisory committee which shall include the professional and technical planners, engineers, and other appropriate disciplines employed by, or residing in, the signatory agencies of the interlocal agreement.

(18) Each M.P.O. shall receive its proportionate share of federal planning funds for the purpose of carrying out transportation planning and programming.

(19) Each M.P.O. may employ personnel or may enter into contracts with other local and state agencies, as well as private planning and engineering firms, to carry out the urban transportation planning process required by 23 U.S.C. s. 134 and by chapter 334.

(20) Any other provisions of this section to the contrary notwithstanding, any county chartered under s. 6(e), Art. VIII of the State Constitution may elect to have its duly elected officials serve as the M.P.O. if the area represented is wholly contained within such chartered county. Any chartered county electing to exercise the provisions of this section shall notify the Governor in writing. Upon receipt of such notification, the Governor shall forthwith designate the elected officials of such chartered county as the

M.P.O. and shall appoint the nonvoting representatives of the department in accordance with existing agreements between the M.P.O. and the department or as deemed necessary in the absence of such an agreement. This subsection shall supersede the provisions of subsections (2) and (3) which, in whole or in part, are in conflict herewith.

(21) Each existing M.P.O. shall continue to function until an M.P.O. for that urbanized area can be established under this section, but in no case shall the existing entities continue to function after January 1, 1980.

(22) All agreements, contracts, and other commitments which are in force at the time that the existing M.P.O. is replaced by the M.P.O. established under this section shall remain in force. Provisions for amending or canceling existing agreements, contracts, and other commitments, contained within each such document, may be exercised by the M.P.O. after it has been legally designated.

(23) Upon notification by an agency of the Federal Government that any provision herein conflicts with federal laws or regulations, the federal laws or regulations shall take precedence to the extent of the conflict and until it is resolved; and such actions as are necessary to be taken to comply with federal laws and regulations in order to receive federal funds shall be permitted.

(24) Each metropolitan planning organization required under this section shall be fully operative no later than 6 months following designation by the Governor.

History.—s. 1, ch. 79-219; s. 1, ch. 82-9.

334.22 Annual reports.—

(1) The department shall report to the Governor not later than 60 days before the meeting of each session of the Legislature such changes in the laws as the department may determine as being expedient to secure the best results in road construction and repair work.

(2) The department shall also file with the Governor not later than 60 days prior to such meeting of each session of the Legislature a report covering the operation of the department for the preceding fiscal year, which shall include a summary statement of the financial operations of the department and any other fiscal information that the Governor may request.

History.—s. 21, ch. 29965, 1955; ss. 23, 35, ch. 69-106; s. 1, ch. 73-311.

334.23 Annual audit by Auditor General.—The Auditor General shall make an audit of the books and accounts of the department not less than once each year. The department is authorized to reimburse the Auditor General for the expense of the annual audit. A copy of the annual audit shall be filed with the Secretary of the Senate and the Clerk of the House of Representatives for the use and benefit of the members of the Legislature.

History.—s. 22, ch. 29965, 1955; s. 8, ch. 69-82; ss. 23, 35, ch. 69-106.

334.235 Performance audits.—The Auditor General shall conduct periodic performance audits, as defined in s. 11.45, of the following functions and processes of the department, which audits shall include, at a minimum, a review of:

(1) CONSULTANT CONTRACTING.—The audit shall include a review of the need for consultants, the process used to select consultants and award contracts, the administration of contracts by the department, and the internal review process used to develop contract terms and conditions. In evaluating the selection and award process, the Auditor General shall specifically address the relative merits of alternative processes used by other governmental agencies when contracting for similar work. In comparing the contracting methods used by the department with those of other governmental agencies, the Auditor General shall also make a detailed review of the determination of fees.

(2) CONSTRUCTION CONTRACTS.—The audit shall include a review of construction contract award processes and the internal process used to develop contract terms and conditions and a review of the justification for supplemental agreements, time extensions, waivers of liquidated damage provisions, and the adequacy of construction engineering inspections by the department.

(3) QUALITY OF DESIGN PLANS.—The audit shall include an analysis of the quality of design plans used by the department and an analysis of the cost effectiveness of consolidating all or part of the design functions of the department into a single unit. The Auditor General shall compare the relative merits and costs of performing design work in-house as opposed to contracting with private consultants.

(4) RIGHT-OF-WAY ACQUISITION PROCESS.—The audit shall include a review of the entire process used to acquire rights-of-way and, at a minimum, shall specifically address the appraisal and condemnation processes.

(5) ENFORCEMENT OF OVERWEIGHT LAWS.—The audit shall include an analysis of the enforcement of overweight penalties by the department and an analysis of the adequacy of the state's overweight penalties.

(6) INSPECTOR GENERAL'S FUNCTIONS.—The audit shall include a review of the effectiveness of the department's inspector general program and specifically address internal management reviews of consultant contracts and the use of internal audit recommendations by the department in the award of contracts. The Auditor General shall also analyze the frequency with which such internal reviews are conducted and the efforts by the department to implement recommendations made by its inspector general.

(7) MINORITY PROGRAMS.—The audit shall include a review and analysis of the performance of the department for at least the last 5 years in employing minorities and the use of minority business enterprises in implementing the expenditure of both federal and state dollars. The audit should also include a comparison of the programs of the department with those of other states and recommendations for improvements.

The performance audits required by this section shall first be submitted to the Legislature on or before February 1, 1984. Thereafter, the Auditor General shall make performance audits of department functions or programs identified in this section or of other

department functions or programs whenever directed to do so by the Legislature or the Joint Legislative Auditing Committee. The Auditor General shall also report to the Legislature on the efforts made by the department to rectify problems noted in prior audits.

History.—s. 1, ch. 312.

334.24 Road appraisal reports; research studies.—

(1) The [1]Division of Road Operations of the Department of Transportation shall:

(a) Collect data and information as to all roads in the state, and where practicable have maps and plats thereof made;

(b) Investigate and collect data and information as to the best methods and materials for road building and repair;

(c) Investigate and gather information as to road building and repairing in the different localities in this state;

(d) Compile all such data and information, and furnish the same free, upon request, to the boards of county commissioners of the several counties;

(e) Keep on file at the division headquarters copies of same as a public record.

(2) The division is hereby authorized to enter into contracts from time to time with the universities of higher learning within the state for the training of engineers, making of engineering research studies and the furnishing of data concerning same in the fields of soil stabilization, properties of concrete and concrete aggregate, bituminous wearing surfaces and pavements, and other highway research fields which are needful and beneficial in the planning, construction and improvement of public highways. The division is authorized to pay for such services out of the State Transportation Trust Fund.

History.—s. 23, ch. 29965, 1955; s. 1, ch. 63-174; ss. 23, 35, ch. 69-106; ss. 2, 3, ch. 73-57.

[1]Note.—See s. 1, ch. 81-209, which reorganized, in part, the division structure within the Department of Transportation.

334.25 Seal of department.—The Department of Transportation shall adopt and use a common seal, and a certificate under seal and signed as provided by regulation of the department, shall constitute sufficient evidence of the action of the department.

History.—s. 24, ch. 29965, 1955; ss. 23, 35, ch. 69-106.

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2. The willingness to contribute toward the cost of facility construction;
3. The type and quality of the service or product offered;
4. The price structure of the service or product offered;
5. Management experience and capabilities;
6. The national brand names offered;
7. The originality of the concept and its relationship to the turnpike system;
8. The lease rate; and
9. Other factors that the department may deem pertinent.

(b) To afford users of any turnpike project a reasonable choice of motor fuels of different brands:
1. No person shall operate more than 50 percent of the service stations on the turnpike system.
2. No single brand of motor fuel, identified by the trademarks, trade names, or brands of any one supplier, distributor, or retailer of such fuel, shall be sold at more than 50 percent of the service stations on the turnpike system or at more than one service station at the same service plaza.

History.—s. 12, ch. 28128, 1953; ss. 23, 35, ch. 69-106; s. 1, ch. 74-73; s. 1, ch. 77-174; s. 1, ch. 84-276; s. 193, ch. 84-309.
Note.—Division of former s. 340.12.

338.237 Municipal signs on turnpike rights-of-way; limitations.—Any incorporated municipality may maintain signboards along and upon the right-of-way of any turnpike project constructed hereunder, provided such signs meet the specifications as to location, frequency, construction, and design which are prescribed by the department. Any such signboard shall not advertise any private industry, business, or attraction, but shall advertise only the community or area placing such board upon the turnpike project.

History.—s. 1-B, ch. 29634, 1955; ss. 23, 35, ch. 69-106; s. 1, ch. 77-174; s. 200, ch. 84-309.
Note.—Division of former s. 340.34.

338.239 Traffic control on turnpike projects.—
(1) The department is authorized to adopt rules with respect to the use of a turnpike project, which rules shall relate to vehicular speeds, loads and dimensions, safety devices, rules of the road, and other matters necessary to carry out the purposes of ss. 338.22-338.244. Insofar as such rules may be inconsistent with the provisions of chapter 316, such rules shall be controlling. A violation of such rules shall be punished in accordance with s. 316.655.
(2) Members of the Florida Highway Patrol are vested with the power, and charged with the duty, to enforce the rules of the department. Expenses incurred by the Florida Highway Patrol in carrying out its powers and duties under ss. 338.22-338.244 may be treated as a part of the cost of the operation of a turnpike project, and the Department of Highway Safety and Motor Vehicles shall be reimbursed by the Department of Transportation for such expenses.

History.—s. 23, ch. 28128, 1953; ss. 10, 23, 24, 35, ch. 69-106; s. 244, ch. 71-136; s. 8, ch. 74-377; s. 51, ch. 76-31; s. 56, ch. 78-95; s. 198, ch. 84-309.
Note.—Former s. 340.23.

338.241 Cash reserve requirement.—The budget for the Turnpike Project Improvement Fund shall be so planned as to exhaust the funds estimated to be available for the year with the exception of a cash reserve retained in the fund, which reserve shall not be less than 10 percent of the unpaid balance of all turnpike improvement obligations outstanding at any time.

History.—s. 3, ch. 63-257; s. 1, ch. 65-158; ss. 2, 3, ch. 67-371; ss. 23, 31, 35, ch. 69-106; s. 119, ch. 79-190; s. 1, ch. 82-162; s. 201, ch. 84-309.
Note.—Former s. 340.35.

338.244 Prohibition against certain expenditures for publicizing or advertising turnpike projects.—No funds appropriated to the Department of Commerce shall be expended for publicizing or advertising any turnpike project constructed under the provisions of ss. 338.22-338.244.

History.—s. 1-B, ch. 29634, 1955; s. 24, ch. 67-1; ss. 17, 23, 35, ch. 69-106; s. 1, ch. 73-283; s. 1, ch. 77-174; s. 200, ch. 84-309.
Note.—Division of former s. 340.34.

CHAPTER 339

TRANSPORTATION FINANCE AND MISCELLANEOUS PROVISIONS

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339.035 Expenditures.—All expenditures by the department shall be made upon vouchers issued and certified by the department in such manner as the department may, by rule or internal management memorandum as required by chapter 120, provide and shall be paid by warrants issued by the Comptroller upon the Treasurer.

History.—s. 19, ch. 29965, 1955; ss. 23, 35, ch. 69-106; s. 302, ch. 84-309.
Note.—Former s. 334.20.

339.04 Disposition of proceeds of sale or lease of realty by the department.—Any money derived from the sale, lease, or conveyance of any property by the department shall be deposited into the State Treasury and placed in the State Transportation Trust Fund.

History.—s. 135, ch. 29965, 1955; s. 2, ch. 61-119; ss. 23, 35, ch. 69-106; s. 1, ch. 71-39; ss. 2, 3, ch. 73-57; s. 203, ch. 84-309.

339.05 Assent to federal aid given.—The state hereby assents to the provisions of the Act of Congress approved July 11, 1916, known as the Federal Aid Law, which Act of Congress is entitled "An act to provide that the United States shall aid the states in the construction of rural post roads and for other purposes," and assents to all subsequent amendments to such Act of Congress and any other act heretofore passed or that may be hereafter passed providing for federal aid to the states for the construction of highways and other related projects. The department is authorized to make application for the advancement of federal funds and to make all contracts and do all things necessary to cooperate with the United States Government in the construction of roads under the provisions of such Acts of Congress and all amendments thereto.

History.—s. 136, ch. 29965, 1955; ss. 23, 35, ch. 69-106; s. 204, ch. 84-309.

339.06 Authority of department to amortize advancements from United States.—The department may set aside, from any revenues allocated to it by law, such sums as are necessary and sufficient to properly amortize any amount advanced under Act of Congress and to make suitable provision from year to year in its annual budget for such amortization.

History.—s. 137, ch. 29965, 1955; ss. 23, 35, ch. 69-106; s. 205, ch. 84-309.

339.07 National aid expended under supervision of the department.—All funds and all road building equipment, supplies, and materials that have heretofore or may hereafter be apportioned to this state by Congress to aid and assist in road building shall be expended and used under the control and supervision of the department, and any and all expenses which are necessary to secure such equipment, supplies, and materials for the use of the state to be used on the roads under the supervision of the department are authorized to be paid out of the State Transportation Trust Fund.

History.—s. 138, ch. 29965, 1955; s. 24, ch. 67-1; s. 2, ch. 61-119; ss. 23, 35, ch. 69-106; ss. 2, 3, ch. 73-57; s. 206, ch. 84-309.

339.08 Use of moneys in State Transportation Trust Fund.—
(1) The department shall by rule provide for the expenditure of the moneys in the State Transportation Trust Fund accruing to the department, in accordance with its annual budget.
(2) Such rules shall provide that the use of such moneys be restricted to the following purposes:
(a) To pay administrative expenses of the department, including administrative expenses incurred by the several state transportation districts.
(b) To pay the cost of construction of the State Highway System, including amounts necessary to match federal-aid funds for such purposes. The department shall also match federal-aid highway funds allocated to the county road and city street systems and is authorized to contract for and administer such federal-aid projects in cooperation with local officials in accordance with federal regulations.
(c) To pay the cost of maintaining the State Highway System.
(d) To pay the cost of public transportation projects in accordance with chapter 341 and ss. 332.003-332.007 and to make such other lawful expenditures of the department for the payment of which no other funds may be specified.
(3)(a) After June 30, 1985, no moneys in the State Transportation Trust Fund may be used:
1. To pay any costs related to economic development road projects under s. 288.063; or
2. To fund the operational or capital outlay cost for any correctional facility of the Department of Corrections. The department shall, however, enter into contractual arrangements with the Department of Corrections for those specific maintenance functions which can be performed effectively by prison inmates under the supervision of Department of Corrections personnel with technical assistance being provided by the department. The cost of such contracts shall not exceed the cost that would be incurred by the department if such functions were to be performed by its personnel or by contract with another entity, unless, notwithstanding cost, the de-

partment can clearly demonstrate that for reasons of expediency or efficiency it is in the best interests of the department to contract with the Department of Corrections.

(b) Funds appropriated from the State Transportation Trust Fund for economic development projects before July 1, 1985, may be used by the Department of Commerce for any project authorized by s. 288.063, the provisions of subsection (2) to the contrary notwithstanding.

History.—s. 139, ch. 29965, 1955; s. 1, ch. 31418, 1956; s. 19, ch. 57-318; s. 1, ch. 63-219; ss. 23, 35, ch. 69-106; s. 13, ch. 77-165; s. 4, ch. 77-416; s. 1, ch. 78-286; s. 115, ch. 79-150; s. 2, ch. 80-312; s. 1, ch. 82-120; s. 58, ch. 83-3; s. 1, ch. 83-346; ss. 207, 213, ch. 84-309.

339.0805 State Transportation Trust Fund; specified percentage to be expended with small businesses owned by socially and economically disadvantaged persons; construction management development program; bond guarantee program.—

(1) Except to the extent that the head of the department determines otherwise, not less than 10 percent of the amounts expended from the State Transportation Trust Fund shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals as defined by s. 8(d) of the Small Business Act (15 U.S.C. s. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto. In fulfilling this mandate, the department shall utilize every means available to it, including, but not limited to, goals and set-asides for competitive bidding and contracting only by, between, and among those firms which are certified by the department as socially and economically disadvantaged business enterprises and which are prequalified as may be appropriate. It is the policy of the state to meaningfully assist socially and economically disadvantaged business enterprises through a program that will provide for the development of skills through business management training, as well as financial assistance in the form of bond guarantees, to primarily remedy the effects of past economic disparity. Such competitive sealed proposals may be the result of joint ventures between small business concerns which are owned and controlled by socially and economically disadvantaged individuals and other subcontractors.

(2) The head of the department is authorized to expend up to 6 percent of the funds specified in subsection (1) which are designated to be expended on small business firms owned and controlled by socially and economically disadvantaged individuals to conduct, by contract or otherwise, a construction management development program. Participation in the program will be limited to those firms which are certified under the provisions of subsection (1) by the department or the federal Small Business Administration or to any firm which has annual gross receipts not exceeding 2 million dollars averaged over a 3-year period. The program will consist of classroom instruction and on-the-job instruction. The registration fee shall be set to cover the cost of instruction and overhead. No salary will be paid to any participant.

(a) Classroom instruction will consist of, but is not limited to, project planning methods for identifying manpower, equipment, and financial resource needs; bookkeeping; state bidding and bonding requirements; state and federal tax requirements; and strategies for obtaining loans, bonding, and joint venture agreements.

(b) On-the-job instruction will consist of, but is not limited to, setting up the job site; cash flow methods; project scheduling; quantity takeoffs; estimating; reading plans and specifications; department procedures on billing and payments; quality assessment and control methods; and bid preparation methods.

(c) Contractors who have demonstrated satisfactory project performance, as defined by the department, can be exempted from the provisions of paragraphs (a) and (b), but shall pay the registration fee and be validated as meeting the minimum curriculum standards of proficiency, in the same manner as participants who successfully complete the construction management development program only if they intend to apply for funds provided for in subsection (3).

(d) The department shall develop, under contract with the State University System, the community college system, a school district in behalf of its vocational technical center, or a private consulting firm, a curriculum for instruction in the courses that will lead to a certification of proficiency in the construction management development program.

(3) The head of the department is authorized to expend up to 4 percent of the funds specified in subsection (1) on a bond guarantee program for participants who are certified under subsection (1) and who meet the minimum curriculum standards of proficiency. The state will guarantee up to 90 percent of a bond amount of $250,000, or less, and 80 percent of a bond amount greater than $250,000, which bond is provided by an approved surety. However, in addition to the requirements of paragraph (2)(c), a person participating in the bond guarantee program must place 5 percent of the contract amount in reserve with the department until final acceptance of the project, in order to receive a bond guarantee. The department shall not commit funds for this program which are in excess of those funds appropriated specifically for this purpose.

(4) Within 1 year after implementation of this section, and every year thereafter, the head of the department is required to report the progress of this program to the President of the Senate, the Speaker of the House of Representatives, and the Governor. The report shall include, as a minimum, the number of users of the bond guarantee plan, along with the number of defaults and dollar loss to the state; the number of students participating in the construction management development program by urban location; the number certified and not certified; the cost of the program categorized by cost of administration, cost of instruction (on-the-job and classroom), and cost of supplies; and a comparison figure of those firms certified by the department under subsection (1) over the year, and the same figure for socially and economically disadvantaged contractors prequalified to perform prime contracting work for the department.

(5) The department shall promulgate rules for implementing the directives contained in this section.

History.—s. 208, ch. 84-309; s. 1, ch. 84-370.

339.081 Department trust funds.—The Comptroller shall maintain within the State Treasury the following trust funds for the department:

(1) The State Transportation Trust Fund, to which shall be credited the proceeds of the gas tax as authorized by chapter 83-3, Laws of Florida, and such other funds which accrue to the department which are not required to be maintained in separate trust funds.

(2) The Working Capital Trust Fund created by s. 339.145 for the efficient operation of the department.

(3) The ACI Revolving Trust Fund as provided for in s. 335.035.

(4) Such other funds as may be authorized by bond resolutions or agreements with any other public bodies or agencies.

History.—s. 1, ch. 61-492; ss. 23, 35, ch. 69-106; ss. 2, 3, ch. 73-57; ss. 39, 58, ch. 83-3; s. 208, ch. 84-309.

339.083 County transportation trust fund; controls and administrative remedies.—[Transferred to s. 336.022 by s. 63, ch. 84-309.]

339.089 Use by counties of the surplus from the constitutional gas tax.—[Amended and transferred to s. 336.023 by s. 64, ch. 84-309.]

339.09 Use of transportation tax revenues; restrictions.—

(1) Funds available to the department shall not be used for any nontransportation purpose. However, the department shall construct and maintain roads, parking areas, and other transportation facilities adjacent to and within the grounds of state institutions, public community colleges, farmers' markets, and wayside parks upon request of the proper authorities.

(2) The department may, in cooperation with the Federal Government, expend transportation tax revenues pursuant to rules adopted by the department, for control of undesirable rodents, relocation assistance, and moving costs of persons displaced by highway construction to the extent, but only to the extent, required by federal law to be undertaken by the state to continue to be eligible for federal highway funds.

(3) The department may expend transportation tax revenues, pursuant to rules adopted by the department, on non-federal-aid projects which shall include relocation assistance and moving costs to persons displaced by transportation facilities or other related projects. Such rules shall, in no case, exceed the provisions of the Federal Uniform Relocation Assistance and Real Property Acquisition Act of 1970. The department has the authority to carry out its responsibilities under this act; however, such authority does not extend to the power of eminent domain. Whenever possible, such costs shall be financed out of funds used for the principal project.

History.—s. 140, ch. 29965, 1955; s. 1, ch. 63-385; s. 1, ch. 69-233; ss. 17, 23, 35, ch. 69-106; s. 7, ch. 70-239; s. 1, ch. 72-208; s. 70, ch. 72-221; s. 1, ch. 73-283; s. 1, ch. 77-174; ss. 57, 209, ch. 84-309.

339.092 Use of gas revenues; state roads money.—[Repealed by s. 210, ch. 84-309.]

339.10 Confirming advances of first gas tax funds to counties; authorizing advances of proceeds of tax on sales of motor and special fuels in the future.—[Repealed by s. 211, ch. 84-309.]

339.12 Aid and contributions by governmental entities for construction or maintenance of roads in State Highway System; federal aid.—

(1) Any governmental entity may aid in the construction or maintenance of any road on the State Highway System, by contributions to the department of cash, bond proceeds, time warrants, or other goods or services of value in the construction or maintenance of such state roads.

(2) The department may accept and receive any such aid and contributions and dispose of and use the same in the construction or maintenance of such state roads.

(3) In case any such aid or contribution is given or made by any county or special road and bridge district, such aid or contribution shall be used by the department only in the construction or maintenance of such state roads in the county or special road and bridge district as are designated and agreed upon by the department and the officials of such county or special road and bridge district.

(4) Upon accepting the contribution of road bond proceeds, the department shall enter into agreements with the commissioners of the county or the trustees of the special road and bridge district in which such road bonds have been voted by the people, for the construction of the roads and bridges in accordance with specifications agreed upon between the department and the commissioners of such county or the trustees of such district. The department shall receive from such county, in consideration thereof, the net proceeds of the sale of the bonds so voted, after deducting expenses and the commission on the sale and administration of such bonds. The department in no instance is to receive from such county an amount in excess of the actual cost of the construction of such state roads.

(5) The department may propose and obtain the designation of any of the roads and bridges to be constructed as a federal-aid project and obtain reimbursement from the United States in accordance with existing regulations.

(6) The federal-aid money obtained under subsection (5) shall first be applied to the completion of the roads for which the bonds have been voted, if the money from the bonds is not sufficient therefor; and any residue shall be expended in the construction of any state road that the department and the commissioners of the county may agree upon.

History.—s. 143, ch. 29965, 1955; ss. 23, 35, ch. 69-106; s. 1, ch. 75-146; s. 2, ch. 78-286; s. 212, ch. 84-309.

339.125 Covenants to complete on revenue-producing projects.—

(1) The department may use available funds for the preparation of preliminary engineering plans with valid cost estimates, which plans and estimates shall be completed prior to the issuance of any bonds on all revenue-producing transportation projects. However, the department shall be reimbursed for the costs incurred for such preparation from the proceeds of the bond issue.

(2) The department shall not use or pledge the moneys in the State Transportation Trust Fund on any revenue-producing transportation project without legislative approval. This limitation on pledging such moneys shall in no way impair the ability of the department or the counties to enter into covenants to complete transportation projects from all other legally available funds.

(3) No state bonds shall be sold for any revenue-producing transportation project if the proceedings authorizing such bonds include a covenant to complete by the department from the moneys in the State Transportation Trust Fund until the department has made cost estimates based on the most current information available after approval of the final environmental impact statement for such project and has determined based on such estimates that the projected available funds for any such project, excluding the use of such moneys pursuant to a covenant to complete, are sufficient to pay for such project. Toll increases of 20 percent every fifth year or as determined by the Division of Bond Finance may be used in conjunction with the calculation of projected available funds. No additions shall be made to any revenue-producing project for which a covenant to complete from such moneys has been made which would expand the scope of such project unless such additions are specifically approved by the Legislature. For the purposes of this subsection, the term "project scope" means the terminal points, the number of interchanges, and grade separations as approved by the Legislature. No contingency funds in the construction trust fund for any revenue-producing project for which a covenant to complete from such moneys has been made shall be expended for any purpose other than such project until the completion of such project; however, such funds may be expended for other purposes if permitted by the proceedings authorizing such bonds and if the department certifies to the Executive Office of the Governor that such contingency funds are not required for the completion of the project and are available and sufficient for such other purposes and the Executive Office of the Governor approves such certification in writing to the department.

(4) In any lease-purchase agreement or trust indenture, which includes a covenant to complete by the department from the moneys in the State Transportation Trust Fund, the department shall provide for the expeditious repayment of any and all costs incurred by the department as a result of the covenant to complete the transportation project. Such agreements shall provide for such repayment from excess tolls or constitutional gas tax proceeds not required for payment of principal, interest, reserves, and other required deposits for the bonds and for the annual reimbursement from tolls or other local moneys or both, to the extent legally available, of all operating and maintenance costs of the facilities, as provided by the applicable provisions of the State Constitution and the bond proceedings. A lease-purchase agreement must also include a statement that changes to the operating characteristics of the project toll-collection system cannot be made without the concurrence of the department, if such changes would affect department personnel and finances.

(5) The provisions of subsections (3) and (4) do not apply to any revenue-producing project approved by the Legislature prior to July 1, 1978.

History.—s. 213, ch. 84-309.

339.135 Budgets; preparation, adoption, execution, and amendment.—

(1) FISCAL YEAR.—The fiscal year of the department shall begin July 1 of each year and end on June 30 of the succeeding year. Such fiscal year constitutes a budget year for all operating funds of the department.

(2) FILING OF BUDGET.—The department shall file each budget in the manner required by chapter 216, except that the right-of-way, construction, and maintenance plan expenditures and all grants and aids of the department shall be set forth only in total in such budget with the project details to be submitted as provided in subsection (5).

(3) PROPOSED ANNUAL PROGRAM BUDGET.—The department shall prepare a proposed annual program budget pursuant to the budgets submitted as provided by chapter 216.

(4) NATURE AND SCOPE OF THE ANNUAL PROGRAM BUDGETS.—

(a) The proposed and final annual program budgets required by subsections (3) and (7) shall present a complete, balanced financial plan for the State Transportation Trust Fund and the restricted funds.

(b) The receipt side of such budgets shall set forth all anticipated fund balances to be brought forward at the beginning of the budget year. The fund balance is the difference between the current assets and the current liabilities and reserves, as commonly defined in accounting terminology, of each fund enumerated herein. It shall set forth by source all estimated revenues and receipts anticipated to be available during the ensuing year for which the budgets are prepared, except that no anticipated receipts estimated to be received from various federal-aid acts of Congress shall be budgeted in excess of the amount which may be earned by the amount of state receipts set aside to match such federal aid; and the state funds thus set aside to match federal-aid funds shall be used only for such matching purposes. The department shall, prior to the preparation of the budgets, ascertain the amount of apportionments of federal-aid funds which are, or which are estimated to be, available to the department for expenditure in the fiscal year for which the budgets are prepared; and the department shall budget sufficient funds for matching purposes.

(c) The expenditure side of the annual program budgets shall set forth the proposed expenditures of the department as classified by major program and appropriation categories to accomplish the objectives of the department.

(d) The annual program budgets for the State Transportation Trust Fund and restricted funds, unless otherwise provided by law, shall be so planned as to exhaust the estimated resources of each fund for the year, with the exceptions of an emergency reserve (in such amount as the department deems necessary) for the purpose of doing emergency work which may be found to be necessary to be done during the year in order to prevent the stoppage of travel over any transportation facility over which the department has jurisdiction and control and the reserve required

in paragraph (8)(b). At any time during the last 2 months of the fiscal year, the emergency work reserve or any portion of it may be used as provided for herein.

(5) FUNDING AND DEVELOPING A TRANSPORTATION PLAN.—

(a)1. A plan of work to be undertaken during the ensuing budget year shall be prepared for the State Transportation Trust Fund and each restricted fund, unless otherwise provided by law, setting forth all projects to be undertaken during such budget year. For each budget year, the transportation plan of the annual program budget shall be for the ensuing 5 years and shall be referred to as the "5-year transportation plan." The total amount of the 5-year transportation plan in each fiscal year shall not exceed an amount that would prevent the department from meeting the expenditure requirements for the projects set forth therein.

2. The 5-year transportation plan shall include a summary of construction, rights-of-way land acquisition, and public transportation appropriation categories to show the amounts programmed in each appropriation category by district.

3. The 5-year transportation plan shall be developed in conformance with the provisions of s. 339.155(6)(e). Projects shall not be undertaken unless they are listed in the 5-year transportation plan. Such plan shall be developed cooperatively from the outset with the various metropolitan planning organizations of the state. The 5-year transportation plan shall include, to the maximum extent feasible, transportation plans, project priorities, and transportation improvement programs of metropolitan planning organizations. The department shall provide a metropolitan planning organization with written justification for the rescheduling or deletion of a project which is part of the metropolitan planning organization's transportation improvement program from the 5-year plan.

(b) Prior to the annual adoption of the 5-year transportation plan, the department shall hold a public hearing in at least one urbanized area in each of the transportation districts and shall make a presentation at a meeting of each metropolitan planning organization to determine the necessity of making any changes to projects included or to be included in the 5-year transportation plan and to hear requests for new projects to be added to, or existing projects to be deleted from, the 5-year transportation plan. The metropolitan planning organization may request, in writing to the appropriate district office, further consideration of any specific project not included or not adequately addressed in the 5-year transportation plan. The head of the department shall acknowledge and review all such requests and include them in the deliberations of the department prior to the submission of the 5-year transportation plan to the Legislature.

(c) The 5-year transportation plan prepared under the provisions of this subsection shall be submitted to the legislative appropriations committees prior to the start of each regular legislative session.

(d) Beginning with the 1983-1985 biennium, the department shall develop and maintain a list of projects that could be made production-ready within the biennium to use additional sources of revenue. The list shall consist of projects defining programs for the interstate system; noninterstate road and bridge rehabilitation and replacement; traffic operations; public transportation; and major new road and bridge construction. Program amounts shall equal approximately 50 percent of the corresponding funded program in the biennium plan, except that higher limits may be established by the department to accommodate anticipated federal funding actions. Program amounts shall include all project phases. If any of these stated programs is not funded in the biennium plan, the department may determine an appropriate program amount not to exceed $50 million. Projects within each program shall be prioritized based on need. The project list shall be independent of the 5-year transportation plan, except that funded projects in later years of such plan may be included in the project list and advanced to an earlier year if justified by priority. The list shall be submitted to the legislative appropriations committees prior to the start of the regular legislative session.

(6) PUBLICATION OF THE PROPOSED ANNUAL PROGRAM BUDGET.—

(a) The department shall appoint a time and place for a statewide public hearing on the proposed annual program budget and 5-year transportation plan prepared for the State Transportation Trust Fund and restricted funds as required herein, at which time it shall hear all questions, suggestions, or other comments offered by the public in regard to such budget.

(b) At least 5 days prior to the date set for such hearing, there shall be published once in one of the newspapers of general circulation in the state in each of the transportation districts a notice of the time and place of the public meeting for considering such proposed annual program budget, together with a notice that such budget and the 5-year transportation plan of the department are available for inspection by the public at the office of the clerk of the circuit court or chairman of the board of county commissioners.

(c) A copy of the proposed annual program budget and 5-year transportation plan shall be forwarded to the office of the chairman of each board of county commissioners and another copy shall be furnished to each clerk of the circuit court, together with a notice of the public hearing referred to above. The clerk shall post at the front door of the courthouse a copy of the public hearing notice at least 5 days prior to the date of the hearing, along with a notice that the proposed annual program budget and 5-year transportation plan of the department are available for public inspection during his regular office hours. A copy shall also be provided to each municipality which has a population of 3,000 persons or more. The department, upon request, shall provide a copy to any person at cost.

(7) ADOPTION OF THE FINAL PROGRAM BUDGET AND 5-YEAR TRANSPORTATION PLAN OF THE DEPARTMENT.—

(a) In accordance with the appropriations act, the department shall, prior to the beginning of the fiscal year, prepare and adopt a final program budget and 5-year transportation plan in accordance with the foregoing requirements, which may include only those projects submitted as part of the 5-year trans-

portation plan prepared under the provisions of paragraph (5)(a). In the event that additional revenues are appropriated in excess of those required to fund the projects contained in the 5-year transportation plan developed pursuant to paragraph (5)(a), such revenues shall be utilized only on projects developed in accordance with the provisions of paragraph (5)(d).

(b) Projects shall not be undertaken unless they are listed in the annual transportation plan. However, in case any project listed in such plan cannot be undertaken during that year for any justifiable reason, then another project listed in order of priority in the 5-year transportation plan may be undertaken. This provision does not apply to unforeseen emergency projects approved by the department.

(8) EXECUTION OF THE BUDGET.—

(a) The department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The department shall require a statement from the comptroller of the department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the department which are [1]for an amount in excess of $25,000 and which have a term for a period of more than 1 year.

(b) In the operation of the State Transportation Trust Fund, the department shall have on hand at the close of business, which closing shall not be later than the 10th calendar day of the month following the end of each quarter of the fiscal year, an available cash balance (which shall include cash on deposit with the treasury and short-term investments of the department) equivalent to not less than 5 percent of the unpaid balance of all State Transportation Trust Fund obligations at the close of such quarter. In the event that this cash position is not maintained, no further contracts or other fund commitments shall be approved, entered into, awarded, or executed until the cash balance, as defined above, has been regained.

(c) Unless otherwise provided in the General Appropriations Act, any unexpended balance remaining at the end of the fiscal year in the appropriations to the department for special categories, aid to local governments, and lump sums for projects which are part of the multiyear work program may be certified forward as fixed capital outlay until these funds have been expended. The amount certified forward shall include contingency allowances for asphalt and petroleum product escalation clauses, contract overages, and so forth, which allowances shall be separately identified in the certification detail. These contingency amounts shall be incorporated in the certification for each specific category, but when a category has an excess and another category has a deficiency, the Executive Office of the Governor is authorized to transfer the excess to the deficient account.

(9) AMENDMENT OF THE FINAL ANNUAL PROGRAM BUDGET AND 5-YEAR TRANSPORTATION PLAN.—The department has the authority to amend its final annual program budget and 5-year transportation plan at any time during the fiscal year as follows. It may:

(a) Transfer within the same fund any unencumbered budget item, or any portion thereof, from one activity to another.

(b) Transfer between the State Transportation Trust Fund and the restricted funds or between restricted funds, within the provisions of the restrictions by law or by agreement as to the expenditure of such funds, any unencumbered funds.

(c) Budget in the proper fund and expend any receipts not anticipated in the adoption of the budget or receipts in excess of the total anticipated receipts in the adopted budget.

(d) Substitute a project in the adopted 5-year transportation plan for any other project in such plan; however, when any such substitution results in the delay of the right-of-way or construction phase of a project estimated to cost in excess of $500,000, the department shall notify the legislative appropriations committees and transportation committees. The transportation committees shall notify each member of the Legislature who represents the district or districts affected by the substitution. Such notification shall include the name, location, and estimated costs of any project that is advanced in the adopted 5-year transportation plan as a result of the delay of another project. Prior to any such substitution, the department shall also notify any local governmental entity in which such project is located.

(e) Add a project as approved by the department within funds available when the project is less than $150,000 in cost and the addition would not cause a delay of existing projects or add a project as approved by the department when the project is not funded with State Transportation Trust Fund moneys.

(f) Add to, delete from, or reschedule in the adopted 5-year transportation plan projects implemented from aid to local governments-public transportation matching grants in order to reflect local government decisions; however, when any such addition, deletion, or rescheduling results in the delay of the right-of-way phase or construction phase of a project estimated to cost in excess of $500,000, the notification process required in paragraph (d) shall be observed.

History.—s. 30, ch. 29965, 1955; s. 9 ch. 57-318; s. 1, ch. 61-80; ss. 2, 3, ch. 67-371; s. 1, ch. 69-356; ss. 23, 35, ch. 69-106; ss. 1, 2, ch. 70-996; s. 1, ch. 72-66; ss. 2, 3, ch. 73-58; s. 2, ch. 75-3; s. 1, ch. 82-31; s. 1, ch. 83-232; s. 214, ch. 84-309; s. 1, ch. 84-332.

[1]Note.—The words "for an amount" were inserted by the editors.

Note.—Former s. 334.21.

339.145 Working Capital Trust Fund; expenditure of such funds.—

(1) There is created a Working Capital Trust Fund, into which fund shall be deposited an amount deemed necessary by the department and approved by the Executive Office of the Governor for the efficient operation of the department. Such amount may be obtained from any trust fund or funds under the control and custody of the department. The Working Capital Trust Fund may be used to pay any and all bills of the department; however, in the succeeding month, the appropriate trust fund shall reimburse the Working Capital Trust Fund for all expenditures properly attributable to such reimbursing trust fund.

(2) The department is authorized to use a single cash control for the fund charges for other budget entities on a unit-cost basis for services rendered by the Burns Data Center and Centralized Mobile Equipment and Warehouse Operations budget entities. The department shall maintain adequate internal records to record these charges and reflect these as commitments on a quarterly funding matrix report to be submitted to the Executive Office of the Governor no later than 20 calendar days after the close of each calendar quarter. In addition, the appropriation categories entitled "Payments for Centralized Support Services" and "Data Processing Services" shall continue to be reflected in the legislative budget system as specific appropriations.

History.—s. 1, ch. 72-87; s. 117, ch. 79-190; s. 2, ch. 83-232; s. 215, ch. 84-309.

Note.—Former s. 334.2105.

339.147 Audits by Auditor General.—The department is authorized to reimburse the Auditor General for the expense of any audit of the department when the funding of such audit is specifically provided for in the appropriations act. A copy of any such audit shall be filed with the Secretary of the Senate and the Clerk of the House of Representatives for the use and benefit of the members of the Legislature.

History.—s. 22, ch. 29965, 1955; s. 8, ch. 69-82; ss. 23, 35, ch. 69-106; s. 216, ch. 84-309.

Note.—Former s. 334.23.

339.149 Performance audits.—The Auditor General shall conduct periodic performance audits, as defined in s. 11.45, of the following functions and processes of the department, which audits shall include, at a minimum, a review of:

(1) CONSULTANT CONTRACTING.—The audit shall include a review of the need for consultants, the process used to select consultants and award contracts, the administration of contracts by the department, and the internal review process used to develop contract terms and conditions. In evaluating the selection and award process, the Auditor General shall specifically address the relative merits of alternative processes used by other governmental entities when contracting for similar work. In comparing the contracting methods used by the department with those of other governmental entities, the Auditor General shall also make a detailed review of the determination of fees.

(2) CONSTRUCTION CONTRACTING.—The audit shall include a review of construction contract award processes and the internal process used to develop contract terms and conditions and a review of the justification for supplemental agreements, time extensions, waivers of liquidated damage provisions, and the adequacy of construction engineering inspections by the department.

(3) QUALITY OF DESIGN PLANS.—The audit shall include an analysis of the quality of design plans used by the department and an analysis of the cost-effectiveness of consolidating all or part of the design functions of the department into a single unit. The Auditor General shall compare the relative merits and costs of performing design work in-house as opposed to contracting with private consultants.

(4) RIGHT-OF-WAY ACQUISITION PROCESS.—The audit shall include a review of the entire process used to acquire rights-of-way and, at a minimum, shall specifically address the appraisal and condemnation processes.

(5) ENFORCEMENT OF OVERWEIGHT LAWS.—The audit shall include an analysis of the enforcement of overweight penalties by the department and an analysis of the adequacy of state overweight penalties.

(6) INSPECTOR GENERAL'S FUNCTIONS.—The audit shall include a review of the effectiveness of the inspector general program of the department and specifically address internal management reviews of consultant contracts and the use of internal audit recommendations by the department in the award of contracts. The Auditor General shall also analyze the frequency with which such internal reviews are conducted and the efforts by the department to implement recommendations made by its inspector general.

(7) MINORITY PROGRAMS.—The audit shall include a review and analysis of the performance of the department for at least the last 5 years in employing minorities and the use of minority business enterprises in implementing the expenditure of both federal and state dollars. The audit should also include a comparison of the programs of the department with those of other states and recommendations for improvements.

The performance audits required by this section shall first be submitted to the Legislature on or before February 1, 1984. Thereafter, the Auditor General shall make performance audits of department functions or programs identified in this section or of other department functions or programs whenever directed to do so by the Legislature or the Joint Legislative Auditing Committee. The Auditor General shall also report to the Legislature on the efforts made by the department to rectify problems noted in prior audits.

History.—s. 1, ch. 83-2; s. 217, ch. 84-309.

Note.—Former s. 334.235.

339.155 Transportation planning.—

(1) DEFINITIONS.—For the purposes of this section, the following definitions shall be employed:

(a) The term "local governmental entity" means the governing body of the municipality, county, or other local governing unit or any officially designated public agency or authority thereof, including a regional planning agency, metropolitan planning organization, special road and bridge district, expressway authority, or other transportation authority established by law, in the area in which the transportation facility will be located.

(b) The term "major transportation facility" means:

1. Any facility primarily designed to rapidly and efficiently transport goods and passengers between distant points, including, but not limited to, an air transport facility, railroad, bus service, terminal,

freeway, expressway, major arterial highway, belt highway, or port facility; or

2. Any facility utilized in providing a mass transit system for a metropolitan statistical area.

(c) The term "metropolitan statistical area" means a county or group of contiguous counties which contain at least one central city of 50,000 inhabitants or more or "twin cities" with a combined population of at least 50,000 or such other population estimate as may be provided by law.

(d) The term "transportation corridor" means any area between two geographic points which area is used or suitable for the movement of people and goods by one or more modes of transportation.

(2) DEVELOPMENT OF STATEWIDE TRANSPORTATION PLAN.—A statewide transportation plan shall be developed by the department in conjunction with appropriate local governmental entities. The statewide transportation plan shall be known as the Florida Transportation Plan. The transportation planning functions which are required of state and local governmental entities shall be undertaken consistent, to the maximum extent feasible, with the policies and guidelines section of the Florida Transportation Plan as provided in paragraph (6)(a). In developing the Florida Transportation Plan, the department shall take into account:

(a) Future as well as present needs;

(b) All possible alternative modes of transportation;

(c) The joint use of transportation corridors and major transportation facilities for alternate transportation and community uses;

(d) The integration of any proposed system into all other types of transportation facilities in the community;

(e) Consistency with regional comprehensive plans and local government comprehensive plans so as to contribute to the management of orderly and coordinated community development; and

(f) The total environment of the community and region, including land use, entrepreneurial decisions, population, travel patterns, traffic control features, ecology, stormwater management plans, pollution effects, aesthetics, safety, and social and community values.

(3) COORDINATION WITH OTHER GOVERNMENTAL ENTITIES AND PRIVATE BUSINESS ENTERPRISES.—

(a) The Florida Transportation Plan shall be developed in coordination with affected state agencies, regional planning agencies, metropolitan planning organizations, other local governmental entities, private business enterprises, and the general public. The Florida Transportation Plan shall constitute the functional plan of the department for the transportation section of the state comprehensive plan, as required in s. 23.014(1)(b).

(b) Intergovernmental agreements which set forth the responsibilities of the parties in the planning process may be established between the department and the appropriate planning entities.

(4) REGIONAL OR LOCAL TRANSPORTATION PLANS.—

(a)1. Each metropolitan planning organization of the state shall submit to the department annually a listing of construction and periodic maintenance projects located within its study area which cost $100,000 or more and which the local governmental entities therein have reported that they intend to undertake during the next 5 years. The listing shall include the estimated amounts to be spent on each project during each budget year. The governmental entities responsible for such construction or maintenance shall provide the metropolitan planning organization with the necessary information by the date requested. The metropolitan planning organization may include the list in, or as an informational section of, its transportation improvement program.

2. The metropolitan planning organization for each urbanized area shall submit to the appropriate district engineer, with a copy to the head of the department, a plan of work for the construction and periodic maintenance of transportation facilities to be undertaken during the ensuing 5 years with any funding source by any governmental entity within its jurisdiction. The plan of work shall list the estimated amounts to be expended on each project during each budget year and shall be prepared by the metropolitan planning organization, with approval by the governing entity of the political subdivision responsible for the construction and maintenance of such transportation facilities.

(b) Upon request by local governmental entities, the department may in its discretion develop and design arterial and collector streets, vehicular parking areas, and other support facilities which are consistent with the plans of the department for major transportation facilities. The department may render to local governmental entities or their planning agencies such technical assistance and services as are necessary so that local plans and facilities are coordinated with the plans and facilities of the department.

(c) Each regional planning council, as provided for in s. 186.504, or any successor agency thereto, shall develop, as an element of its comprehensive regional policy plan, transportation goals and objectives. The transportation goals and objectives shall be consistent, to the maximum extent feasible, with the goals and objectives of the metropolitan planning organization and the policies and guidelines section of the Florida Transportation Plan. The transportation goals and objectives of the regional planning council will be advisory only and shall be submitted to the department and any affected metropolitan planning organization for their consideration and comments. Metropolitan planning organization plans and other local transportation plans shall be developed consistent, to the maximum extent feasible, with the regional transportation goals and objectives. The regional planning council shall review urbanized area transportation plans and any other planning products stipulated in s. 339.175(13) and provide the department and respective metropolitan planning organizations with written recommendations which the department and the metropolitan planning organizations shall take under advisement. Further, the regional planning councils shall directly assist local governments which are not part of an urbanized area transportation planning process in the development of the traffic circulation element of their comprehensive plans as required by s. 163.3177.

(5) SYSTEMATIC PLANNING PROCESS.—The department shall institute a systematic planning

process for considering those factors to be used in developing the statewide transportation plan pursuant to subsection (2) so that any major transportation facility is so planned that it will function as an integral part of the overall plan for local, regional, and state development. The process shall:

(a) Provide the necessary framework to guide transportation planning in the state, consistent with the state comprehensive plan. In order to assist the department in the systematic planning process, there is created the Metropolitan Planning Organization Advisory Committee. The committee shall be composed of a representative from each metropolitan planning organization in the state. Each metropolitan planning organization shall select one representative to serve on the committee and shall notify the department of such selection or any change in representation. The advisory committee shall, by majority vote, make recommendations to the department concerning the statewide transportation plan. The department shall formally document actions taken in response to such recommendations. The advisory committee will augment, and not supplant, the role of individual metropolitan planning organizations in the cooperative transportation planning process.

(b) Identify statewide and local transportation needs and issues by documenting transportation system conditions and projecting future mobility demands. In identifying such needs and issues, consideration shall be given to the condition of existing facilities and services, as well as to new facilities and services.

(c) Apply appropriate methods to evaluate transportation facilities and services. Such transportation facilities and services shall be planned in a manner to achieve an effective balance of modes of transportation which are consistent with statewide transportation needs and issues.

(d) Establish priorities for programs and funding levels which incorporate, to the maximum extent feasible, the project priorities of the metropolitan planning organizations.

(e) Require the department to solicit and consider recommendations from the general public and governmental entities.

(f) Realistically assess funding levels and other resources which are required to provide the needed facilities and services.

(g) Monitor ongoing planning and project implementation by the department and other governmental entities to determine compliance with, and the effectiveness of, the Florida Transportation Plan.

(6) FLORIDA TRANSPORTATION PLAN.—The department shall fully document the systematic planning process pursuant to subsection (5) by adopting the Florida Transportation Plan. The plan shall, at a minimum, consist of the following sections:

(a) *Transportation policies and guidelines.*—This section will direct implementation of the Florida Transportation Plan by the department and the development of the budget for the department. It will serve as the basis for the development of all other sections of the plan and will set forth the overall goals and objectives of the department. This section will guide and assist the development of corresponding regional, metropolitan planning organization, and local transportation plans and programs. The policies and guidelines shall be developed consistent with the systematic planning process outlined in subsection (5).

(b) *Transportation modes.*—This section will direct the departmental plans and programs in the selection of modes of transportation by evaluating individual system plans. The section will set forth the emphasis and priorities of the department by mode, consistent with the statewide transportation needs and issues.

(c) *Transportation corridor designation and coordination.*—This section will designate specific transportation corridors within the state which have been determined to be of major statewide or regional significance. The department shall cooperate with the state land planning agency, regional planning councils, metropolitan planning organizations, and other local governmental entities in:

1. The designation of transportation corridors and in the development of strategies to provide for the orderly and systematic acquisition of rights-of-way located within the corridors.

2. The development and operation of transportation facilities and services within such corridors.

(d) *Performance monitoring.*—This section will establish the process which the department will utilize to evaluate the compliance of the department and other governmental entities with the provisions of the Florida Transportation Plan. It will also review the effectiveness of the department in implementing the projects and programs in the 5-year transportation plan. This section will further provide an overall evaluation of the operation and effectiveness of the department in meeting its goals and objectives. The result of performance monitoring shall be used to guide revisions of the Florida Transportation Plan.

(e) *Five-year program plan.*—This section will coordinate and effectuate the various sections of the Florida Transportation Plan into specific guidelines for the development of the 5-year transportation plan of the department and will establish priorities for programs and funding levels which will direct the scheduling of projects in that plan. To the maximum extent feasible, the department shall provide for the project priorities of the metropolitan planning organizations.

The Florida Transportation Plan shall be reviewed and updated annually.

(7) PROCEDURES FOR PUBLIC PARTICIPATION IN TRANSPORTATION PLANNING.—

(a) The department shall, pursuant to its rules, hold hearings for metropolitan statistical areas and areas projected by the department to become metropolitan statistical areas within 10 years, as follows:

1. A planning hearing, at which time the factors included in subsection (2) shall be presented for discussion and comment. However, a hearing held on a metropolitan urban area transit study or on an equivalent comprehensive planning study shall satisfy the planning hearing requirement if it is so stated in the public notice of the study hearing.

2. A facility and site or corridor hearing, at a time prior to the selection of the type or types of major transportation facility or facilities to be constructed and prior to the selection of the site or corridor of the proposed facility.

3. A design hearing, at a time after the selection of, and prior to the commitment by the department to, a specific design proposal for the facility or facilities.

(b) These public hearings shall be so conducted as to provide an opportunity for effective participation by interested persons in the process of transportation planning and site and route selection and in the specific location and design of transportation facilities. The various factors involved in the decision or decisions and any alternative proposals shall be clearly presented so that the persons attending the hearing may present their views relating to the decision or decisions which will be made.

(c) Opportunity for public hearings:

1. The department, prior to holding a design or planning hearing, shall duly notice all affected property owners of record, as recorded in the property appraiser's office, by mail at least 20 days prior to the date set for the hearing. The affected property owners shall be:

a. Those whose property lies in whole or in part within 300 feet on either side of the center line of the proposed facility.

b. Those who the department determines will be substantially affected environmentally, economically, socially, or safetywise.

2. For each subsequent hearing, the department shall daily publish notice at least 14 days immediately prior to the hearing date in a newspaper of general circulation for the area affected.

3. A copy of the notice of opportunity for public hearing shall be furnished to the United States Department of Transportation and to the appropriate departments of the state government at the time of publication.

4. The opportunity for another public hearing shall be afforded in any case when proposed locations or designs are so changed from those presented in the notices specified above or at a public hearing as to have a substantially different social, economic, or environmental effect.

5. The opportunity for a public hearing shall be afforded in each case in which the department is in doubt as to whether a public hearing is required.

History.—s. 3, ch. 70-958; s. 1, ch. 73-352; s. 1, ch. 77-102; s. 218, ch. 84-309; s. 2, ch. 84-302.

[1]Note.—The words "transportation planning functions which are required" were substituted by the editors for the words "mandated transportation planning functions."

[2]Note.—Section 23.014 was repealed by s. 18, ch. 84-257.

[3]Note.—Former s. 334.211.

[4]—s. 11.031 Official census.

339.175 Transportation planning organization.—

(1) There shall be at least one metropolitan planning organization, hereinafter referred to as an "M.P.O.," established within each urbanized area or group of contiguous urbanized areas where a planning organization is necessary to meet federal requirements for obtaining and expending federal transportation funds. An M.P.O., a composite local governmental entity, or any successor thereto, shall be so designated by the Governor.

(2)(a) The voting membership of an M.P.O. shall consist of not fewer than 5 or more than 15 apportioned members, the exact number to be determined on an equitable geographic-population ratio basis by the Governor, based on an agreement among the affected units of general purpose local government as required by federal rules and regulations, except that in no case shall the county commission members be less than 33⅓ percent of the M.P.O. membership. All voting members shall be elected officials of general purpose governments, except that a local governing entity which has two or more members on the M.P.O. may appoint, as one of its apportioned voting members, a member of a statutorily authorized planning board or transportation, expressway, aviation, or port authority. In urbanized areas in which authorities or other agencies have been, or may be, created by law to perform transportation functions that are not under the jurisdiction of local elected officials, they may be considered by the Governor for one voting membership on the M.P.O.

(b) An M.P.O. shall be created under this section and operated under the provisions of s. 163.01, the Florida Interlocal Cooperation Act of 1969. The signatories to the interlocal agreement shall be the department and the governmental entities designated by the Governor for membership in the M.P.O. In the event that there is a conflict between the provisions of this section and s. 163.01, the provisions of this section will prevail.

(3)(a) The Governor shall, with the agreement of the affected units of general purpose local government as required by federal rules and regulations, apportion the membership among the various governmental entities within the area on the basis of equitable population ratio and geographic factors. The governing entity so designated shall appoint the appropriate number of members to the M.P.O. from eligible officials. Representatives of the department shall serve as nonvoting members of the M.P.O. Nonvoting advisers may be appointed by the M.P.O. as deemed necessary. The Governor shall review the composition of the M.P.O. membership at least every 5 years and reapportion it as necessary to comply with subsection (2).

(b) The members of an M.P.O. shall serve 4-year terms. The membership of a member will terminate upon his leaving his elective or appointive office for any reason, or by a majority vote of the total membership of a county or city governing entity represented by the member. A vacancy shall be filled by the original appointing entity. A member may be reappointed for one or more additional 4-year terms.

(4) If a municipality or county fails to fill an assigned appointment to an M.P.O. within 60 days after notification by the Governor of its duty to appoint, that appointment shall be made by the Governor from the eligible representatives of that municipality or county.

(5) The authority and responsibility of an M.P.O. is for the management of a continuing, cooperative, and comprehensive transportation planning process that results in the development of plans and programs which are consistent with the comprehensively planned development of the urbanized area. An M.P.O. shall be the forum for cooperative decision-making by the principal elected officials of general purpose local government.

(6) Each M.P.O. is responsible for the development of a transportation improvement program and for initiating federally aided transportation facilities

and improvements within its urbanized area in accordance with existing and subsequent federal and state laws and rules and regulations related thereto.

(7) Projects selected on the federal-aid highway urban system, urban extensions of the federal-aid highway primary system, and the interstate system may only be removed from a transportation improvement plan by the joint action of the M.P.O. and the department when such projects have advanced to federal authorization to acquire rights-of-way or have advanced to federal approval of physical construction or implementation if right-of-way acquisition was not previously federally funded.

(8) Rescheduling by the department of major federal-aid projects which are in a transportation improvement program and included in the first 2 years of the department's 5-year transportation plan requires notification to the M.P.O. at the time such changes are made.

(9) Each M.P.O. is responsible for transportation-related air, noise, and water quality planning within the urbanized area as assigned to it by federal or state laws, rules, or regulations.

(10) The powers, privileges, and authority of an M.P.O. are those specified in this section and incorporated in the interlocal agreement authorized under s. 163.01. The duties of an M.P.O. are described as those duties required by federal and state laws, rules, and regulations, now and subsequently applicable, which are necessary to qualify the urbanized areas of the state to receive all federal-aid transportation funds for which they are legally eligible as a consequence of the proper exercise of such duties. Such duties include, in cooperation with the department, the following functions, including any subsequent amendments or expansions required by federal and state laws, rules, and regulations:

(a) Development of:

1. A comprehensive transportation plan which includes consideration of long-range goals and transportation systems management measures.

2. An annual unified planning work program which will identify the planning budget and the planning activities to be undertaken during the program year.

3. An annually updated transportation improvement program, which shall consist of improvements recommended from the transportation plan developed and recommended for federal funding during the program period and which shall:

a. Identify transportation improvements recommended for advancement during the program period of not less than 3 years.

b. Indicate the priorities for the area.

c. Group improvements of similar urgency and anticipated staging into appropriate staging periods.

d. Include realistic estimates of total costs and revenues for the program period.

e. Include a discussion of how improvements relate to the comprehensive transportation plan.

(b) Recommendation to the department and local governmental entities regarding transportation plans, programs, and projects to better ensure their compatibility with the long-range plans and programs of the M.P.O.

(c) Representation of all the jurisdictional areas within the approved urbanized limits in the formulation of those transportation plans and programs defined herein, and otherwise authorized by state and federal laws, rules, and regulations.

(d) Performance of other duties delegated to it by federal and state laws, rules, or regulations.

(11) Each M.P.O. is to be responsible, in cooperation with the department, for transportation modes under the control of the Federal Highway Administration and the Federal Urban Mass Transportation Administration or any successor agency. Other modes such as, but not limited to, air, intercity rail, water, and pipelines can materially impact on the future land use and transportation accessibility of urbanized areas. It is the intent of this section that an M.P.O. should be involved in planning and programming for such facilities to the extent permitted by federal and state laws, rules, and regulations and available funds.

(12) There shall be a written agreement between each M.P.O. and the department clearly establishing a cooperative relationship essential to accomplish the transportation planning requirements of the applicable federal regulations, this section, and other controlling state statutes, including ss. 163.3161-163.3211, the Local Government Comprehensive Planning Act. This agreement shall clearly define the procedures for cooperatively carrying out the continuing, cooperative, and comprehensive transportation planning process for the urbanized area.

(13) An M.P.O. shall execute and maintain an agreement with the metropolitan and regional intergovernmental coordination and review agencies serving the urbanized area. Such agreement shall describe the means by which activities will be coordinated and specify how transportation planning and programming will be part of the comprehensive planned development of the urbanized area.

(14) An M.P.O. shall execute and maintain an agreement with publicly owned operators of mass transportation services which specifies interaction essential to an effective consideration of mass transit usage within the urbanized area.

(15) Any modifications to federal and state laws, rules, and regulations which require other agreements shall be initiated by the M.P.O. if needed to enable it to properly accomplish its functions.

(16) Each M.P.O. shall appoint a citizens' advisory committee the members of which shall serve at the pleasure of the M.P.O. The citizens' advisory committee shall be selected to provide a broad cross section of citizens with an interest in the development of an efficient, safe, and cost-effective transportation system. Minorities, the elderly, and the handicapped shall be adequately represented. However, the M.P.O. may, with departmental and federal concurrence, adopt an alternate program or mechanism which will ensure adequate citizen involvement in the transportation planning process.

(17) Each M.P.O., in cooperation with the department, shall appoint a technical advisory committee which shall include planners, engineers, representatives from local aviation authorities and port authorities or aviation departments and seaport departments of municipal or county governments, and other appropriate individuals employed by the signatories.

(18) Each M.P.O. shall receive its appropriate share of federal planning funds for the purpose of

carrying out transportation planning and programming.

(19) Each M.P.O. may employ personnel or may enter into contracts with other local and state agencies, as well as private planning and engineering firms, to carry out the urban transportation planning process required by 23 U.S.C. s. 134 and by this chapter.

(20) Any other provisions of this section to the contrary notwithstanding, any county chartered under s. 6(e), Art. VIII of the State Constitution may elect to have its duly elected officials serve as the M.P.O. if the area represented is wholly contained within such chartered county. Any chartered county which elects to exercise the provisions of this section shall so notify the Governor in writing. Upon receipt of such notification, the Governor shall forthwith designate the elected officials of such chartered county as the M.P.O. and shall appoint the nonvoting representatives of the department in accordance with existing agreements between the M.P.O. and the department or as deemed necessary in the absence of such an agreement. This subsection shall supersede the provisions of subsections (2) and (3) which, in whole or in part, are in conflict herewith.

(21) Upon notification by an agency of the Federal Government that any provision herein conflicts with federal laws or regulations, the federal laws or regulations will take precedence to the extent of the conflict and until it is resolved; and such actions as are necessary to be taken to comply with federal laws and regulations in order to receive federal funds are permitted.

(22) Each M.P.O. required under this section shall be fully operative no later than 6 months following designation by the Governor.

History.—s. 1, ch. 79-219; s. 1, ch. 82-9; s. 219, ch. 84-309; s. 3, ch. 84-332.
Note.—Former s. 334.215.

339.24 Beautification of state transportation facilities.—The department shall plan a statewide beautification program for state transportation facilities and shall only expend funds for such program as specifically appropriated by the Legislature. A state beautification project requested by a local government may not be initiated or funded until a maintenance agreement has been executed between the department and the appropriate local governmental entity.

History.—s. 155, ch. 29965, 1955; s. 2, ch. 61-119; ss. 23, 35, ch. 69-106; s. 1, ch. 73-189; s. 161, ch. 77-104; s. 56, ch. 78-95; s. 43, ch. 83-3; s. 220, ch. 84-309.
cf.—s. 335.16 Wayside parks and access roads to public waters.

339.241 Florida Junkyard Control Law.—

(1) SHORT TITLE.—This section shall be known as the "Florida Junkyard Control Law."

(2) DEFINITIONS.—Wherever used or referred to in this section, unless a different meaning clearly appears from the context, the term:

(a) "Areas zoned for industrial use" means all areas zoned for industrial use by governmental entities within the state or an unzoned industrial area approved by the department. Such areas must be based upon the existence of at least one industrial activity other than the junkyard or scrap metal processing plant.

(b) "Automobile graveyard" means any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(c) "Distance from edge of right-of-way" means the distance presently defined in 23 U.S.C. s. 136(g).

(d) "Federal-aid primary highway" means any highway within that portion of the State Highway System as included and maintained under chapter 335, including extensions of such system within municipalities, which has been approved by the Secretary of Transportation pursuant to 23 U.S.C. s. 103(b).

(e) "Fence" means an enclosure so constructed or planted and maintained as to obscure the junkyard from ordinary view to those persons passing upon the highways in this state.

(f) "Interstate highway" means the system presently defined in 23 U.S.C. s. 103(e).

(g) "Junk," "junkyard," and "scrap metal processing facility" mean the same as described in s. 205.371(1)(a), (b), and (e).

(3) RESTRICTIONS AS TO LOCATION.—No junk, junkyard, automobile graveyard, or scrap metal processing facility shall be operated or maintained within 1,000 feet of the nearest edge of the right-of-way of any interstate or federal-aid primary highway, except:

(a) A junkyard which is screened by natural objects; plantings, fences, or other appropriate means so as not to be visible from the main traveled way of the highway or which is otherwise removed from sight.

(b) A junkyard or scrap metal processing facility which is located in an area zoned for industrial use.

(c) A junkyard or scrap metal processing facility which is not visible from the main traveled way of any interstate or federal-aid primary highway.

Any junkyard which was in existence on December 8, 1971, which the department determines cannot be screened because of topography and elevation is not required under this section to be removed, relocated, or disposed of until federal funds are available.

(4) REQUIREMENTS AS TO FENCES; EXPENDITURE OF FUNDS.—

(a) A fence constructed under the provisions of this section shall be kept in good order and repair, and any advertisement on the fence shall be regulated by applicable state law.

(b) The department is authorized to spend such funds as are necessary to obtain federal-aid funds for the purposes described in this subsection.

(5) ENFORCEMENT.—It is the function and duty of the department to administer and enforce the provisions of this section. The department or any public official may apply to the circuit court or another court of competent jurisdiction of the county in which the junkyard or scrap metal processing facility may be located for an injunction to abate such nuisance.

(6) PENALTY.—Any person who violates any provision of this section is subject to a fine of not less than $50 or more than $200. Each day during any portion of which such violation occurs constitutes a continuing separate offense.

History.—ss. 1-6, ch. 71-358; ss. 1-7, ch. 71-972; s. 221, ch. 84-309.

339.25 Trees and shrubbery; removal or damage; penalty.—[Amended by s. 46, ch. 84-309, and transferred to s. 337.405.]

339.27 Fishing from state road bridges; walkways authorized.—[Amended and transferred to s. 316.1305 by s. 4, ch. 84-309.]

339.28 Willful and malicious damage to boundary marks, guideposts, lampposts, etc. on transportation facility.—

(1) Any person who willfully and maliciously damages, removes, or destroys any milestone, mileboard, or guideboard erected upon a highway or other public transportation facility, or willfully and maliciously defaces or alters the inscription on any such marker, or breaks or removes any lamp or lamppost or railing or post erected on any transportation facility, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who violates the provisions of subsection (1) is civilly liable to the department for the actual damages which he caused, which damages may be recovered by suit and, when collected, shall be paid into the State Treasury to the credit of the State Transportation Trust Fund.

History.—s. 159, ch. 29965, 1955; s. 240, ch. 71-136; s. 222, ch. 84-309.

339.281 Damage to transportation facility by vessel; marine accident report; investigative authorities; penalties.—

(1) Whenever any vessel has caused damage to a transportation facility, the managing owner, agent, or master of such vessel shall immediately, or as soon thereafter as possible, report the same to the nearest Florida Marine Patrol, the sheriff of the county wherein such accident occurred, the Game and Fresh Water Fish Commission, or the Florida Highway Patrol, who shall immediately go to the scene of the accident and, if necessary, board the vessel subsequent to the accident in pursuance of its investigation. The law enforcement agency investigating the accident shall submit a copy of its report to the department.

(2) Any person who violates any of the provisions of this section or rules adopted pursuant hereto shall be deemed guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 73-187; s. 223, ch. 84-309.

339.30 Unlawful use of limited access facilities; penalties.—[Repealed by s. 224, ch. 84-309.]

339.301 Unlawful commercial use of state-maintained road right-of-way; penalties.—[Amended by s. 168, ch. 84-309, and transferred to s. 337.406.]

339.305 Payment of toll on toll facilities required; exemptions.—[Amended and transferred to s. 338.155 by s. 185, ch. 84-309.]

339.31 Obstructing highway.—[Amended by s. 225, ch. 84-309, and transferred to s. 861.011.]

339.32 Microfilming of records by department.—[Amended and transferred to s. 334.196 by s. 26, ch. 84-309.]

339.33 Road signs may be manufactured at state prison.—[Repealed by s. 226, ch. 84-309.]

339.34 Copy of laws to be furnished to department.—[Repealed by s. 227, ch. 84-309.]

339.35 Prior contracts validated.—[Repealed by s. 228, ch. 84-309.]

CHAPTER 340

TURNPIKE PROJECTS

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CHAPTER 366

PUBLIC UTILITIES

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[1]366.01 Legislative declaration.—The regulation of public utilities as defined herein is declared to be in the public interest and this chapter shall be deemed to be an exercise of the police power of the state for the protection of the public welfare and all the provisions hereof shall be liberally construed for the accomplishment of that purpose.

History.—s. 1, ch. 26545, 1951; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 16, ch. 80-35; s. 2, ch. 81-318.

[1]Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

[1]366.015 Interagency liaison.—The commission is directed to provide for, and assume primary responsibility for, establishing and maintaining continuous liaison with all other appropriate state and federal agencies whose policy decisions and rulemaking authority affect those utilities over which the commission has primary regulatory jurisdiction. This liaison shall be conducted at the policymaking levels as well as the department, division, or bureau levels. Active participation in other agencies' public hearings is encouraged to transmit the commission's policy positions and information requirements, in order to provide for more efficient regulation.

History.—s. 6, ch. 74-196; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 1, 16, ch. 80-35; s. 2, ch. 81-318.

[1]Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

[1]366.02 Definitions.—As used in this chapter:

(1) "Public utility" means every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas (natural, manufactured, or similar gaseous substance) to or for the public within this state; but the term "public utility" as used herein does not include either a cooperative now or hereafter organized and existing under the Rural Electrification Cooperative Law of the state; a municipality or any agency thereof; any natural gas pipeline transmission company making only sales of natural gas at wholesale and to direct industrial consumers; or a person supplying liquefied petroleum gas, in either liquid or gaseous form, irrespective of the method of distribution or delivery, unless such person also supplies electricity or manufactured or natural gas.

(2) "Commission" means the Public Service Commission.

History.—s. 2, ch. 26545, 1951; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 16, ch. 80-35; s. 2, ch. 81-318.

[1]Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

[1]366.03 General duties of public utility.—Each public utility shall furnish to each person applying therefor reasonably sufficient, adequate, and efficient service upon terms as required by the commission. No public utility shall be required to furnish electricity or gas for resale except that a public utility may be required to furnish gas for containerized resale. All rates and charges made, demanded, or received by any public utility for any service rendered, or to be rendered by it, and each rule and regulation of such public utility, shall be fair and reasonable. No public utility shall make or give any undue or unreasonable preference or advantage to any person or locality, or subject the same to any undue or unreasonable prejudice or disadvantage in any respect.

History.—s. 3, ch. 26545, 1951; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 16, ch. 80-35; s. 2, ch. 81-318; ss. 1, 16, ch. 82-95.

[1]Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date. Expires October 1, 1989, pursuant to s. 15, ch. 82-95, and is scheduled for review pursuant to s. 11.61 in advance of that date.

[1]366.04 Jurisdiction.—

(1) In addition to its existing functions, the commission shall have jurisdiction to regulate and supervise each public utility with respect to its rates and service and the issuance and sale of its securities, except a security which is a note or draft maturing not more than 1 year after the date of such issuance and sale and aggregating (together with all other then-outstanding notes and drafts of a maturity of 1 year or less on which such public utility is liable) not more than 5 percent of the par value of the other securities of the public utility then outstanding. In the case of securities having no par value, the par value for the purpose of this section shall be the fair market value as of the date of issue. The commission, upon application by a public utility, may authorize the utility to issue and sell securities of one or more offerings, or of one or more types, over a period of up

to 12 months. The commission may take final action to grant an application by a public utility to issue and sell securities after having given notice in the Florida Administrative Weekly published at least 7 days in advance of final agency action. Securities issued by a public utility pursuant to an order of the commission, which order is certified by the clerk of the commission and which order approves or authorizes the issuance and sale of such securities, shall not be invalidated by a modification, repeal, or amendment to that order or by a supplemental order; however, the commission's approval of the issuance of securities shall constitute approval only as to the legality of the issue, and in no way shall it be considered commission approval of the rates, service, accounts, valuation, estimates, or determinations of cost or any other such matter. The jurisdiction conferred upon the commission shall be exclusive and superior to that of all other boards, agencies, political subdivisions, municipalities, towns, villages, or counties, and, in case of conflict therewith, all lawful acts, orders, rules, and regulations of the commission shall in each instance prevail.

(2) In the exercise of its jurisdiction, the commission shall have power over rural electric cooperatives and municipal electric utilities for the following purposes:

(a) To prescribe uniform systems and classifications of accounts.

(b) To prescribe a rate structure for all electric utilities.

(c) To require electric power conservation and reliability within a coordinated grid, for operational as well as emergency purposes.

(d) To approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction. However, nothing in this chapter shall be construed to alter existing territorial agreements as between the parties to such agreements.

(e) To resolve any territorial dispute involving service areas between and among rural electric cooperatives, municipal electric utilities, and other electric utilities under its jurisdiction. In resolving territorial disputes, the commission may consider, but not be limited to consideration of, the ability of the utilities to expand services within their own capabilities and the nature of the area involved, including population, the degree of urbanization of the area, its proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services.

(f) To prescribe and require the filing of periodic reports and other data as may be reasonably available and as necessary to exercise its jurisdiction hereunder.

No provision of this chapter shall be construed or applied to impede, prevent, or prohibit any municipally owned electric utility system from distributing at retail electrical energy within its corporate limits, as such corporate limits exist on July 1, 1974; however, existing territorial agreements shall not be altered or abridged hereby.

(3) The commission shall further have jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes in Florida and the avoidance of further uneconomic duplication of generation, transmission, and distribution facilities.

History.—s. 4, ch. 26545, 1951; s. 1, ch. 63-298; s. 1, ch. 65-379; s. 1, ch. 65-52; s. 1, ch. 74-196; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 3, 16, ch. 80-35; s. 2, ch. 81-318.

[1]Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

[1]366.041 Rate fixing; adequacy of facilities as criterion.—

(1) In fixing the just, reasonable, and compensatory rates, charges, fares, tolls, or rentals to be observed and charged for service within the state by any and all public utilities under its jurisdiction, the commission is authorized to give consideration, among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; the ability of the utility to improve such service and facilities; and energy conservation and the efficient use of alternative energy resources; provided that no public utility shall be denied a reasonable rate of return upon its rate base in any order entered pursuant to such proceedings. In its consideration thereof, the commission shall have authority, and it shall be the commission's duty, to hear service complaints, if any, that may be presented by subscribers and the public during any proceedings involving such rates, charges, fares, tolls, or rentals; however, no service complaints shall be taken up or considered by the commission at any proceedings involving rates, charges, fares, tolls, or rentals unless the utility has been given at least 30 days' written notice thereof, and any proceeding may be extended, prior to final determination, for such period; further, no order hereunder shall be made effective until a reasonable time has been given the utility involved to correct the cause of service complaints, considering the factor of growth in the community and availability of necessary equipment.

(2) The power and authority herein conferred upon the commission shall not cancel or amend any existing punitive powers of the commission but shall be supplementary thereto and shall be construed liberally to further the legislative intent that adequate service be rendered by public utilities in the state in consideration for the rates, charges, fares, tolls, and rentals fixed by said commission and observed by said utilities under its jurisdiction.

(3) The term "public utility" as used herein means all persons or corporations which the commission has the authority, power, and duty to regulate for the purpose of fixing rates and charges for services rendered and requiring the rendition of adequate service.

History.—ss. 1, 2, 3, 4, ch. 67-326; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 53, ch. 79-65; ss. 4, 16, ch. 80-35; s. 2, ch. 81-318.

[1]Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

[1]366.05 Powers.—

(1) In the exercise of such jurisdiction, the commission shall have power to prescribe fair and reason-

able rates and charges, classifications, standards of quality and measurements, and service rules and regulations to be observed by each public utility; to require repairs, improvements, additions, and extensions to the plant and equipment of any public utility when reasonably necessary to promote the convenience and welfare of the public and secure adequate service or facilities for those reasonably entitled thereto; to employ and fix the compensation for such examiners and technical, legal, and clerical employees as it deems necessary to carry out the provisions of this chapter; and to prescribe all rules and regulations reasonably necessary and appropriate for the administration and enforcement of this chapter.

(2) Every public utility, as defined in s. 366.02, which in addition to the production, transmission, delivery or furnishing of heat, light, or power also sells appliances or other merchandise shall keep separate and individual accounts for the sale and profit deriving from such sales. No profit or loss shall be taken into consideration by the commission from the sale of such items in arriving at any rate to be charged for service by any public utility.

(3) The commission shall provide for the examination and testing of all meters used for measuring any product or service of a public utility.

(4) Any consumer or user may have any such meter tested upon payment of the fees fixed by the commission.

(5) The commission shall establish reasonable fees to be paid for testing such meters on the request of the consumers or users, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the meter is found defective or incorrect to the disadvantage of the consumer or user, in excess of the degree or amount of tolerance customarily allowed for such meters, or as may be provided for in rules and regulations of the commission.

(6) The commission may purchase materials, apparatus, and standard measuring instruments for such examination and tests.

(7) The commission shall have the power to require reports from all electric utilities to assure the development of adequate and reliable energy grids.

(8) If the commission determines that there is probable cause to believe that inadequacies exist with respect to the energy grids developed by the electric utility industry, it shall have the power, after proceedings as provided by law, and after a finding that mutual benefits will accrue to the public utilities involved, to require installation or repair of necessary facilities, including generating plants and transmission facilities, with the costs to be distributed in proportion to the benefits received, and to take all necessary steps to insure compliance. The electric utilities involved in any action taken or orders issued pursuant to this subsection shall have full power and authority, notwithstanding any general or special laws to the contrary, to jointly plan, finance, build, operate, or lease generating and transmission facilities and shall be further authorized to exercise the powers granted to corporations in chapter 361. This subsection shall not supersede or control any provision of the Electric Power Plant Siting Act, ss. 403.501-403.515.

(9) The commission may establish guidelines relating to the purchase of power or energy by public utilities from cogenerators or small power producers and may set the rates at which a public utility shall purchase power or energy from a cogenerator or small power producer.

History.—s. 5, ch. 26545, 1951; s. 2, ch. 74-196; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 53, ch. 78-95; ss. 5, 14, ch. 80-28; s. 1, ch. 81-121; s. 2, ch. 81-318.

[1]Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

[1]366.05 Availability of, and payment for, energy reserves.—

(1) Energy reserves of all utilities in the Florida energy grid shall be available at all times to ensure that grid reliability and integrity are maintained. The commission is authorized to take such action as is necessary to assure compliance. However, prior commitments as to energy use:

(a) In interstate commerce, as approved by the Federal Energy Regulatory Commission;

(b) Between one electric utility and another, which have been approved by the Federal Energy Regulatory Commission; or

(c) Between an electric utility which is a part of the energy grid created herein and another energy grid

shall not be abridged or altered except during an energy emergency as declared by the Governor and Cabinet.

(2)(a) When the energy produced by one electric utility is transferred to another or others through the energy grid and under the powers granted by this section, the commission shall direct the appropriate recipient utility or utilities to reimburse the producing utility in accordance with the latest wholesale electric rates approved for the producing utility by the Federal Energy Regulatory Commission for such purposes.

(b) Any utility which provides a portion of those transmission facilities involved in the transfer of energy from a producing utility to a recipient utility or utilities shall be entitled to receive an appropriate reimbursement commensurate with the transmission facilities and services provided. However, no utility shall be required to sell purchased power to a recipient utility or utilities at a rate lower than the rate at which the power is purchased from a producing utility.

(3) To assure efficient and reliable operation of a state energy grid, the commission shall have the power to require any electric utility to transmit electrical energy over its transmission lines from one utility to another or as a part of the total energy supply of the entire grid, subject to the provisions hereof.

History.—s. 3, ch. 74-196; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 6, 14, ch. 80-28; s. 2, ch. 81-318.

[1]Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

[1]366.06 Rates; procedure for fixing and changing.—

(1) A public utility shall not, directly or indirectly, charge or receive any rate not on file with the commission for the particular class of service involved, and no change shall be made in any schedule. All applications for changes in rates shall be made to the

commission in writing under rules and regulations prescribed, and the commission shall have the authority to determine and fix fair, just, and reasonable rates that may be requested, demanded, charged, or collected by any public utility for its service. The commission shall investigate and determine the actual legitimate costs of the property of each utility company, actually used and useful in the public service, and shall keep a current record of the net investment of each public utility company in such property which value, as determined by the commission, shall be used for ratemaking purposes and shall be the money honestly and prudently invested by the public utility company in such property used and useful in serving the public, less accrued depreciation, and shall not include any goodwill or going-concern value or franchise value in excess of payment made therefor. In fixing fair, just, and reasonable rates for each customer class, the commission shall, to the extent practicable, consider the cost of providing service to the class, as well as the rate history, value of service, and experience of the utility; the consumption and load characteristics of the various classes of customers; and public acceptance of rate structures.

(2) Whenever the commission shall find, upon request made or upon its own motion, that the rates demanded, charged, or collected by any public utility company for public utility service, or that the rules, regulations, or practices of any public utility company affecting such rates, are unjust, unreasonable, unjustly discriminatory, or in violation of law; or that such rates are insufficient to yield reasonable compensation for the services rendered; or that such service is inadequate or cannot be obtained, the commission shall order and hold a public hearing, giving notice to the public and to the utility company, and shall thereafter determine just and reasonable rates to be thereafter charged for such service and promulgate rules and regulations affecting equipment, facilities, and service to be thereafter installed, furnished, and used.

(3) Pending a final order by the commission in any rate proceeding under this section, the commission may withhold consent to the operation of all or any portion of the new rate schedules, delivering to the utility requesting such increase, within 60 days, a reason or written statement of good cause for withholding its consent. Such consent shall not be withheld for a period longer than 8 months from the date of filing the new schedules. The new rates or any portion not consented to shall go into effect under bond or corporate undertaking at the end of such period, but the commission shall, by order, require such utility to keep accurate account in detail of all amounts received by reasons of such increase, specifying by whom and in whose behalf such amounts were paid and, upon completion of hearing and final decision in such proceeding, shall by further order require such utility to refund with interest at a fair rate, to be determined by the commission in such manner as it may direct, such portion of the increased rate or charge as by its decision shall be found not justified. Any portion of such refund not thus refunded to patrons or customers of the utility shall be refunded or disposed of by the utility as the commission may direct; however, no such funds shall accrue to the benefit of the utility. The commission shall take final commission action in the docket and enter its final order within 12 months of the commencement date for final agency action. As used in this subsection, the "commencement date for final agency action" means the date upon which it has been determined by the commission or its designee that the utility has filed with the clerk the minimum filing requirements as established by rule of the commission. Within 30 days after receipt of the application, rate request, or other written document for which the commencement date for final agency action is to be established, the commission or its designee shall either determine the commencement date for final agency action or issue a statement of deficiencies to the applicant, specifically listing why said applicant has failed to meet the minimum filing requirements. Such statement of deficiencies shall be binding upon the commission to the extent that, once the deficiencies in the statement are satisfied, the commencement date for final agency action shall be promptly established as provided herein. Thereafter, within 15 days after the applicant indicates to the commission that it believes that it has met the minimum filing requirements, the commission or its designee shall either determine the commencement date for final agency action or specifically enumerate in writing why the requirements have not been met, in which case this procedure shall be repeated until the commencement date for final agency action is established. When the commission initiates a proceeding, the commencement date for final agency action shall be the date upon which the order initiating the proceeding is issued.

History.—s. 6, ch. 26545, 1951; s. 4, ch. 74-196; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 7, 14, ch. 80-28; s. 2, ch. 81-318.

[1]Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

cf.—s. 364.05 (1 hearing rates, tolls, rentals, etc.

s. 367.081 Rates; procedure for fixing and changing.

[1]366.07 Rates; adjustment.—Whenever the commission, after public hearing either upon its own motion or upon complaint, shall find the rates, rentals, charges or classifications, or any of them, proposed, demanded, observed, charged or collected by any public utility for any service, or in connection therewith, or the rules, regulations, measurements, practices or contracts, or any of them, relating thereto, are unjust, unreasonable, insufficient, or unjustly discriminatory or preferential, or in anywise in violation of law, or any service is inadequate or cannot be obtained, the commission shall determine and by order fix the fair and reasonable rates, rentals, charges or classifications, and reasonable rules, regulations, measurements, practices, contracts or service, to be imposed, observed, furnished or followed in the future.

History.—s. 7, ch. 26545, 1951; s. 24, ch. 57-1; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 16, ch. 80-28; s. 2, ch. 81-318.

[1]Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

[1]366.071 Interim rates; procedure.—

(1) The commission may, during any proceeding for a change of rates, upon its own motion, or upon petition from any party, or by a tariff filing of a public utility, authorize the collection of interim rates until the effective date of the final order. Such inter-

ing rates may be based upon a test period different from the test period used in the request for permanent rate relief. To establish a prima facie entitlement for interim relief, the commission, the petitioning party, or the public utility shall demonstrate that the public utility is earning outside the range of reasonableness on rate of return calculated in accordance with subsection (5).

(2)(a) In a proceeding for an interim increase in rates, the commission shall authorize, within 60 days of the filing for such relief, the collection of rates sufficient to earn the minimum of the range of rate of return calculated in accordance with subparagraph (5)(b)2. The difference between the interim rates and the previously authorized rates shall be collected under bond or corporate undertaking subject to refund with interest at a rate ordered by the commission.

(b) In a proceeding for an interim decrease in rates, the commission shall authorize, within 60 days of the filing for such relief, the continued collection of the previously authorized rates; however, revenues collected under those rates sufficient to reduce the achieved rate of return to the maximum of the range of rate of return calculated in accordance with subparagraph (5)(b)2. shall be placed under bond or corporate undertaking subject to refund with interest at a rate ordered by the commission.

(c) The commission shall determine whether a corporate undertaking may be filed in lieu of the bond.

(3) In granting such relief, the commission may, in an expedited hearing but within 60 days of the commencement of the proceeding, upon petition or upon its own motion, preclude the recovery of any extraordinary or imprudently incurred expenditures or, for good cause shown, increase the amount of the bond or corporate undertaking.

(4) Any refund ordered by the commission shall be calculated to reduce the rate of return of the public utility during the pendency of the proceeding to the same level within the range of the newly authorized rate of return which is found fair and reasonable on a prospective basis, but the refund shall not be in excess of the amount of the revenues collected subject to refund and in accordance with paragraph (2)(b). In addition, the commission may require interest on the refund at a rate established by the commission.

(5)(a) In setting interim rates or setting revenues subject to refund, the commission shall determine the revenue deficiency or excess by calculating the difference between the achieved rate of return of a public utility and its required rate of return applied to an average investment rate base or an end-of-period investment rate base.

(b) For purposes of this subsection:

1. "Achieved rate of return" means the rate of return earned by the public utility for the most recent 12-month period. The achieved rate of return shall be calculated by applying appropriate adjustments consistent with those which were used in the most recent rate case of the public utility and annualizing any rate changes occurring during such period.

2. "Required rate of return" shall be calculated as the weighted average cost of capital for the most recent 12-month period, using the last authorized rate of return on equity of the public utility, the current embedded cost of fixed-rate capital, the actual cost of short-term debt, the actual cost of variable-cost debt, and the actual cost of other sources of capital which were used in the last rate case of the public utility.

3. In a proceeding for an interim increase, the term "last authorized rate of return on equity" used in subparagraph 2. means the minimum of the range of the last authorized rate of return on equity established in the most recent rate case of the public utility. In a proceeding for an interim decrease, the term "last authorized rate of return on equity" used in subparagraph 2. means the maximum of the range of the last authorized rate of return on equity established in the most recent rate case of the public utility.

History.—s. 9, ch. 69-35; s. 2, ch. 84-318; ss. 2, 15, ch. 87-25.

*Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date. Expires October 1, 1988, pursuant to s. 15, ch. 87-25, and is scheduled for review pursuant to s. 11.61 in advance of that date.

'366.072 Rate adjustment orders.—Any order issued by the commission adjusting general increases or reductions of the rates of an electric or gas company shall be reduced to writing including any dissenting or concurring opinions within 20 days of the official vote of the commission. Within said 20 days, the commission shall also mail a copy of the order to the clerk of the circuit court of each county in which customers are served who are affected by the rate adjustment, which copy shall be kept on file and made available to the public. The commission shall notify all parties of record in the proceeding of the date of such mailing. Such an order shall not be considered rendered for purposes of appeal, rehearing, or judicial review until the date the copies are mailed as required by this section. This provision shall not delay the effective date of the order. Such an order shall be considered rendered on the date of the official vote for the purposes of ss. 364.05(4) and 366.06(4).

History.—s. 1, ch. 79-137; s. 10, ch. 80-35; s. 3, ch. 81-318.

*Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'366.075 Experimental and transitional rates.—

(1) The commission is authorized to approve rates on an experimental or transitional basis for any public utility to encourage energy conservation or to encourage efficiency. The application of such rates may be for limited geographic areas and for a limited period.

(2) The commission is authorized to approve the geographic area used in testing experimental rates and shall specify in the order setting those rates the area affected. The commission may extend the period designated for the test if it determines that further testing is necessary to fully evaluate the effectiveness of such experimental rates.

History.—s. 9, ch. 80-35; s. 2, ch. 81-318.

*Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

366.076 Limited proceedings; rules on subsequent adjustments.—

(1) Upon petition or its own motion, the commission may conduct a limited proceeding to consider and act upon any matter within its jurisdiction, including any matter the resolution of which requires a public utility to adjust its rates to consist with the provisions of this chapter. The commission shall determine the issues to be considered during such a proceeding and may grant or deny any request to expand the scope of the proceeding to include other matters.

(2) The commission may adopt rules for the determination of rates in full revenue requirement proceedings which rules provide for adjustments of rates based on revenues and costs during the period new rates are to be in effect and for incremental adjustments in rates for subsequent periods.

History.—s. 12, ch. 82-222.

'366.08 Investigations, inspections; power of commission.—The commission or its duly authorized representatives may during all reasonable hours enter upon any premises occupied by any public utility and may set up and use thereon all necessary apparatus and appliances for the purpose of making investigations, inspections, examinations and tests and exercising any power conferred by this chapter; provided, such public utility shall have the right to be notified of and be represented at the making of such investigations, inspections, examinations and tests.

History.—s. 8, ch. 26845, 1951; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 16, ch. 80-35; s. 2, ch. 81-318.

*Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'366.09 Incrimination at hearing of commission.—Any person called upon to testify before the commission or one of its examiners shall not be excused from answering on the ground or claim that his testimony would tend to incriminate himself; but no person having so testified shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may have testified or produced documentary evidence provided that no person so testifying shall be exempted from prosecution or punishment for perjury in so testifying.

History.—s. 8, ch. 26845, 1951; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 16, ch. 80-35; s. 2, ch. 81-318.

*Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'366.093 Public utility records; confidentiality.—

(1) The commission shall continue to have reasonable access to all public utility records. Upon request of the public utility, any records received by the commission which are shown to be proprietary confidential business information shall be kept confidential and shall be exempt from s. 119.07(1).

(2) In any docket or proceeding before the commission, the commission shall issue protective orders protecting a public utility from discovery of proprietary confidential business information, upon a showing by the public utility that such protection is necessary. However, if the commission determines that discovery of proprietary confidential business information is necessary to protect the public interest, the commission shall enter an order limiting such discovery in the manner provided for in Rule 1.280 of the Florida Rules of Civil Procedure. Such proprietary confidential business information shall be exempt from s. 119.07(1).

(3) Proprietary confidential business information includes, but is not limited to:

(a) Trade secrets.

(b) Internal auditing controls and reports of internal auditors.

(c) Security measures, systems, or procedures.

(d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the public utility to contract for services on favorable terms.

(e) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

History.—ss. 2, 15, ch. 87-25.

*Note.—Repealed effective October 1, 1989, by s. 15, ch. 87-25, and scheduled for review pursuant to s. 11.61 in advance of that date.

'366.095 Penalties.—The commission shall have the power to impose upon any entity subject to its jurisdiction under this chapter that is found to have refused to comply with or to have willfully violated any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than $5,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate issued by the commission. Each day that such refusal or violation continues shall constitute a separate offense. Each penalty shall be a lien upon the real and personal property of the entity, enforceable by the commission as a statutory lien under chapter 85.

History.—ss. 2, 15, ch. 87-25.

*Note.—Repealed effective October 1, 1989, by s. 15, ch. 87-25, and scheduled for review pursuant to s. 11.61 in advance of that date.

'366.10 Judicial review.—As authorized by s. 3(b)(2), Art. V of the State Constitution, the Supreme Court shall review, upon petition, any action of the commission relating to rates or service of utilities providing electric or gas service.

History.—s. 10, ch. 26845, 1951; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 11, 16, ch. 80-35; s. 2, ch. 84-318.

*Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'366.11 Certain exemptions.—

(1) No provision of this chapter shall apply in any manner, other than as specified in ss. 366.04(2) and (3), 366.05(7) and (8), and 366.055, to utilities owned and operated by municipalities, whether within or without any municipality, or by cooperatives organized and existing under the Rural Electrification Cooperative Law of the state, or to the sale of electricity, manufactured gas, or natural gas at wholesale by any public utility to, and the purchase by, any municipality or cooperative under and pursuant to any contracts now in effect or which may be entered into in the future, when such municipality or cooperative is engaged in the sale and distribution of electricity or manufactured or natural gas, or to the rates provided for in such contracts.

(2) Nothing herein shall restrict the police power of municipalities over their streets, highways, and public places or the power to maintain or require the maintenance thereof or the right of a municipality to

levy taxes on public services under s. 166.231 or affect the right of any municipality to continue to receive revenue from any public utility as is now provided or as may be hereafter provided in any franchise.

History.—s. 11, ch. 26543, 1951; s. 8, ch. 74-198; s. 2, ch. 76-168; s. 7, ch. 76-265; s. 108, ch. 77-104; s. 1, ch. 77-457; ss. 12, 16, ch. 80-26; s. 217, ch. 81-259; s. 2, ch. 81-318.

*Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'366.125 Natural gas jurisdiction limits.—Any provision of this chapter to the contrary notwithstanding, the jurisdiction of the commission over the sale of natural gas shall not extend beyond the outlet of the customer's meter set assembly when the means of delivery of natural gas is other than by pipeline.

History.—ss. 4, 15, ch. 82-25.

*Note.—Repealed effective October 1, 1989, by s. 15, ch. 82-25, and scheduled for review pursuant to s. 11.61 in advance of that date.

'366.13 Taxes, not affected.—No provision of this chapter shall in any way affect any municipal tax or franchise tax in any manner whatsoever.

History.—s. 12A, ch. 26543, 1951; s. 2, ch. 76-168; s. 1, ch. 77-457; s. 16, ch. 80-25; s. 2, ch. 81-318.

*Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'366.136 Existing rates; pending proceedings.—

(1) This act shall not be construed to cause to be unlawful any rate which has been previously approved and which is lawfully being charged and collected immediately prior to July 1, 1980. However, no such rate may be changed on or after July 1, 1980, except in accordance with the provisions of this act.

(2) Proceedings including judicial review pending on July 1, 1980, shall be governed by the law as it existed immediately prior to July 1, 1980. Administrative adjudicatory proceedings, however, which have not progressed to the stage of a hearing may, with the consent of all parties and the commission, be conducted in accordance with the provisions of this act.

History.—s. 13, ch. 80-26; s. 2, ch. 81-318.

*Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'366.80 Short title.—Sections 366.80-366.85 and 403.519 shall be known and may be cited as the "Florida Energy Efficiency and Conservation Act."

History.—s. 5, ch. 80-65; s. 2, ch. 81-318.

*Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'366.81 Legislative findings and intent.—The Legislature finds and declares that it is critical to utilize the most efficient and cost-effective energy conservation systems in order to protect the health, prosperity, and general welfare of the state and its citizens. Reduction in the growth rates of electric consumption and of weather-sensitive peak demand are of particular importance. The Legislature further finds that the Florida Public Service Commission is the appropriate agency to adopt goals and approve plans related to the conservation of electric energy and natural gas usage. The Legislature directs the commission to develop and adopt overall goals and authorizes the commission to require each utility to develop a plan for increasing energy efficiency and conservation within its service area, subject to the approval of the commission. Since solutions to our energy problems are complex, the Legislature intends that the use of solar energy, renewable energy sources, highly efficient systems, and load-control systems be encouraged. Accordingly, in exercising its jurisdiction, the commission shall not approve any rate or rate structure which discriminates against any class of customers on account of the use of such systems or devices. This expression of legislative intent shall not be construed to preclude experimental rates, rate structures, or programs. The Legislature further finds and declares that ss. 366.80-366.85 and 403.519 are to be liberally construed in order to meet the complex problems of reducing the growth rates of electric consumption and weather-sensitive peak demand; increasing the overall efficiency and cost-effectiveness of electricity and natural gas production and use; and conserving expensive resources, particularly petroleum fuels.

History.—s. 6, ch. 80-65; s. 2, ch. 81-318.

*Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'366.82 Definition; goals; plans; annual reports; energy audits.—

(1) For the purposes of ss. 366.80-366.85 and 403.519, "utility" means any person or entity of whatever form which provides electricity or natural gas at retail to the public, specifically including municipalities or instrumentalities thereof and cooperatives organized under the Rural Electric Cooperative Law and specifically excluding any person or entity providing natural gas at retail to the public whose annual sales volume is less than 100 million therms.

(2) The commission shall adopt appropriate goals for increasing the efficiency of energy consumption, specifically including goals designed to increase the conservation of expensive resources, such as petroleum fuels, and to reduce the growth rates of electric consumption, especially of weather-sensitive peak demand. The Executive Office of the Governor shall be a party in the proceedings to adopt goals. The initial goals shall be adopted no later than September 1, 1980, for the succeeding 5-year period. The commission may change the initial goals for reasonable cause and may reset the time period for accomplishing the goals. After the programs and plans to meet those goals are completed, the commission shall determine whether further goals, programs, or plans are warranted and, if so, shall adopt them.

(3) Following adoption of goals pursuant to subsection (2), the commission shall require each utility to develop a plan to meet the overall goals within its service area. If any plan includes loans, collection of loans, or similar banking functions by a utility and the plan is approved by the commission, the utility shall perform such functions, notwithstanding any other provision of the law. The commission may pledge up to $5,000,000 of the Florida Public Service Regulatory Trust Fund to guarantee such loans. However, no utility shall be required to loan its funds for the purpose of purchasing or otherwise acquiring conservation measures or devices, but nothing herein shall prohibit or impair the administration or implementation of a utility plan as submitted by a utility and approved by the commission under this subsection. Plans to meet the initial goals must be submitted to the commission no later than November 1, 1980. The commission shall approve or disapprove each plan no later than December 1, 1980. If the commission disapproves a plan, it shall specify the reasons for disapproval, and the utility whose plan is disapproved shall resubmit its modified plan within 30 days. Each plan shall commence January 1, 1981. Prior approval by the commission shall be required to modify or discontinue a plan, or part thereof, which has been approved. If any utility has not implemented its plan and is not substantially in compliance with the provisions of its approved plan at any time after January 1, 1982, then the commission shall adopt a program which will be required for that utility to achieve the overall goals, which may include variations in rate design, load control, residential energy conservation subsidy, or any other measure within the jurisdiction of the commission which the commission finds likely to be effective; this provision shall not be construed to preclude these measures in any plan.

(4) The commission shall require periodic reports from each utility and shall provide the Legislature and the Governor with an annual report by March 1 of the goals it has adopted and its progress toward meeting those goals. The commission shall also consider the performance of each utility pursuant to ss. 366.80-366.85 and 403.519 when establishing rates for those utilities over which the commission has ratesetting authority.

(5) By January 1, 1981, the commission shall require each utility to offer, or to contract to offer, energy audits to its residential customers. This requirement need not be uniform, but may be based on such factors as level of usage, geographic location, or any other reasonable criterion, so long as all eligible customers are notified by April 1, 1981. The commission may extend this requirement to some or all commercial customers if such audits are required pursuant to federal law. The commission shall set the charge for audits by rule, not to exceed the actual cost, and may describe by rule the general form and content of an audit. In the event one utility contracts with another utility to perform audits for it, the utility for which the audits are performed shall pay the contracting utility the reasonable cost of performing the audits. Each utility over which the commission has ratesetting authority shall estimate its costs and revenues for audits, conservation programs, and implementation of its plan for the immediately following 6-month period. Reasonable and prudent unreimbursed costs projected to be incurred, or any portion of such costs, may be added to the rates which would otherwise be charged by a utility upon approval by the commission. Following each 6-month period, each utility shall report the actual results for that period to the commission, and the difference, if any, between actual and projected results shall be taken into account in succeeding periods. The state plan as submitted for consideration under the National Energy Conservation Policy Act shall not be in conflict with any state law or regulation.

(6) Notwithstanding the provisions of s. 377.703, the commission shall be the responsible state agency for performing, coordinating, implementing, or administering the functions of the state plan submitted for consideration under the National Energy Conservation Policy Act and any acts amendatory thereof or supplemental thereto and for performing, coordinating, implementing, or administering the functions of any future federal program delegated to the state which relates to consumption, utilization, or conservation of electricity or natural gas; and the commission shall have exclusive responsibility for preparing all reports, information, analyses, recommendations, and materials related to consumption, utilization, or conservation of electrical energy which are required or authorized by s. 377.703.

(7) The commission shall establish all minimum requirements for energy auditors used by each utility. The commission is authorized to contract with any public agency or other person to provide any training, testing, evaluation, or other step necessary to fulfill the provisions of this subsection.

History.—s. 5, ch. 80-65; s. 2, ch. 81-131; s. 2, ch. 81-318; ss. 5, 15, ch. 82-25.

*Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date. Expires October 1, 1989, pursuant to s. 15, ch. 82-25, and is scheduled for review pursuant to s. 11.61 in advance of that date.

'366.83 Certain laws not applicable; savings clause.—No utility shall be held liable for the acts or omissions of any person in implementing or attempting to implement those measures found cost-effective by, or recommended as a result of, an energy audit. The findings and recommendations of an energy audit shall not be construed to be a warranty or guarantee of any kind, nor shall such findings or recommendations subject the utility to liability of any kind. Nothing in ss. 366.80-366.85 and 403.519 shall preempt or affect litigation pending on June 5, 1980, nor shall ss. 366.80-366.86 and 403.519 preempt federal law unless such preemption is expressly authorized by federal statute.

History.—s. 5, ch. 80-65; s. 2, ch. 81-318.

*Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'366.84 Trust fund created; uses.—There is created the Florida Energy Trust Fund. The commission may develop a test program which shall be conducted in the service area of one or more utilities to improve the efficiency of energy usage by retrofitting existing housing, and the commission may subsidize loans for this purpose. The commission may also provide moneys from the fund for educational projects designed to increase public awareness of the need for efficient utilization of electricity and natural gas or to develop and demonstrate appropriate technology for such purposes.

History.—s. 5, ch. 80-65; s. 2, ch. 81-318.

*Note.—Repealed effective October 1, 1989, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

'366.85 Responsibilities of Division of Consumer Services.—The Division of Consumer Services of the Department of Agriculture and Consumer Services shall be the agency responsible for consumer conciliatory conferences, if such conferences are required pursuant to federal law. The division

shall also be the agency responsible for preparing lists of sources for energy conservation products or services and of financial institutions offering energy conservation loans, if such lists are required pursuant to federal law. Notwithstanding any provision of federal law to the contrary, the division shall not require any manufacturer's warranty exceeding 1 year in order for a source of conservation products or services to be included on the appropriate list. The lists shall be prepared for the service area of each utility and shall be furnished to each utility for distribution to its customers. The division shall update the lists on a systematic basis and shall remove from any list any person who has been disciplined by any state agency or who has otherwise exhibited a pattern of unsatisfactory work and any person who requests removal from such lists. The division is authorized to adopt rules to implement the provisions of this section.

History.—s. 5, ch. 80-62; s. 2, ch. 81-318.

*Note.—Repealed effective October 1, 1988, by s. 2, ch. 81-318, and scheduled for review pursuant to s. 11.61 in advance of that date.

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to ascertain whether the provisions of this section and department regulations are being complied with, and to seize and destroy, without compensation, any aquatic plants imported, transported, cultivated, collected, or otherwise possessed in violation of this section or department regulations.

(i) To conduct a public information program, including, but not limited to, erection of road signs, in order to inform the public and interested parties of this section and its associated rules and of the dangers of noxious aquatic plant introductions.

(4) The department shall adopt rules which limit the sanctions available for violations under this act to quarantine and confiscation:

(a) If the prohibited activity apparently results from natural dispersion; or

(b) If a small amount of noxious aquatic plant material incidentally adheres to a boat or boat trailer operated by a person who is not involved in any phase of the aquatic plant business and if that person is not knowingly violating this act.

(5)(a) Any person who violates the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) All law enforcement officers of the state and its agencies with power to make arrests for violations of state law shall enforce the provisions of this section.

History.—s. 1, ch. 69-158; ss. 14, 26, 35, ch. 69-106; s. 4, ch. 70-203; s. 1, ch. 70-439; s. 350, ch. 71-136; s. 2, ch. 71-137; s. 140, ch. 77-104; s. 1, ch. 77-174; s. 23, ch. 78-95; s. 1, ch. 84-120.

Note.—Former s. 403.271.

CHAPTER 370

SALTWATER FISHERIES

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370.021 Administration; rules, publications, records; penalty for violation of chapter; injunctions.—

(1) RULES AND REGULATIONS.—The Department of Natural Resources shall make, adopt, promulgate, amend, and repeal all rules and regulations necessary or convenient for the carrying out of the duties, obligations, powers, and responsibilities conferred on the department or any of its divisions. The director of each division shall submit to the department suggested rules and regulations for that division. Any person violating or otherwise failing to comply with any of the rules and regulations adopted as aforesaid is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, unless otherwise provided by law.

(2) PENALTY FOR VIOLATION.—Any person violating any provisions of this chapter, unless otherwise provided, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) RULES; ADMISSIBILITY AS EVIDENCE.—Rules and regulations shall be admitted as evidence in the courts of the state when accompanied by an affidavit from the executive director of the department certifying that the rule or regulation has been lawfully adopted, promulgated, and published; and such affidavit shall be prima facie evidence of proper adoption, promulgation, and publication of the rule or regulation.

(4) PUBLICATIONS BY DEPARTMENT.—The department through the Division of Administration is given authority, from time to time in its discretion, to cause the statutory laws under its jurisdiction, together with any rules and regulations promulgated by it, to be published in pamphlet form for free distribution in this state. The department is authorized to make charges for technical and educational publications and mimeographed material of use for educational or reference purposes. Such charges shall be made at the discretion of the Division of Administration. Such charges may be sufficient to cover cost of preparation, printing, publishing, and distribution. All moneys received for publications shall be deposited in the General Revenue Fund. The department is further authorized to enter into agreements with persons, firms, corporations, governmental agencies, and other institutions whereby publications may be exchanged reciprocally in lieu of payments for said publications.

(5) POWERS OF OFFICERS.—The department may designate such employees of the several divisions, as it may deem necessary in its discretion, as law enforcement officers, who shall meet the provisions of s. 943.13(1)-(10) and have the powers and duties conferred in this subsection, except that such employees shall comply with the provisions of chapter 943. Such officers, together with the executive director and the Director of the Division of Law Enforcement, are constituted law enforcement officers of this state with full power to investigate and arrest for any violation of the laws of this state and the rules and regulations of the department under their jurisdiction and for violations of chapter 253 and the rules and regulations promulgated thereunder. The general laws applicable to arrests by peace officers of this state shall also be applicable to such law enforcement officers. Such law enforcement officers may enter upon any land or waters of the state for performance of their lawful duties and may take with them any necessary equipment, and such entry will not constitute a trespass. It is lawful for any boat, motor vehicle, or aircraft owned or chartered by the department or its agents or employees to land on and depart from any of the beaches or waters of the state. Such law enforcement officers have the authority, without warrant, to board, inspect, and search any boat, fishing appliance, storage or processing plant, fishhouse, spongehouse, oysterhouse, or other warehouse, building, or vehicle engaged in transporting or storing any fish or fishery products. Such authority to search and inspect without a search warrant is limited to those cases in which such law enforcement officers have reason to believe that fish or any saltwater products are taken or kept for sale, barter, transportation, or other purposes in violation of laws or rules promulgated under this law. Any such law enforcement officer may at any time seize or take possession of any saltwater products or contraband which have been unlawfully caught, taken, or processed or which are unlawfully possessed or transported in violation of any of the laws of this state or any rule or regulation of the department. Such law enforcement officers may arrest any person in the act of violating any of the provisions of this law, the rules or regulations of the department, or the provisions of chapter 253 and the rules and regulations promulgated thereunder or any of the laws of this state. It is hereby declared unlawful for any person to resist such arrest or in any manner interfere, either by abetting or assisting such resistance or otherwise interfering, with any such law enforcement officer while engaged in the performance of the duties imposed upon him by law or regulation of the department.

(6) DUTIES OF DEPARTMENT OF LEGAL AFFAIRS.—The Department of Legal Affairs shall attend to the legal business of the Department of Natural Resources and its divisions; but, if at any time any question of law or any litigation arises and the Department of Legal Affairs is otherwise occupied and cannot give the time and attention necessary to such question of law or litigation as the occasion demands, the several state attorneys shall attend to any such question of law or litigation arising within their respective circuits; and, if such state attorney is otherwise occupied and cannot give the time and attention necessary to such question of law or litigation as the case may demand, the Department of Natural Resources may employ additional counsel for that particular cause, with the advice and consent of the Department of Legal Affairs. Such additional counsel's fees shall be paid from the moneys appropriated to the Department of Natural Resources.

(7) RETENTION, DESTRUCTION, AND REPRODUCTION OF RECORDS.—Records and documents of the Department of Natural Resources which are created in compliance with and in the implementation of chapters 370 and 371 shall be retained by the department as specified in record retention schedules established under the general provisions of chapters 119 and 267. Further, the department is authorized to:

(a) Destroy, or otherwise dispose of, those records and documents in conformity with the approved retention schedules.

(b) Photograph, microphotograph, or reproduce such records and documents on film, as authorized and directed by the approved retention schedules, whereby each page will be exposed in exact conformity with the original records and documents retained in compliance with the provisions of this section. Photographs or microphotographs in the form of film or print of any records, made in compliance with the provisions of this section, shall have the same force and effect as the originals thereof would have and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs. The impression of the seal of the Department of Natural Resources on a certificate made pursuant to the provisions hereof, and signed by the Executive Director of the Department of Natural Resources, shall entitle the same to be received in evidence in all courts and in all proceedings in this state and shall be prima facie evidence of all factual matters set forth in the certificate. A certificate may relate to one or more records, as set forth in the certificate, or in a schedule continued on an attachment to the certificate.

(c) Furnish certified copies of such records for a fee of $1 which shall be deposited in the Motorboat Revolving Trust Fund.

(8) COURTS OF EQUITY MAY ENJOIN.—Courts of equity in this state have jurisdiction to enforce the conservation laws of this state by injunction.

(9) BOND OF EMPLOYEES.—The department may require, as it determines, that bond be given by any employee of the department or divisions thereof, payable to the Governor of the state, and his successor in office, for the use and benefit of those whom it may concern, in such penal sums with good and sufficient surety or sureties approved by the department conditioned for the faithful performance of the duties of such employee.

History.—s. 2, ch. 61-231; s. 1, ch. 61-22; ss. 11, 25, 35, ch. 69-106; s. 1, ch. 70-378; s. 1, ch. 70-439; s. 277, ch. 71-136; s. 1, ch. 75-180; s. 23, ch. 78-95; s. 31, ch. 78-65; s. 1, ch. 80-356; s. 220, ch. 81-259; s. 30, ch. 84-258.

370.07 Seafood dealers; regulation.—

(1) DEFINITIONS; LICENSES AUTHORIZED.—License or privilege taxes, as hereinafter set forth to be paid annually, are hereby levied and im-

posed upon dealers in the state in seafood and saltwater products as defined hereafter; and it is unlawful for any person, firm, or corporation to deal in any such products without first paying for and procuring the license required by this section. Application for all licenses shall be made to the Department of Natural Resources on blanks to be furnished by it, and all licenses shall be issued by the department upon payment to it of the license tax therefor. The licenses are defined as:

(a)1. "Wholesale seafood dealer" is any person, firm, or corporation which sells saltwater fish or other saltwater products, excluding novelty shells and sponges, to any person, firm, or corporation except to the consumer; however, those persons so excluded shall make those reports required of such wholesale dealers.

2. Whenever a person, firm, or corporation, already in possession of a wholesale seafood dealer license, finds it useful and expedient to have more than one establishment, and the function of such additional establishments is the loading and preparation of products for later transshipment to the central place of business, it is not necessary for that person, firm, or corporation to obtain an additional wholesale dealer license.

3. In order for such a subordinate establishment or structure to be exempt from the requirement of having a wholesale dealer license, all products passing through must have the establishment of the licensed wholesale dealer under whose license the branch functions as their immediate destination.

4. If any products leave the branch or subordinate station for shipment or delivery to any destination other than the wholesale dealer under whose license the branch functions, the loading or subordinate location will also require a wholesale dealer license.

5. All provisions of this act apply to establishments and feeder stations when both categories are located within a single county. Whenever intercounty transportation becomes involved, the point of origin and point of destination must both be licensed.

(b) A "retail seafood dealer" is any person, firm, or corporation which sells saltwater fish or other saltwater products directly to the consumer as seafood, but no license is required of a dealer in merchandise who deals in or sells only salted, cured, canned, or smoked seafood.

Any person, firm, or corporation which is, under the foregoing definitions, both a wholesale seafood dealer and a retail seafood dealer shall obtain both a wholesale seafood dealer's license and a retail seafood dealer's license.

(2) LICENSES; AMOUNT, TRUST FUND.—

(a) A resident wholesale seafood dealer is required to pay an annual license tax of $300.

(b) A nonresident wholesale seafood dealer is required to pay an annual license tax of $500.

(c) An alien wholesale seafood dealer is required to pay an annual license tax of $750.

(d) A resident retail seafood dealer is required to pay an annual license tax of $25; however, if such a dealer has more than one place of business, he shall designate one place of business as a central place of business, shall pay an annual license tax of $25 for such place of business, and shall pay an annual license tax of $10 for each of his other places of business.

(e) A nonresident retail seafood dealer is required to pay a license tax of $200; however, if such a dealer has more than one place of business, he shall designate one place of business as a central place of business, shall pay an annual license tax of $200 for such place of business, and shall pay an annual license tax of $25 for each of his other places of business.

(f) An alien retail seafood dealer is required to pay a license tax of $250; however, if such a dealer has more than one place of business, he shall designate one place of business as a central place of business, shall pay an annual license tax of $250 for such place of business, and shall pay an annual license tax of $50 for each of his other places of business.

(g) All the foregoing funds hereafter collected by the department, together with any other funds derived from the Federal Government or otherwise, shall be deposited in a Florida Saltwater Products Promotion Trust Fund to be administered by the department for the promotion of all saltwater products produced in this state.

(h) All deposits heretofore made by the department into the Florida Saltwater Products Promotion Trust Fund are hereby ratified and confirmed.

(3) WHOLESALE PERMIT; PENALTY.—

(a)1. Saltwater products produced outside this state, and transported to this state for processing, freezing, and storage are not required to display a wholesale permit number on the individual packages, boxes, or containers when they leave the freezer for shipment out of state. Truckdrivers, in such instances, shall, however, have in their possession invoices, bills of lading, and other similar instruments, printed or stamped with a special permit stamp giving the name of the freezer and the location of the freezer and stating that items on manifest are produced outside this state. Invoices, bills of lading, and other similar instruments shall show the number of packages, boxes, or containers and the number of pounds of each species to cover and identify all saltwater products in the shipment.

2. The above stamp shall be requested by the freezer owner and shall be furnished, at cost, by the division, or the freezer owner may exercise the option, at his own expense, of having the information required in subparagraph 1. printed on his invoices, bills of lading, and other similar instruments.

(b)1. Saltwater products produced in this state and processed, frozen, and stored by Florida wholesale dealers are not required to display the wholesale permit number of the individual owner on individual packages, boxes, or containers when they are removed from freezer for shipment or delivery in or out of this state. Truckdrivers, in the above instances, shall, however, have in their possession invoices, bills of lading, and other similar instruments printed or stamped with a special permit stamp giving the name of the freezer and its location and the number of the licensed wholesale dealer written in a blank space provided in the stamp. Invoices, bills of lading, and other similar instruments shall show the number of packages, boxes, or containers and the number of pounds of each species to cover and identify all saltwater products in the shipment.

2. The above stamp shall be requested by the freezer owner and shall be furnished, at cost, by the division, or the wholesale dealer may, at his option and at his own expense, have printed on his invoices, bills of lading, and other similar instruments the information required in subparagraph 1. The freezer owner shall be furnished free of charge a complete list of Florida wholesale seafood dealers and their permit numbers.

(c)1. Saltwater products produced in this state may be transported within or without the state without each individual box or container displaying the wholesale permit stamp or permit number.

2. However, the truckdrivers shall have in their possession invoices, bills of lading, and other similar instruments showing the number of boxes or containers and pounds of each species, displayed with the permit stamp or permit number of the wholesaler, distributor, or producer from whom the shipment was received.

3. Further, in the event that the seafood products in transit came from more than one dealer, distributor, or producer, each lot from each dealer shall be covered by invoices, bills of lading, and other similar instruments showing the number of boxes or containers and the number of pounds of each species, and such instruments shall be stamped or printed with that dealer's, distributor's, or producer's wholesale permit stamp or permit number.

4. It is unlawful to sell, deliver, ship, or transport, or to possess for the purpose of selling, delivering, shipping, or transporting, any fish, seafood, or other products of the salt waters of this state, without all invoices and containers of such products having thereon the wholesaler's permit number in such form as may be prescribed under the provisions of this section and the rules and regulations of the department, and any such products found in the possession of any person whosoever is in violation of this provision may be seized by the division and disposed of in the manner provided by law.

(d) Nothing contained in this section may be construed to apply to the sale and delivery to a consumer of such products in an ordinary retail transaction by a licensed retail dealer who has purchased such products from a licensed wholesale dealer, or to the sale and delivery of his own catch or products, to a Florida-licensed wholesale dealer, by any person catching or gathering the same. Wholesale seafood dealers' permits and licenses shall be issued only to applicants who furnish to the division satisfactory evidence of law-abiding reputation and who pledge themselves to the faithful observance of all of the laws and lawful regulations of this state regulating the conservation, dealing in, taking, selling, transporting, or possession of fish, seafood, and other saltwater products, and cooperation in the enforcement of all such laws, to every reasonable extent, which pledge may be included in the application for permit and license. Any person violating the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) LABELING.—

(a) No seafood dealer, as defined herein, shall sell any oysters produced outside this state unless they are labeled as such, or unless it is otherwise reasonably made known to the purchaser that the oysters were not produced in this state.

(b) The Department of Natural Resources shall promulgate rules whereby oysters produced in Florida waters can be traced to the location from which they were harvested. No seafood dealer, as defined herein, shall sell any oysters produced in this state unless they are labeled so that they may be traced to the point of harvesting.

(5) LICENSE REVOCATION; PENALTY.—

(a) A permit or license issued to a seafood dealer under the provisions of this chapter is good only to the person to whom issued, and named therein, and is not transferable. Such permit or license may be revoked:

1. By the division upon the conviction of the person, to whom issued, of any violation of the laws or regulations designed for the conservation of fish, seafood, or other products of the fresh or salt waters of this state;

2. Upon conviction of the person, to whom issued, of knowingly dealing in, buying, selling, transporting, possessing, or taking any fish, seafood, or saltwater product, at any time and from any waters, in violation of the laws of this state; or

3. By the division upon satisfactory evidence of any violation of the laws or any regulations of this state designed for the conservation of fish, seafood, or other products of the fresh or salt waters of this state or of any of the laws of this state relating to dealing in, buying, selling, transporting, possession, or taking of fish, seafood, or saltwater products.

(b) Upon revocation of such permit or license, no other or further permit or license may be issued to the holder of the one revoked within 3 years from the date of revocation, except upon special order of the division. After revocation as aforesaid it is unlawful for such seafood dealer to exercise any of the privileges of a licensed seafood dealer.

(c) Any person violating the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) RECORDS TO BE KEPT; PENALTY.—Seafood dealers shall be required by the division to make and preserve a record of the names and addresses of persons from whom or to whom fish, seafood, or other products of the salt waters of the state are purchased or sold; the quantity so purchased or sold from or to each vendor or purchaser; and the date of each such transaction, and such record shall be open to inspection at all times by the division. A monthly report shall be made to the division covering the sale or sales of products of salt waters of the state. The permit or license of any dealer shall be revoked for failure or refusal to make and keep such records and make such reports, for failure or refusal to permit the examination thereof as required, or for falsifying any such record; however, this section does not apply to sales by retail dealers in retail quantities to consumers. Any person violating the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 2, ch. 26145, 1953; s. 1, ch. 29990, 1955; s. 1, ch. 57-367; ss. 1, 2, ch. 57-335; s. 2, ch. 61-22; s. 1, ch. 61-376; s. 1, ch. 65-547; s. 1, ch. 67-212; s. 1.

ch. 67-262; ss. 25, 26, ch. 69-106; s. 282, ch. 71-136; s. 1, ch. 75-95; s. 23, ch. 78-95; s. 1, ch. 80-115; ss. 6, 12, ch. 83-134; s. 2, ch. 84-121.

[1]Note.—Repealed effective July 1, 1984, by s. 8, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1984, this subsection shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 6, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.

370.071 Adoption of rules, regulations and sanitary codes.—[Repealed effective July 1, 1984, by s. 6, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1984, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing these provisions set forth in s. 6, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.08 Fisherman and equipment; regulation.—

[1](1) ILLEGAL POSSESSION OF SEINES AND NETS.—No person may have in his custody or possession in any county of this state any fishing seine or net, the use of which for fishing purposes in such county is prohibited by law. Such possession shall be evidence of a violation of this subsection by both the owner thereof and the person using or possessing said net. The provisions of this subsection shall not apply to shrimp nets, to pound nets or purse nets when used in taking menhaden fish, to seines used exclusively for taking herring, or to legal beach seines used in the open gulf or Atlantic Ocean if the possession of such nets is not prohibited in the county where found. Violation of this subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

[1](2) STOP NETTING DEFINED; PROHIBITION; PENALTY.—

(a) It is unlawful for any person to obstruct any river, creek, canal, pass, bayou or other waterway in this state by placing or setting therein any screen, net, seine, rack, wire or other device, or to use, set, or place any net or seine or similar device of any kind, either singularly or in rotation or one behind another in any manner whatsoever so as to prevent the free passage of fish. Any person violating this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) It is unlawful for any person, while fishing or attempting to fish for shrimp or saltwater fish, to attach or otherwise secure a frame net, trawl net, trap net, or similar device to any state road bridge or associated structure situated over any saltwater body or to use more than one such net or device while fishing from such bridge or structure. For the purposes of this paragraph, a "frame net" is any net similar to a hoop net, the mouth of which is held open by a frame, with a trailing mesh net, of any size. Cast nets, dip nets, and similar devices are specifically excluded from the operation of this paragraph.

[1](3) USE OF PURSE SEINES, GILL NETS, AND POUND NETS, ETC.; PENALTY.—No person may take food fish within or without the waters of this state with a purse seine, purse gill net, or other net using rings or other devices on the lead line thereof, through which a purse line is drawn, or pound net, or have any food fish so taken in his possession for sale or shipment. The provisions of this section shall not apply to shrimp nets or to pound nets or purse seines when used for the taking of tuna or menhaden fish only. Any person violating this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) RETURN OF FISH TO WATER; PENALTY.—All persons, taking food fish from any of the waters of this state, by use of seines, nets, or other fishing devices and not using any of such fish because of size or other reasons, shall immediately release and return such fish alive to the water from which taken and no such fish may be placed or deposited on any bank, shore, beach or other place out of the water. Any person violating or failing to comply with the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

[1](5) THROWING EXPLOSIVES OR USE OF FIREARMS IN WATER FOR PURPOSE OF KILLING FOOD FISH PROHIBITED; PENALTY.—No person may throw or cause to be thrown, into any of the waters of this state, any dynamite, lime, other explosives or discharge any firearms whatsoever for the purpose of killing food fish therein. The landing ashore or possession on the water by any person of any food fish that has been damaged by explosives or the landing of headless jewfish or grouper, if the grouper is taken for commercial use, is prima facie evidence of violation of this section. Any person violating any of the provisions of this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

[1](6) SEINES, POCKET BUNTS.—In any counties where seines are not prohibited on the open gulf or Atlantic Ocean, such seines may have a pocket bunt on the middle of the seine of a mesh size less than that provided by law.

[1](7) GILL NETS.—In any county in which gill nets or gill netting is not prohibited, such nets when being fished may be gathered or taken in or taken up in any manner when such nets are gathered in, taken in or taken up by hand; however, no net may be pulled up on shore where seining is prohibited. Such nets may be gathered or taken in or taken up by power on the open waters of the Gulf of Mexico or the Atlantic Ocean.

[1](8) USE OF GEAR AND OTHER EQUIPMENT.—Whenever it shall appear in the best interests of conservation and will result in a more efficient use of offshore fisheries resources, the Division of Marine Resources of the department may issue a permit for the use of gear and equipment essential to such exploitation. The provisions of this section do not apply to shrimping and sponging operations and all local and general laws pertaining to shrimps and sponges remain in effect.

[1](9) SNATCH HOOKS, USE OF PROHIBITED TO TAKE SNOOK.—The taking of the game fish snook in state waters is prohibited except by use of

the standard bait, lure, plug or spoon. It is unlawful to take snook by use of gig or grain, gang hook, multiple hooks, snatch hooks, or any other device designed to impale or hook the fish. What is commonly called snook snatching is prohibited in the waters of this state.

[1](10) ILLEGAL USE OF POISONS, DRUGS, OR CHEMICALS.—

(a) It is unlawful for any person to place poisons, drugs, or other chemicals in the marine waters of this state unless that person has first obtained a permit for such use from the Division of Marine Resources of the Department of Natural Resources.

(b) Upon application on forms furnished by the division, the division may issue a permit to use poisons, drugs, or other chemicals in the marine waters of this state for the purpose of capturing live marine species. The application and permit shall specify the area in which collecting will be done, the drugs, chemicals, or poisons to be used, and the maximum amounts and concentrations at each sampling.

(c) Violation of this subsection shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. The Department of Natural Resources may revoke the permit for violation of the conditions placed on its issuance.

[1](11) USE OF GILL NETS FOR TAKING KING MACKEREL.—No person may take king mackerel from the waters within or without this state in any county bordering on the Atlantic Ocean, except Monroe County, or land any king mackerel so taken with a gill net having a hanging depth of more than 200 meshes of 4¾-inch stretched mesh, measured from the cork line to the lead line or its equivalent. Possession of such a net is prima facie evidence of a violation of this subsection. Any person who violates this subsection is guilty of a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083.

[1](12) SIZE OF MESH IN KING MACKEREL NETS.—No person may set a school of king mackerel within or without the waters of this state with a net having a mesh size of less than 4¾ inches. Any person who violates this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 2, ch. 28145, 1953; s. 1, ch. 57-765; s. 1, ch. 57-766; s. 1, ch. 59-477; s. 1, ch. 65-182; ss. 25, 35, ch. 69-106; s. 1, ch. 69-231; s. 283, ch. 71-136; s. 1, ch. 73-66; s. 1, ch. 76-101; s. 1, ch. 78-80; s. 1, ch. 78-159; s. 2, ch. 78-404; s. 2, ch. 79-253; s. 7, ch. 83-134; s. 2, ch. 84-121.

[1]Note.—Repealed effective July 1, 1985, by s. 7, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1985, this subsection shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 7, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.

370.082 Use of gill nets, wing nets, and similar devices regulated; penalties; confiscation of equipment.—[Repealed effective July 1, 1985, by s. 7, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1985, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 7, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.0821 St. Johns County; use of nets.—[Repealed effective July 1, 1985, by s. 7, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1985, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 7, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.11 Fish; regulation.—[Repealed effective July 1, 1985, by s. 7, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1985, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 7, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.1105 Saltwater finfish; fishing trap regulated.—[Repealed effective July 1, 1985, by s. 7, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1985, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 7, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.111 Snook, regulation.—[Repealed effective July 1, 1985, by s. 7, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1985, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 7, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.112 Striped bass, regulation.—[Repealed effective July 1, 1985, by s. 7, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1985, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 7, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.1121 Bonefish; regulation.—[Repealed effective July 1, 1985, by s. 7, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1985, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 7, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.1125 Permits (Trachinotus falcatus); regulation; penalty.—[Repealed effective July 1, 1985, by s. 7, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1985, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 7, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.113 Queen conchs of the species Strombus gigas; regulation.—[Repealed effective July 1, 1984, by s. 6, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1984, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 6, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.114 Taking of marine corals and sea fans regulated; penalties.—[Repealed effective July 1, 1984, by s. 6, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1984, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 6, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.12 Marine animals; regulation.—

(1) PROTECTION OF MARINE TURTLES, NESTS, AND EGGS; PENALTY.—

(a) No person may take, possess, disturb, mutilate, destroy, cause to be destroyed, sell, offer for sale, transfer, molest, or harass any marine turtle nest or eggs at any time. Any person violating this paragraph is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) No person, firm, or corporation may take, kill, disturb, mutilate, molest, harass, or destroy any marine turtle, unless by accident in the course of normal fishing activities. Any turtle accidentally caught will be returned alive to the water immediately. A violation of this paragraph is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) No person, firm, or corporation may possess any marine turtle or parts thereof unless it is in possession of an invoice evidencing the fact that the marine turtle or parts thereof has been imported from a foreign country or outside the territorial waters of the state, or are possessed under special permit from the Division of Marine Resources for scientific, educational, or exhibitional purposes. Violation of this paragraph is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) PROTECTION OF MANATEES OR SEA COWS; PENALTY.—

(a) This subsection shall be known and may be cited as the "Florida Manatee Sanctuary Act."

(b) The State of Florida is hereby declared to be a refuge and sanctuary for the manatee, the "Florida state marine mammal."

(c) Whenever the department is satisfied that the interest of science will be subserved, and that the application for a permit to possess a manatee or sea cow (*Trichechus manatus*) is for a scientific or propagational purpose and should be granted, and after concurrence by the United States Department of the Interior, the Division of Marine Resources may grant to any person making such application a special permit to possess a manatee or sea cow, which permit shall specify the exact number which shall be maintained in captivity.

(d) Except as may be authorized by the terms of a valid state permit issued pursuant to paragraph (c) or by the terms of a valid federal permit, it is unlawful for any person at any time, by any means, or in any manner intentionally or negligently to annoy, molest, harass, or disturb or attempt to molest, harass, or disturb any manatee; injure or harm or attempt to injure or harm any manatee; capture or collect or attempt to capture or collect any manatee; pursue, hunt, wound, or kill or attempt to pursue, hunt, wound, or kill any manatee; or possess, literally or constructively, any manatee or any part of any manatee. Any person violating the provisions of this paragraph is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) Any gun, net, trap, spear, harpoon, boat of any kind, aircraft, automobile of any kind, other motorized vehicle, chemical, explosive, electrical equipment, scuba or other subaquatic gear, or other instrument, device, or apparatus of any kind or description used in violation of any provision of paragraph (d) may be forfeited upon conviction. The foregoing provisions relating to seizure and forfeiture of vehicles, vessels, equipment, or supplies do not apply when such vehicles, vessels, equipment, or supplies are owned by, or titled in the name of, innocent parties; and such provisions shall not vitiate any valid lien, retain title contract, or chattel mortgage on such vehicles, vessels, equipment, or supplies if such lien, retain title contract, or chattel mortgage is property of public record at the time of the seizure.

(f) In order to protect manatees or sea cows from harmful collisions with motorboats, the Department of Natural Resources shall adopt rules under chapter 120 regulating the operation and speed of motorboat traffic only where manatee sightings are frequent and it can be generally assumed that they inhabit these areas on a regular or continuous basis:

1. In Lee County: the entire Orange River, including the Tice Florida Power and Light Corporation discharge canal and adjoining waters of the Caloosahatchee River within 1 mile of the confluence of the Orange and Caloosahatchee Rivers.

2. In Brevard County: those portions of the Indian River within three-fourths of a mile of the Orlando Utilities Commission Delespine power plant effluent and the Florida Power and Light Frontenac power plant effluents.

3. In Indian River County: the discharge canals of the Vero Beach Municipal Power Plant and connecting waters within 1¼ miles thereof.

4. In St. Lucie County: the discharge of the Henry D. King Municipal Electric Station and connecting waters within 1 mile thereof.

5. In Palm Beach County: the discharges of the Florida Power and Light Riviera Beach power plant and connecting waters within 1½ miles thereof.

6. In Broward County: the discharge canal of the Florida Power and Light Port Everglades power plant and connecting waters within 1½ miles thereof and the discharge canal of the Florida Power and Light Fort Lauderdale power plant and connecting waters within 2 miles thereof. For purposes of ensuring the physical safety of boaters in a sometimes turbulent area, the area from the easternmost edge of the authorized navigation project of the intracoastal waterway east through the Port Everglades Inlet is excluded from this regulatory zone.

7. In Citrus County: headwaters of the Crystal River, commonly referred to as King's Bay, and the Homosassa River.

8. In Volusia County: Blue Springs Run and connecting waters of the St. Johns River within 1 mile of the confluence of Blue Springs and the St. Johns River.

9. In Hillsborough County: that portion of the Alafia River from the main shipping channel in Tampa Bay to U.S. Highway 41.

10. In Sarasota County: the Venice Inlet and connecting waters within 1 mile thereof, including Lyons Bay, Donna Bay, Roberts Bay, and Hatchett Creek, excluding the waters of the intracoastal waterway and the right-of-way bordering the centerline of the intracoastal waterway.

11. In Collier County: within the Port of Islands, within section 9, township 52 south, range 28 east, and certain unsurveyed lands, all east-west canals and the north-south canals to the southerly extent of the intersecting east-west canals which lie southerly of the centerline of U.S. Highway 41.

12. In Manatee County: that portion of the Manatee River east of the west line of section 17, range 19 east, township 34 south; the Braden River south of the north line and east of the west line of section 29, range 18 east, township 34 south; Terra Ceia Bay and River, east of the west line of sections 26 and 35 of range 17 east, township 33 south, and east of the west line of section 2, range 17 east, township 34 south; and Bishop Harbor east of the west line of section 13, range 17 east, township 33 south.

13. In Dade County: those portions of Black Creek lying south and east of the water control dam, including all boat basins and connecting canals within 1 mile of the dam.

(g) The Department of Natural Resources shall adopt rules regulating the operation and speed of motorboat traffic only where manatee sightings are frequent and it can be generally assumed that they inhabit these areas on a regular or continuous basis within that portion of the Indian River between the St. Lucie Inlet in Martin County and the Jupiter Inlet in Palm Beach County. The main channel of the Atlantic Intracoastal Waterway within this area is exempted from speed restrictions. In addition, the department shall adopt rules regulating the operation and speed of motorboat traffic only where manatee sightings are frequent and it can be generally assumed that they inhabit these areas on a regular or continuous basis within the Loxahatchee River in Palm Beach and Martin Counties, including the north and southwest forks thereof. A limited lane or corridor providing for reasonable motorboat speeds may be identified and designated within this area.

(h) The department shall adopt rules regulating the operation and speed of motorboat traffic only where manatee sightings are frequent and it can be generally assumed that they inhabit these areas on a regular or continuous basis within the Withlacoochee River and its tributaries in Citrus and Levy Counties. The specific areas to be regulated include the Withlacoochee River and the U.S. 19 bridge westward to a line between U.S. Coast Guard markers number 33 and number 34 at the mouth of the river, including all side channels and coves along that portion of the river; Bennets' Creek from its beginning to its confluence with the Withlacoochee River; Bird's Creek from its beginning to its confluence with the Withlacoochee River; and the two dredged canal systems on the north side of the Withlacoochee River southwest of Yankeetown. A limited lane or corridor providing

for reasonable motorboat speeds may be identified and designated within this area.

(i) In the event any new power plant is constructed or other source of warm water discharge is discovered within the state which attracts a concentration of manatees or sea cows during the period between November 15 of each year and March 31 of the succeeding year, the Department of Natural Resources is directed to adopt rules regulating the operation and speed of motorboat traffic within the area of such discharge, incorporating a zone sufficient in size to protect the concentration of manatees or sea cows which occurs thereby.

(j) It is the intent of the Legislature through adoption of this paragraph to allow the Department of Natural Resources to post and regulate boat speeds only where manatee sightings are frequent and it can be generally assumed that they inhabit these areas on a regular or continuous basis. It is not the intent of the Legislature to permit the department to post and regulate boat speeds generally in the above-described inlets, bays, rivers, creeks, thereby unduly interfering with the rights of fishermen, boaters, and water skiers using the areas for recreational and commercial purposes. Limited lanes or corridors providing for reasonable motorboat speeds may be identified and designated within these areas.

(k) The department shall adopt rules regulating the operation and speed of motorboat traffic all year around within Turkey Creek and its tributaries and within Manatee Cove in Brevard County. The specific areas to be regulated consist of:

1. A body of water which starts at Melbourne-Tillman Drainage District structure MS-1, section 35, township 28 south, range 37 east, running east to include all natural waters and tributaries of Turkey Creek, section 26, township 28 south, range 37 east, to the confluence of Turkey Creek and the Indian River, section 24, township 28 south, range 37 east, including all lagoon waters of the Indian River bordered on the west by Palm Bay Point, the north by Castaway Point, the east by the four immediate spoil islands, and the south by Cape Malabar, thence northward along the shoreline of the Indian River to Palm Bay Point.

2. A triangle-shaped body of water forming a cove (commonly referred to as Manatee Cove) on the east side of the Banana River, with northern boundaries beginning and running parallel to the east-west cement bulkhead located 870 feet south of SR 520 Relief Bridge in Cocoa Beach and with western boundaries running in line with the City of Cocoa Beach channel markers 121 and 127 and all waters east of these boundaries in section 34, township 24 south, range 37 east; the center coordinates of this cove are 28°20'14" north, 80°35'17" west.

(l) The Legislature recognizes that, while the manatee or sea cow is designated a marine mammal by federal law, many of the warm water wintering areas are in freshwater springs and rivers which are under the primary state law enforcement jurisdiction of the Florida Game and Fresh Water Fish Commission. The law enforcement provisions of this section shall be carried out jointly by the department and the commission, with the department serving as the lead agency. The specific areas of jurisdictional responsibility are to be established between the department and the commission by interagency agreement.

(m) The department shall promulgate regulations relating to the operation and speed of motor boat traffic in port waters with due regard to the safety requirements of such traffic and the navigational hazards related to the movement of commercial vessels.

(n) The department may designate by rule other portions of state waters where manatees are frequently sighted and it can be assumed that manatees inhabit such waters periodically or continuously. Upon designation of such waters, the department shall adopt rules to regulate motorboat speed and operation which are necessary to protect manatees from harmful collisions with motorboats.

(3) PROTECTION OF MAMMALIAN DOLPHINS (PORPOISES); PENALTY.—

(a) It is unlawful to catch, attempt to catch, molest, injure, kill, or annoy, or otherwise interfere with the normal activity and well-being of, mammalian dolphins (porpoises), except as hereinafter provided.

(b) Any person, firm, or corporation desiring to take one or more mammalian dolphins from the waters of this state for scientific, educational, or exhibitional purposes shall apply for a permit to the Division of Marine Resources. Upon determining that the interests of science or education will be served thereby, the division may issue a permit specifying the number of mammalian dolphins to be taken.

(c) Any person, firm, or corporation desiring to hold one or more mammalian dolphins in captivity shall provide and maintain facilities which meet the requirements of the division.

(d) No mammalian dolphin shall be shipped within or outside the state without a special permit from the division, which may require such information as it deems necessary relative to the adequacy of holding facilities of the recipients; and a permit for such shipment may be granted only when the division determines the facilities are adequate.

(e) Notwithstanding the other provisions of this section, it is unlawful to capture at any time any nursing female mammalian dolphin or her calf, or both.

(f) Any person, firm, or corporation which violates the provisions of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) PROTECTION OF MANTA RAYS.—

(a) It is unlawful for any person, firm, or corporation intentionally to destroy a manta ray.

(b) Any person who violates this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) ANNUAL FUNDING OF PROGRAMS FOR MARINE ANIMALS.—

(a) Each fiscal year, $250,000 from the Motorboat Revolving Trust Fund shall be available for annual funding of the department's manatee and marine mammal protection and recovery effort; manufacture and erection of informational and regulatory signs; production, publication, and distribution of educational materials; participation in manatee and marine mammal research programs, including carcass salvage and other programs; programs intended to assist the recovery of the manatee as an endangered species, assist the recovery of the endangered or threatened marine mammals, and prevent the endangerment of other species of marine mammals; and other similar programs intended to protect and enhance the recovery of the manatee and other species of marine mammals.

(b) When the federal and state governments remove the manatee from status as an endangered or threatened species, the requirement for an annual allocation of $250,000 may be reduced.

History.—s. 2, ch. 23145, 1953; ss. 1, 2, ch. 57-771; s. 1, ch. 59-483; s. 1, ch. 67-2198; ss. 25, 35, ch. 69-106; s. 1, ch. 70-48; s. 1, ch. 70-357; s. 1, ch. 71-120; s. 259, ch. 71-136; ss. 1, 1A, ch. 71-145; s. 1, ch. 74-202; s. 1, ch. 77-174; s. 1, ch. 78-232; s. 79, ch. 79-164; s. 8, ch. 81-228; ss. 1, 2, ch. 82-170; s. 1, ch. 83-81; s. 68, ch. 84-338.

370.13 Stone crabs; regulation.—[Repealed effective July 1, 1984, by s. 6, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1984, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 6, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.135 Blue crab; regulation.—[Repealed effective July 1, 1984, by s. 6, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1984, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 6, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.14 Crawfish; regulation.—[Repealed effective July 1, 1986, by s. 8, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1986, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 8, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.15 Shrimp; regulation.—[Repealed effective July 1, 1986, by s. 8, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1986, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 8, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.151 Tortugas shrimp beds; closed areas; permits; penalties.—[Repealed effective July 1, 1986, by s. 8, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1986, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 8, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.153 Regulation of shrimp fishing; Clay, Duval, Nassau, Putnam, Flagler, and St. Johns Counties.—[Repealed effective July 1, 1986, by s. 8, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1986, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 8, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.155 Regulation of shrimp fishing in a designated area.—[Repealed effective July 1, 1986, by s. 8, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1986, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 8, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.156 Florida East Coast Shrimp Bed; closed areas; permits; penalties.—[Repealed effective July 1, 1986, by s. 8, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1986, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 8, the Marine Fisheries Commission

shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.157 Cedar Key closed area for shrimping.—[Repealed effective July 1, 1986, by s. 8, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1986, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 8, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.16 Oysters and shellfish; regulation.—

(1) LEASE, APPLICATION FORM; NOTICE TO RIPARIAN OWNER; LANDS LEASED TO BE COMPACT.—When any qualified person desires to lease a part of the bottom or bed of any of the water of this state, for the purpose of growing oysters or clams, as provided for in this section, he shall present to the Division of Marine Resources a written application setting forth the name and address of the applicant, a reasonably definite description of the location and amount of land covered by water desired, and shall pray that the application be filed; that the water bottoms be surveyed and a plat or map of the survey thereof be made if no plat or map of such bottoms should have been so made thereto; and that the water bottoms described be leased to the applicant under the provisions of this section. Such applicant shall accompany with his written application a sufficient sum to defray the estimated expenses of the survey; thereupon the division shall file such application and shall direct the same surveyed and platted forthwith at the expense of the applicant. When applications are made by two or more persons for the same lands, they shall be leased to the applicant who first filed application for same; but to all applications for leases of any of the bottoms of said waters owned under the riparian acts of the laws of Florida, heretofore enacted, notice of such application shall be given the riparian owner, when known, and, when not known, notice of such application shall be given by publication for 4 weeks in some newspaper published in the county in which the water bottoms lie; and when there is no newspaper published in such county, then by posting the notice for 4 weeks at the courthouse door of the county, and preference shall be given to the riparian owners under the terms and conditions herein created, when the riparian owner makes application for such water bottoms for the purpose of planting oysters or clams before the same are leased to another. The lands leased shall be as compact as possible, taking into consideration the shape of the body of water and the condition of the bottom as to hardness, or soft mud or sand, or other conditions which would render the bottoms desirable or undesirable for the purpose of oyster or clam cultivation.

(2) SURVEYS, PLATS, AND MAPS OF REEFS.—The Division of Marine Resources shall accept, adopt, and use official reports, surveys, and maps of oyster, clam, or other shellfish grounds made under the direction of any authority of the United States as prima facie evidence of the natural oyster and clam reefs, for the purpose and intent of this chapter. The said division may also make surveys of any natural oyster or clam reefs when it deems such surveys necessary and where such surveys are made pursuant to an application for a lease, the cost thereof may be charged to the applicant as a part of the cost of his application.

(3) EXECUTION OF LEASES; LESSEE TO STAKE OFF BOUNDARIES; PENALTY FOR FAILURE TO COMPLY WITH REGULATIONS.—As soon as the survey has been made and the plat or map thereof filed with the Division of Marine Resources and the cost thereof paid by the applicant, the division may execute in duplicate a lease of the water bottoms to the applicant. One duplicate, with a plat or map of the water bottoms so leased, shall be delivered to the applicant, and the other, with a plat or map of the bottom so leased, shall be retained by the division and registered in a lease book which shall be kept exclusively for that purpose by the division; thereafter the lessees shall enjoy the exclusive use of the lands and all oysters and clams, shell, and cultch grown or placed thereon shall be the exclusive property of such lessee as long as he shall comply with the provisions of this chapter. The division shall require the lessee to stake off and mark the water bottoms leased, by such ranges, monuments, stakes, buoys, etc., so placed and made as not to interfere with the navigation, as it may deem necessary to locate the same to the end that the location and limits of the lands embraced in such lease be easily and accurately found and fixed, and such lessee shall keep the same in good condition during the open and closed oyster or clam season. All leases shall be marked according to the standards derived from the uniform waterway markers for safety and navigation as described in s. 327.40. The division may stipulate in each individual lease contract the types, shape, depth, size, and height of marker or corner posts. Failure on the part of the lessee to comply with the orders of the division to this effect within the time fixed by it, and to keep the markers, etc., in good condition during the open and closed oyster or clam season, shall subject such lessee to a fine not exceeding $100 for each and every such offense. All lessees shall cause the area of the leased water bottoms and the names of the lessees to be shown by signs as may be determined by the division, if so required.

(4) LEASES IN PERPETUITY; RENT; STIPULATIONS; TAXES; CULTIVATION, ETC.—

(a) All leases made under the provisions of this chapter shall begin on the day executed and continue in perpetuity under such restrictions as shall herein be stated. The rent for the first 10 years shall be $5 per acre, or any fraction of an acre, per year. However, the rent for any lease currently in effect shall not be increased during the first 10 years of said lease. This rent shall be paid in advance at the time of signing the lease up to January 1 following, and annually

thereafter in advance on or before January 1, whether the lease be held by the original lessee or by an heir, assignee, or transferee. No taxes, assessments, or other licenses other than those imposed in this chapter shall be levied or imposed on the leases or leased lands, but the annual rental exacted and paid shall be held and considered all that can or shall be exacted by the state or county, subordinate political corporations, or municipalities.

(b) Effective cultivation shall consist of the growing of the oysters or clams in a density suitable for commercial harvesting over the amount of bottom prescribed by law. This commercial density shall be accomplished by the planting of seed oysters, shell, and cultch of various descriptions. The Division of Marine Resources may stipulate in each individual lease contract the types, shape, depth, size, and height of cultch materials on lease bottoms according to the individual shape, depth, location, and type of bottom of the proposed lease. Each tenant leasing from the state water bottoms under the provisions of this section shall have begun, within 1 year from the date of such lease, bona fide cultivation of the same, and shall, by the end of the second year from the commencement of his lease, have placed under cultivation at least one-fourth of the water bottom leased and shall each year thereafter place in cultivation at least one-fourth of the water bottom leased until the whole, suitable for bedding of oysters or clams, shall have been put in cultivation by the planting thereon of not less than 200 barrels of oysters, shell, or its equivalent in cultch to the acre. When leases are granted, or when grants have heretofore been made under existing laws for the planting of oysters or clams, such lessee or grantee is authorized to plant the leased or granted bottoms both in oysters and clams.

(c) These stipulations will apply to all leases granted after the passing of this section. All leases existing prior to the passing of this section will operate under the law which was in effect when the leases were granted.

(d) When evidence is gathered by the division and such evidence conclusively shows a lack of effective cultivation, the division may revoke leases and return the bottoms in question to the public domain.

(e) When evidence obtained by qualified marine biologists is available to the division which indicates that relatively temporary or transient hydrographic or biological conditions preclude the successful cultivation of oysters, lessees may apply to the division for a permit to suspend planting operations. Such permits shall be revocable upon 30 days' notice from the division that growing conditions are again suitable and, upon the revocation of such permits, cultivation will again be mandatory as required by law.

(f) The department has the authority to adopt rules and regulations pertaining to the water column over shellfish leases. All cultch materials in place 6 months after the formal adoption and publication of rules and regulations establishing standards for cultch materials on shellfish leases which do not comply with such rules and regulations may be declared a nuisance by the division. The division shall have the authority to direct the lessee to remove such cultch in violation of this section. The division may cancel a lease upon the refusal by the lessee violating such rules and regulations to remove unlawful cultch materials, and all improvements, cultch, marketable oysters, and shell shall become the property of the state. The division shall have the authority to retain, dispose of, or remove such materials in the best interest of the state.

(5) INCREASE OF RENTALS AFTER 10 YEARS.—After 10 years from the execution of the lease, the rentals shall be increased to a minimum of $1 per acre per annum. The Division of Marine Resources shall assess rental value on the leased water bottoms, taking into consideration their value as oyster-growing or clam-growing water bottoms, their nearness to factories, transportation, and other conditions adding value thereto and placing such valuation upon them in shape of annual rental to be paid thereunder as said condition shall warrant.

(6) LEASES TRANSFERABLE, ETC.—The leases shall be inheritable and transferable, in whole or in part, and shall also be subject to mortgage, pledge, or hypothecation and shall be subject to seizure and sale for debts as any other property, rights, and credits in this state, and this provision shall also apply to all buildings, betterments, and improvements thereon. Leases granted under this section cannot be transferred, by sale or barter, in whole or in part, without the written, express acquiescence of the Division of Marine Resources, and such a transferee shall pay a $50 transfer fee before division acquiescence may be given. No lease or part of a lease may be transferred by sale or barter until the lease has been in existence at least 2 years and has been cultivated according to the statutory standards found in paragraph (4)(b), except as otherwise provided by regulation adopted by the Division of Marine Resources. No such inheritance or transfer shall be valid or of any force or effect whatever unless evidenced by an authentic act, judgment, or proper judicial decree registered in the office of the division in a book to be provided for said purpose. The division shall keep proper indexes so that all original leases and all subsequent changes and transfers can be easily and accurately ascertained.

(7) PAYMENT OF RENT; FORFEITURE FOR NONPAYMENT; NOTICE, ETC.—All leases shall stipulate for the payment of the annual rent in advance on or before January 1 of each year, and the further stipulation that the failure of the tenant to pay the rent punctually on or before that day, or within 30 days thereafter shall ipso facto, and upon demand, terminate and cancel said lease and forfeit to the state all the works, improvements, betterments, oysters, and clams on the leased water bottoms, and authorize the Division of Marine Resources to at once enter on said water bottom and take possession thereof, and such water bottom shall then be open for lease as herein provided; and the division shall within 10 days thereafter enter such termination, cancellation, and forfeiture on its books and shall give such public notice thereof, and of the fact that the water bottoms are open to lease, as it shall deem proper; provided, that the division may, in its discretion, waive such termination, cancellation, and forfeiture when the rent due, with 10 percent additional, and all costs and expenses growing out of such failure to pay, be tendered to it within 60 days after the same became due; provided, that in all cases

of cancellation of lease, the division shall, after 60 days' notice by publication in some newspaper published in the state, having a general statewide circulation, which notice shall contain a full description of the leased waters and beds and any parts thereof, sell such lease to the highest and best bidder; and all moneys received over and above the rents due to the state, under the terms of the lease and provisions herein, and costs and expenses growing out of such failure to pay, shall be paid to the lessee forfeiting his rights therein. No leased water bottoms shall be forfeited for nonpayment of rent under the provisions of this section, unless there shall previously have been mailed by the said division to the last known address of such tenant according to the books of said division, 30 days' notice of the maturity of such lease. Whenever any leased water bottoms are forfeited for nonpayment of rent, and there is a plat or survey thereof in the archives of the division, when such bedding grounds are re-leased, no new survey thereof shall be made, but the original stakes, monuments, and bounds shall be preserved, and the new lease shall be based upon the original survey. This subsection shall also apply to all costs and expenses taxed against a lessee by the division under this section.

(8) CANCELLATION OF LEASES TO NATURAL REEFS.—Any person, within 6 months from and after the execution of any lease to water bottoms, may file a petition with the Division of Marine Resources for the purpose of determining whether a natural oyster or clam reef having an area of not less than 100 square yards existed within the leased area on the date of the lease, with sufficient natural or maternal oysters or clams thereon (not including coon oysters) to have constituted a stratum sufficient to have been resorted to by the public generally for the purpose of gathering the same to sell for a livelihood. The petition shall be in writing addressed to the Division of Marine Resources of the Department of Natural Resources, verified under oath, stating the location and approximate area of the natural reef and the claim or interest of the petitioner therein and requesting the cancellation of the lease to the said natural reef. No petition may be considered unless it is accompanied by a deposit of $10 to defray the expense of examining into the matter. The petition may include several contemporaneous natural reefs of oysters or clams. Upon receipt of such petition, the division shall cause an investigation to be made into the truth of the allegations of the petition, and, if found untrue, the $10 deposit shall be retained by the division to defray the expense of the investigation, but should the allegations of the petition be found true and the leased premises to contain a natural oyster or clam reef, as above described, the said $10 shall be returned to the petitioner and the costs and expenses of the investigation taxed against the lessee and the lease canceled to the extent of the natural reef and the same shall be marked with buoys and stakes and notices placed thereon showing the same to be a public reef, the cost of the markers and notices to be taxed against the lessee.

(9) WHEN NATURAL REEFS MAY BE INCLUDED IN LEASE.—When an application for oyster or clam bedding grounds is filed and upon survey of such bedding ground, it should develop that the area applied for contains natural oyster or clam reefs or beds less in size than 100 square yards, or oyster or clam reefs or bars of greater size, but not of sufficient quantity to constitute a stratum, and it should further be made to appear to the Division of Marine Resources by the affidavit of the applicant, together with such other proof as the division may require, that the natural reef, bed, or bar could not be excluded, and the territory applied for properly protected or policed, the division may, if it deems it for the best interest of the state and the oyster industry so to do, permit the including of such natural reefs, beds, or bars; and it shall fix a reasonable value on the same, to be paid by the applicant for such bedding ground; provided, that no such natural reefs shall be included in any lease hereafter granted to the bottom or bed of waters of this state contiguous to Franklin County. There shall be no future oyster leases issued in Franklin County.

(10) SETTLEMENT OF BOUNDARY DISPUTES; REVIEW.—The Division of Marine Resources shall determine and settle all disputes as to boundaries between lessees of bedding grounds. The division shall, in all cases, be the judge as to whether any particular bottom is or is not a natural reef or whether it is suitable for bedding oysters or clams.

(11) TRESPASS ON LEASED BEDS; GATHERING OYSTERS AND CLAMS BETWEEN SUNSET AND SUNRISE FROM NATURAL REEFS, ETC.—Any person who willfully takes oysters, shells, cultch, or clams bedded or planted by a licensee under this chapter, or grantee under the provisions of heretofore existing laws, or riparian owner who may have heretofore planted the same on his riparian bottoms, or any oysters or clams deposited by anyone making up a cargo for market, or who willfully carries or attempts to carry away the same without permission of the owner thereof, or who willfully or knowingly removes, breaks off, destroys, or otherwise injures or alters any stakes, bounds, monuments, buoys, notices, or other designations of any natural oyster or clam reefs or beds or private bedding or propagating grounds, or who willfully injures, destroys, or removes any other protection around any oyster or clam beds, or who willfully moves any bedding ground stakes, buoys, marks, or designations, placed by the division, or who gathers oysters or clams between sunset and sunrise from the natural reefs or from private bedding grounds, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(12) PROTECTION OF OYSTER AND CLAM REEFS.—The Division of Marine Resources shall improve, enlarge, and protect the natural oyster and clam reefs of this state to the extent it may deem advisable and the means at its disposal will permit. The division shall also, to the same extent, assist in protecting the leased or granted reefs in the hands of lessees or grantees from the state. The division shall provide the Legislature annually with recommendations for the development and the proper protection of the rights of the state and private holders therein with respect to the oyster and clam business.

(13) STAKING OFF WATER BOTTOMS OR BEDDING OYSTERS WITHOUT OBTAINING LEASE; PENALTY.—Any person staking off the water bottoms of this state, or bedding oysters on the bottoms of the waters of this state, without previously leasing same as required by law shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and shall acquire no rights by reason of such staking off. This provision does not apply to grants heretofore made under the provisions of any heretofore existing laws or to artificial beds made heretofore by a riparian owner or his grantees on his riparian bottoms.

(14) CLOSED SEASON FOR OYSTERS; RULES OF EVIDENCE; SPECIAL PROVISIONS RELATING TO FRANKLIN COUNTY.—No person may take, gather, or catch oysters on the natural reefs of this state, or have such oysters in his possession, between June 1 and September 1 of each year, except from private leased or granted grounds, or artificial beds of riparian owners and except as otherwise provided in this section. The possession of oysters during such closed season shall be prima facie a violation of this section, and the burden shall be on the possessor of such oysters to prove that they were fished or gathered beyond the jurisdiction of the state or from private oyster beds. The Division of Marine Resources shall, however, have authority to permit the fishing of unculled oysters from the natural oyster reefs as herein provided, from April 1 until October 1, but only for bedding purposes, and then only under such rules as the division may adopt to carry out the provisions of law. The provision prohibiting the harvesting of oysters shall not apply between June 1 and October 1 of each year in three areas of Franklin County, described as follows: in that area of East Bay, Franklin County, and located north of the John Gorrie Bridge classified as conditionally approved for the harvesting of shellfish by the Division of Marine Resources; in that area of Apalachicola Bay, Franklin County, and located south of the John Gorrie Bridge, east and north of the Gulf Intracoastal Waterway, and west of the Bryant Patton Bridge classified as conditionally approved for the harvesting of shellfish by the Division of Marine Resources; and in that area of St. George Sound, Franklin County, and located west of a line from the east end of St. George Island due north to the mainland, and located east of a line described as follows: begin at the tip of Shell Point on St. George Island, thence run northwest to Channel Marker No. 31, thence westerly along the intracoastal waterway to Channel Marker No. 41, thence north through Marker No. 5 to the mainland, which area is classified as approved for the harvesting of shellfish by the Division of Marine Resources. Further, no person may take, gather, or catch oysters from these three designated areas between October 2 and May 31 of each year. The provisions of this subsection regarding possession of oysters shall not apply to oysters harvested from Franklin County except that possession of unculled oysters between June 1 and September 1 outside of the three areas of Franklin County designated herein or possession of unculled oysters between October 2 and May 31 inside of these three designated areas shall be prima facie a violation of this section, and the burden of proof shall be upon the possessor of such oysters to prove that they were fished or gathered within a lawful area. All oysters shipped out of Franklin County between June 1 and October 1 shall be accompanied by invoices, bills of lading, or other similar instruments showing the oysters were produced in Franklin County, and the burden of proof shall be on the possessor of the oysters, except that this summer oyster season and its respective provisions shall be postponed in 1980 until 10 days after such time as the approved shellfish harvesting areas of Apalachicola Bay shall be reopened following satisfactory bacterial sampling results. This 10-day period shall be considered an extension of the regular harvesting season. Any other provision of this section to the contrary notwithstanding, any person who violates any of the special provisions of this subsection with respect to Franklin County is guilty of a misdemeanor and, for the first offense, shall be subject to a fine of not less than $200 and, for the second or subsequent offense, a fine of not less than $500 and a term of imprisonment of not less than 7 days in jail. Furthermore, notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld with respect to any violation of the special provisions of this subsection relating to Franklin County.

(15) REMOVING OYSTERS FROM NATURAL REEFS; LICENSES, ETC., PENALTY.—

(a) It is unlawful to use a dredge or any means or implement other than hand tongs in removing oysters from the natural or artificial state reefs, except in bodies of water over a general depth of 12 feet, or where in the opinion of the Division of Marine Resources, the body of water regardless of its depth, is too open and exposed to be ordinarily fished with hand tongs, in which event the division shall be authorized to issue a license for the use of scrapers or dredges; provided, the applicant shall pay an annual police license fee of $25 for each sailing or power vessel using scrapers or dredges, in addition to its other license, and shall give bond in favor of the Governor of the State of Florida, with good security, to be approved by the division in the sum of $3,000, conditioned that said implements shall not be used on the state reefs contrary to law. Upon the payment of $25 annually, for each vessel or boat using a dredge or machinery in the gathering of clams, a license may be issued by the division for such use to such person.

(b) Lessees of bedding grounds shall have the right to use in such bedding grounds any implements or appliances that they may desire. The division shall require that such lessees procure a permit from it to use such implements and shall require of the lessees that they furnish a bond payable to the Governor of the State of Florida, to be approved by the division, in the sum of $3,000, that such implements or appliances shall not be used on the natural oyster reefs contrary to law. When such implements or appliances are used exclusively on private propagating or bedding grounds, no charge shall be made for the permit. Anyone violating the provisions of this section shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Oysters may be harvested from natural or public grounds by common hand tongs or by hand without a harvesting method license being required. Oysters may be harvested by hand, by scuba diving, free diving, leaning from vessels, or wading.

(16) CULLING OYSTERS; POSSESSION OF UNDERSIZED OYSTERS REGARDLESS OF SOURCE; SPECIAL PROVISIONS RELATING TO FRANKLIN COUNTY.—

(a) All oysters taken from the waters of this state shall be culled, unless otherwise provided in this section.

(b) In the case of oysters emanating from natural, publicly owned beds, all oysters which measure less than 3 inches in greatest dimensions and all bedding shells shall be immediately replaced and scattered broadcast upon the natural reefs from which they were taken.

(c) In the case of oysters emanating from privately owned or privately controlled beds, all oysters which measure less than 3 inches in greatest dimensions, and all bedding shells may be returned to lease or privately managed area or may be spread broadcast over natural, publicly owned reefs.

(d) No person shall be in possession while on the waters of this state of oysters which are less than the prescribed legal size, regardless of their source, except that oysters which are less than the prescribed legal size may be placed upon the culling board of a vessel while on the bar for the purpose of culling out illegal-sized oysters.

(e) In determining what oysters shall be removed from marketable oysters, no oysters under 3 inches in greatest dimension shall be included in the percentage of oysters undersized when they adhere to the marketable oysters so closely that to remove the same would destroy either the undersized oysters or the marketable oysters. No person in any vessel shall have in his possession oysters not culled according to law, unless permitted by the Division of Marine Resources for the purpose of planting or relaying as provided by law. An excess of over 15 percent of small oysters, estimated as above provided for, in any cargo or lot of oysters shall be considered a violation of this section. Any oysters under 3 inches in greatest dimension in any cargo or lot of oysters shall be a violation of this section during the special oyster harvesting season, June 1 to October 1, in Franklin County. The Division of Law Enforcement, any marine patrol officer, or any police officer of the state shall cause to be measured, to determine the percentage of undersized oysters, 1 sample bushel to be taken at random from the cargo of oysters, while such oysters are in the county from which they were harvested and before the oysters are deposited in an oyster house certified under the rules of the Department of Natural Resources. If a total of undersized oysters from the 1 bushel shall be more than 15 percent of the amount of oysters contained in the 1 bushel, it shall constitute a violation of this section, any other law to the contrary notwithstanding.

[1](17) FISHING FOR BEDDING PURPOSES.—

(a) Designation of areas for the taking of oysters and clams to be planted on leases, grants, and public areas is to be made by qualified personnel of the Division of Marine Resources. Oysters and clams may be taken for relaying at any time during the year so long as, in the opinion of the division, the public health will not be endangered. The amount of oysters and clams to be obtained for relaying, the area relayed to, and relaying time periods will be established in each case by the division.

(b) Application for a permit for obtaining oysters and clams must be made to the division. In return, the division may assign an area and a period of time for the oysters and clams to be relayed to be taken. All planting and relaying operations shall take place under the surveillance of the division.

(c) Relayed oysters or clams shall not be subsequently harvested for any reason without written permission or public notice from the division, if oysters or clams were relayed from areas not approved by the division as shellfish harvesting areas.

(18) SEVERANCE TAX ON OYSTERS AND CLAMS; DISPOSITION.—No severance or privilege taxes on oysters and clams shall be collected after June 17, 1959, provided, all moneys in the "oyster severance tax fund" shall be transferred to the Oyster and Clam Rehabilitation Trust Fund.

(19) LICENSES; OYSTER AND CLAM CANNERIES.—Every person, as a condition precedent to the operation of any oyster or clam canning factory in this state, shall obtain a license therefor and pay a license fee of $50. The license shall be issued by the Division of Marine Resources upon proper written application on forms to be furnished by it. The moneys paid for licenses under this section shall be deposited in the State Treasury to the credit of the General Revenue Fund.

(20) FALSE RETURNS AS TO OYSTERS OR CLAMS HANDLED.—Each packer, canner, corporation, firm, commission man, or dealer in fish shall, on the first day of each month, make a return under oath to the Division of Marine Resources, as to the number of oysters, clams, and shellfish purchased, caught, or handled during the preceding month. All severance tax as provided for in subsection (18) shall be paid to the division with this report. Whoever is found guilty of making any false affidavit to any such report shall be guilty of perjury and punished as provided by law, and any person who fails to make such report shall be punished by a fine not exceeding $500 or by imprisonment in the county jail not exceeding 6 months.

(21) COLLECTION OF LICENSES AND TAXES.—All taxes and licenses shall be collected by the Division of Marine Resources under such rules and regulations as may be adopted by the division, and by it deposited in the State Treasury to the credit of the General Revenue Fund. The division shall keep a detailed account of all funds passing through its hands.

(22) WATER PATROL FOR COLLECTION OF TAX.—

(a) The Division of Law Enforcement may establish and maintain necessary patrols of the salt waters of Florida, with authority to use such force as may be necessary to capture any vessel or person violating the provisions of the laws relating to oysters and clams, and may establish ports of entry at convenient locations where the severance or privilege tax levied on oysters and clams may be collected or paid and may make such rules and regulations as it may deem necessary for the enforcement of such tax.

(b) Each person in any way dealing in shellfish shall keep a record, on blanks or forms prescribed by the Division of Marine Resources, of all oysters, clams, and shellfish taken, purchased, used, or handled by him, with the name of the persons from whom purchased, if purchased, together with the quantity and the date taken or purchased, and shall exhibit this account at all times when requested so to do by the division or any conservation agent; and he shall, on the first day of each month, make a return

under oath to the division as to the number of oysters, clams, and shellfish purchased, caught, or handled during the preceding month. The division may require detailed returns whenever it deems them necessary.

(23) SEIZURE OF VESSELS AND CARGOES VIOLATING OYSTER AND CLAM LAWS, ETC.—Vessels, with their cargoes, violating the provisions of the laws relating to oysters and clams may be seized by anyone duly and lawfully authorized to make arrests under this section or by any sheriff or his deputies, and taken into custody, and when not arrested by the sheriff or his deputies, delivered to the sheriff of the county in which the seizure is made, and shall be liable to forfeiture, on appropriate proceedings being instituted by the Division of Marine Resources, before the courts of that county. In such case the cargo shall at once be disposed of by the sheriff, for account of whom it may concern. Should the master or any of the crew of said vessel be found guilty of using dredges or other instruments in fishing oysters on natural reefs contrary to law, or fishing on the natural oyster or clam reefs out of season, or unlawfully taking oysters or clams belonging to a lessee, such vessel shall be declared forfeited by the court, and ordered sold and the proceeds of the sale shall be deposited with the Treasurer to the credit of the General Revenue Fund; any person guilty of such violations shall not be permitted to have any license provided for in this chapter within a period of 1 year from the date of conviction. Pending proceedings such vessel may be released upon the owner furnishing bond, with good and solvent security in double the value of the vessel, conditioned upon its being returned in good condition to the sheriff to abide the judgment of the court.

[1](24) OYSTER REHABILITATION COMMISSION.—The Governor of this state may appoint in any county, where natural oyster reefs exist, an oyster rehabilitation commission for such county, the same to be composed of three good and lawful citizens of that county. The commission shall serve without compensation.

[1](25) COMMISSION ADVISORY ONLY.—The oyster rehabilitation commission in any county shall constitute an advisory commission to the Division of Marine Resources with reference to all matters pertaining to the replanting and rehabilitation of natural oyster bars in such county and shall have no other power than to advise the division concerning the administration of the shellfish laws in the county in which its members are appointed; and to recommend to the division the manner and method of the expenditure of funds provided for the rehabilitation of natural oyster beds in the county so that the fullest benefit of such oyster beds may be received from the expenditure. The recommendation of the commission shall not be binding upon the division but is advisory only.

[1](26) DUTIES OF COMMISSION.—The members of the oyster rehabilitation commission shall acquaint themselves with all conditions affecting the natural beds in the county for which appointed and shall locate, select, and recommend to the Division of Marine Resources the natural oyster beds in their respective counties in greatest need of rehabilitation; they shall recommend to the division the ways and means of replanting and rehabilitating the beds, having regard to local conditions, and make such other recommendations concerning the opening and closing of the natural reefs and beds and propagation and care of oysters thereon as may appear to them to be advisable.

[1](27) CONFERENCE WITH DIVISION OF MARINE RESOURCES.—The Division of Marine Resources shall confer with, receive, and consider the recommendations of the several county oyster rehabilitation commissions concerning the shellfish industry of their respective counties and shall be governed thereby only to the extent that the same may be to the best interest of the shellfish industry of the state.

[1](28) REMOVAL OF COMMISSIONERS.—The Governor may remove any commissioner appointed to any county oyster rehabilitation commission, who shall fail or neglect to diligently perform the duties of such office, and shall fill the vacancy so created by the removal so that there shall be a complete commission of three members in each county, having natural oyster reefs or beds, at all times.

(29) OYSTER AND CLAM REHABILITATION.—The board of county commissioners of the several counties may appropriate and expend such sums as it may deem proper for the purpose of planting or transplanting oysters, clams, oyster shell, clam shell, or cultch or to perform such other acts for the enhancement of the oyster and clam industries of the state, out of any sum in the county treasury not otherwise appropriated.

(30) OYSTER CONSERVATION DISTRICTS.—An oyster conservation district may be created whenever it appears to the Division of Marine Resources that there is a need for special protection, development, or encouragement of oyster planting or propagation within any area in the state, except private leased or granted oyster grounds. The area shall be readily identifiable by reference to geographical location or recognized landmarks, or by survey made by the division. Notice of the designation of the area or areas as oyster conservation district or districts shall be published once each week for 2 consecutive weeks, and such additional publicity of the creation of such district may be circulated as the division may deem necessary.

(31) REVENUE FROM SALE OF DEAD SHELLS AND LEASE BOTTOMS.—Any and all moneys hereafter received or collected by the Board of Trustees of the Internal Improvement Trust Fund under the provisions of s. 253.45, or any amendments thereof for or on the account of the sale of dead shell or for the right or privilege to take shell or shell deposits from the sovereign lands of the state shall be deposited in the State Treasury in the General Revenue Fund. These moneys shall be appropriated for use in financing biological, marketing, transportation, processing, and promotional research for fisheries, oyster, clams, and shrimp within the jurisdiction of this state. The Department of Natural Resources is authorized and directed to spend up to 20 percent of the moneys collected from the sale of dead oyster shell dredged from that county's waters for the sole purpose of oyster and clam rehabilitation.

(32) DREDGING OF DEAD SHELLS FROM LIVE GROUND PROHIBITED.—The dredging of

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dead shell deposits from living oyster grounds is prohibited in the state. The Division of Marine Resources is empowered to prohibit all dredging of dead oyster shell deposits when in its judgment and discretion the same will adversely affect the oyster industry. The division, however, may authorize the dredging of dead oyster shell deposits by permit when in its judgment and discretion the same will not adversely affect the oyster industry of the state.

(33) OYSTER CONSERVATION COMMISSION WITHIN CONSERVATION DISTRICTS.—The Governor of this state shall appoint in any oyster conservation district which may be created under the provisions of subsection (30) an oyster conservation commission for the district, the same to be composed of seven outstanding citizens of the district, two of whom shall be experienced oyster gatherers, two of whom shall be experienced oyster dealers, and two of whom shall be experienced businessmen, not directly connected with the industry, and one of whom shall be the chief conservation agent in the oyster conservation district. The members of the commission shall serve without compensation and shall be vested with the duties, and subject to the limitations, prescribed by subsections (24) through (28) authorizing the creation of oyster rehabilitation commissions.

(34) COOPERATION WITH U.S. FISH AND WILDLIFE SERVICE.—The Division of Marine Resources shall cooperate with the United States Fish and Wildlife Service, under existing federal laws, rules, and regulations, and is authorized to accept donations, grants, and matching funds from the Federal Government under such conditions as are reasonable and proper for the purpose of carrying out subsections (29) through (34); and the division is further authorized to accept any and all donations including funds, oysters, or oyster shells.

(35) OYSTER AND CLAM SHELLS PROPERTY OF DIVISION.—

(a) Except for oysters used directly in the half-shell trade, all shells from oysters and clams shucked commercially in the state shall be and remain the property of the Division of Marine Resources when such shells are needed and required for rehabilitation projects and planting operations, when sufficient resources and facilities exist for handling and planting said shell, and when the collection and handling of such shell is practical and useful, except that bona fide holders of leases and grants who desire to retain such shell as they produce for planting purposes may do so by obtaining a permit from the division. Such storage, transportation, and planting of shells so retained by lessees and grantees shall be carried out under the surveillance of agents of the division and be subject to such reasonable time limits as the division may fix. In the event of an accumulation of an excess of shells, the division is authorized to sell shells only to private growers for use in oyster or clam cultivation on bona fide leases and grants. No profit shall accrue to the division in these transactions, and shells are to be sold for the estimated moneys spent by the division to gather and stockpile the shells. Planting of shells obtained from the division by purchase shall be subject to the surveillance of the division if the division chooses to exercise its right of supervision. Any shells not claimed and used by private oyster c[illegible]rs 10 years after shells are gathered and stockpiled, may be sold at auction to the highest bidder for any private use.

(b) Whenever the division determines that it is unfeasible to collect oyster or clam shells, the shells become the property of the producer.

(c) Whenever oyster or clam shells are owned by the division and it is not useful or feasible to use them in the rehabilitation projects, and when no leaseholder has exercised his option to acquire them, the division may sell such shells for the highest price obtainable. The shells thus sold may be used in any manner and for any purpose at the discretion of the purchaser.

(d) Moneys derived from the sale of shell shall be deposited in the State Treasury into the General Revenue Fund.

(e) The division shall annually publish notice, in a newspaper serving the county, of its intention to collect the oyster and clam shells and shall notify, by certified mail, each shucking establishment from which shells are to be collected. The notice shall contain the period of time the division intends to collect the shells in that county and the collection purpose.

[1](36) OYSTER CULTURE.—The Division of Marine Resources shall protect all oyster beds, oyster grounds, and oyster reefs from damage or destruction resulting from improper cultivation, propagation, planting, or harvesting and control the pollution of the waters over or surrounding oyster grounds, beds, or reefs; and to this end the Department of Health and Rehabilitative Services is authorized and directed to lend its cooperation to the division, to make available to it its laboratory testing facilities and apparatus. The division may also do and perform all acts and things within its power and authority necessary to the performance of its duties.

(37) HEALTH PERMITS.—

(a) Any person engaged in harvesting, handling, or processing oysters for commercial use shall be required to obtain a health permit from the county health department or from a private physician.

(b) No person shall be employed or remain employed in a certified oyster house without the possession of the required health permit.

(c) For the purpose of this subsection, "commercial use" shall be a quantity of more than 4 bushels, or more than 2 gallons, of shucked oysters, per person or per boat, or any number or quantity of oysters if the oysters are to be sold.

[1](38) REQUIREMENTS FOR OYSTER VESSELS.—

(a) All vessels used for the harvesting, gathering, or transporting of oysters for commercial use shall be constructed and maintained to prevent contamination or deterioration of oysters. To this end, all such vessels shall be provided with false bottoms and bulkheads fore and aft to prevent oysters from coming in contact with any bilge water. No dogs or other animals shall be allowed at any time on vessels used to harvest or transport oysters. A violation of any provision of this subsection shall result in at least the revocation of the violator's license.

(b) For the purpose of this subsection, "commercial use" shall be a quantity of more than 4 bushels, or more than 2 gallons, of shucked oysters, per person or per boat, or any number or quantity of oysters if the oysters are to be sold.

History.—s. 2, ch. 28145, 1953; s. 1, ch. 57-256; s. 1, ch. 57-163; s. 1, ch. 59-346; s. 1, ch. 59-490; s. 1, ch. 61-99; s. 2, ch. 61-58; s. 3, ch. 61-22; s. 2, ch. 61-119; s. 1, ch. 61-100; s. 19, ch. 63-512; ss. 1, 2, ch. 63-120; s. 1, ch. 63-396; s. 3, ch. 65-140; s. 1, ch. 65-436; s. 1, ch. 67-234; ss. 19, 25, 35, ch. 69-106; s. 298, ch. 71-136; s. 1, ch. 71-244; s. 1, ch. 71-245; s. 1, ch. 71-246; s. 129, ch. 71-377; s. 1, ch. 72-204; s. 1, ch. 72-236; s. 102, ch. 73-333; s. 1, ch. 75-120; s. 1, ch. 76-106; s. 1, ch. 77-92; s. 111, ch. 77-104; s. 52, ch. 77-147; s. 1, ch. 77-197; s. 1, ch. 77-206; s. 23, ch. 78-95; s. 1, ch. 78-96; s. 33, ch. 79-65; s. 1, ch. 79-111; ss. 1, 2, ch. 80-52; s. 1, ch. 82-46; s. 1, ch. 82-408; s. 6, ch. 83-134; s. 27, ch. 83-216; s. 2, ch. 83-265; s. 2, ch. 84-121; s. 15, ch. 84-254.

[1]Note.—Repealed effective July 1, 1984, by s. 6, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1984, subsections (14)-(17), (36), and (38) shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 6, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.

[2]Note.—Repealed effective October 1, 1985, by s. 1, ch. 82-46, as amended by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

cf.—s. 837.012 Perjury not in an official proceeding.

s. 837.02 Perjury in official proceedings.

370.17 Sponges; regulation.—[Repealed effective July 1, 1984, by s. 6, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1984, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 6, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.171 Sponge diving; restricted waters.—[Repealed effective July 1, 1984, by s. 6, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1984, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 6, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

370.172 Spearfishing; definition; limitations; penalty.—[Repealed effective July 1, 1984, by s. 6, ch. 83-134, as amended by s. 2, ch. 84-121, which further provides that if the Governor and Cabinet have not adopted appropriate rules by July 1, 1984, this section shall remain in force until such rules are effective. Section 9, ch. 83-134, provides that, prior to the adoption of rules amending, readopting, or repealing those provisions set forth in s. 6, the Marine Fisheries Commission shall hold a public hearing thereon, and no such amendment, readoption, or repeal shall be acted upon until it has been determined, based upon appropriate findings of fact, that such action will not adversely affect the resource.]

CHAPTER 372

WILDLIFE

372.671 Florida or wild panther; killing prohibited; penalty.
372.991 Nongame Wildlife Trust Fund.

372.671 Florida or wild panther; killing prohibited; penalty.—

(1) It is unlawful for a person to kill a member of the Florida "endangered species," as defined in s. 372.072(3), known as the Florida panther *(Felis concolor coryi)*.

(2) It is unlawful for a person to kill any member of the species of panther *(Felis concolor)* occurring in the wild.

(3) A person convicted of unlawfully killing a Florida panther, or unlawfully killing any member of the species of panther occurring in the wild, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 1, ch. 78-173; s. 1, ch. 84-99.

372.991 Nongame Wildlife Trust Fund.—

(1) The Legislature recognizes the value of maintaining ecologically healthy and stable populations of a wide diversity of fish and wildlife species and recognizes the need for monitoring, research, management, and public awareness of all wildlife species in order to guarantee that self-sustaining populations be conserved. The Legislature further recognizes that research and management for game species traditi ly have been supported by licenses and fees coli by the Game and Fresh Water Fish Commissio consumptive uses of wildlife and that no such s port mechanism is available for species not commonly pursued for sport or profit. It is the intent of the Legislature that the funds provided herein be spent to identify and meet the needs of nongame wildlife as a first priority with the ultimate goal of establishing an integrated approach to the management and conservation of all native fish, wildlife, and plants.

(2)(a) There is established within the Game and Fresh Water Fish Commission the Nongame Wildlife Trust Fund. The fund shall be credited with moneys collected pursuant to ss. 319.32(3) and 320.02(8). Additional funds may be provided from legislative appropriations and by donations from interested individuals and organizations. The commission shall designate an identifiable unit to administer the trust fund.

(b) Proceeds from the trust fund shall be used for the following purposes:

1. Documentation of population trends of nongame wildlife and assessment of wildlife habitat, in coordination with the data base of Florida natural areas inventory.

2. Establishment of effective conservation, management, and regulatory programs for nongame wildlife of the state.

3. Public education programs.

(3) The commission may enter into cooperative agreements or memoranda of understanding with related agencies to coordinate nongame programs.

History.—s. 1, ch. 83-173; s. 1, ch. 84-194.

CHAPTER 373

WATER RESOURCES

PART I STATE WATER RESOURCE PLAN

PART II PERMITTING OF CONSUMPTIVE USES OF WATER

PART III REGULATION OF WELLS

PART IV MANAGEMENT AND STORAGE OF SURFACE WATERS

PART V FINANCE AND TAXATION

PART I

STATE WATER RESOURCE PLAN

373.044 Rules and regulations; enforcement; availability of personnel rules.
373.0693 Basins; basin boards.
373.0698 Creation and operation of basin boards; other laws superseded.
373.079 Members of governing board; oath of office; staff.
373.085 Use of works or land by other districts or private persons.
373.106 Permit required for construction involving underground formation.
373.109 Permit application fees.
373.129 Maintenance of actions.

373.044 Rules and regulations; enforcement; availability of personnel rules.—In administering this chapter, the governing board of the district is authorized to make and adopt reasonable rules, regulations, and orders which are consistent with law; and such rules, regulations, and orders may be enforced by mandatory injunction or other appropriate action in the courts of the state. Rules relating to personnel matters shall be made available to the public and affected persons at no more than cost but need not be published in the Florida Administrative Code or the Florida Administrative Weekly.

History.—s. 4, ch. 29790, 1955; s. 25, ch. 73-190; s. 3, ch. 84-341.
Note.—Former s. 373.151.

[1]373.0693 Basins; basin boards.—

(1) Any areas within a district may be designated by the district governing board as subdistricts or basins. The designations of such basins shall be made by the district governing board by resolutions thereof. The governing board of the district may change the boundaries of such basins, or create new basins, by resolution. No subdistrict or basin in the St. Johns Water Management District other than established by this act shall become effective until approved by the Legislature.

(2) Each basin shall be under the control of a basin board which shall be composed of not less than three members, but shall include one representative from each of the counties included in the basin.

(3) Each member of the various basin boards shall serve for a period of 3 years or until his successor is appointed, except that the board membership of each new basin shall be divided into three groups as equally as possible, with members in such groups to be appointed for 1, 2, and 3 years, respectively. Each basin board shall choose a vice chairman and a secretary to serve for a period of 1 year. The term of office of a basin board member shall be construed to commence on July 1 preceding the date of his appointment and to terminate June 30 of the year of the end of his term.

(4) Members of basin boards shall be appointed by the Governor, subject to confirmation by the Senate at the next regular session of the Legislature; and the refusal or failure of the Senate to confirm an appointment shall create a vacancy in the office to which the appointment was made.

(5) Basin board members shall receive no compensation for services as such; but, while officially on work for the district, they shall receive their actual traveling expenses between their respective places of residence and the place where official district business is conducted, subsistence, lodging, and other expenses in the amount actually incurred. These expenses may not exceed the statutory amount allowed state officers and employees. This subsection applies retroactively to the effective date of the creation of each of the five separate water management districts.

(6) Notwithstanding the provisions of any other general or special law to the contrary, a member of the governing board of the district residing in the basin or, if no member resides in the basin, a member of the governing board designated by the chairman of the governing board shall be the ex officio chairman of the basin board. The ex officio chairman shall preside at all meetings of the basin board, except that the vice chairman may preside in his absence. The ex officio chairman shall have no official vote, except in case of a tie vote being cast by the members, but shall be the liaison officer of the district in all affairs in the basin and shall be kept informed of all such affairs.

(7) At 11:59 p.m. on December 31, 1976, the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District, which is annexed to the Southwest Florida Water Management District by change of its boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the Southwest Florida Water Management District, subject to the same provisions as the other basins in such district. Such subdistrict shall be designated initially as the Manasota Basin. The members of the governing board of the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District shall become members of the governing board of the Manasota Basin of the Southwest Florida Water Management District.

(8)(a) At 11:59 p.m. on December 31, 1976, the area being transferred from the Southwest Florida Water Management District to the St. Johns River Water Management District by change of boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the St. Johns River Water Management District. Such basin shall be designated as the Oklawaha River Basin. The members of the governing board of the Oklawaha River Basin of the Southwest Florida Water Management District shall become the members of the governing board of the newly formed basin. The governing board of the St. Johns River Water Management District may change the boundaries, but may not abolish the basin.

(b)1. The entire area of the St. Johns River Water Management District, less those areas in the Oklawaha Basin, shall be formed into a subdistrict or basin of the St. Johns River Water Management District. Such area shall be designated as the Greater St. Johns River Basin. The Greater St. Johns River Basin shall have all the powers, duties, functions, and responsibilities provided and authorized for subdistricts or basins of water management districts.

2. The governing board of the St. Johns River Water Management District shall also serve as the governing board of the Greater St. Johns River Basin.

(9) At 11:59 p.m. on December 31, 1976, a portion of the Big Cypress Basin of the Ridge and Lower Gulf Coast District which is being annexed into the South Florida Water Management District by change of boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the South Florida Water Management District. Such portion shall be designated as the Big Cypress Basin. On or before December 31, 1976, the Governor shall appoint not fewer than five persons residing in the area to serve as members of the governing board of the basin, effective at the time of transfer and subject to confirmation by the Senate as provided in subsection (4).

(a) The initial boundaries of the Big Cypress Basin shall be established by resolution of the governing board of Central and Southern Florida Flood Control District, after notice and hearing, and generally shall encompass the Big Cypress Swamp and southwestern coastal area hydrologic cataloging unit, as indicated on River Basin and Hydrologic Unit Map of Florida—1975, Florida Department of Natural Resources, Bureau of Geology Map Series No. 72.

(b) If the governing board shall fail to establish the initial boundaries on or before December 31, 1976, the initial boundaries shall be the same boundaries as described for the Big Cypress Basin of the Ridge and Lower Gulf Coast District.

(c) The governing board of the South Florida Water Management District subsequently may change the boundaries of the basin, but may not abolish the basin.

(10) At 11:59 p.m. on December 31, 1976, the entire area of the South Florida Water Management District, including all areas being annexed into the district pursuant to chapter 76-243, Laws of Florida, but less those areas in the Big Cypress Basin, shall be formed into a subdistrict or basin of the South Florida Water Management District. Such area shall be designated as the Okeechobee Basin.

(a) The governing board of the South Florida Water Management District shall also serve as the governing board of the Okeechobee Basin.

(b) The governing board of the South Florida Water Management District may change the boundaries of the Okeechobee Basin or may subdivide the basin into smaller basins to be governed by basin boards to be appointed by the Governor, subject to confirmation by the Senate as provided in subsection (4). However, the basin may not be enlarged to include the area included within the initial boundaries of the Big Cypress Basin.

(c) The local effort required in connection with construction, operation, and maintenance of the cooperative federal project referred to as the Central and Southern Florida Flood Control Project, which remains after the upper St. Johns portion is transferred to the St. Johns River Water Management District, shall be funded by tax levies on all taxable property within the Okeechobee Basin. In the event the Okeechobee Basin is subdivided into smaller basins, as authorized in paragraph (b), the governing board shall ascertain the equitable pro rata share for each smaller basin and charge back such share so as to insure that the portion of the Central and Southern Florida Flood Control Project remaining in the South Florida Water Management District shall continue to be funded on an equal basis throughout the entire Okeechobee Basin as initially described on December 31, 1976.

History.—s. 6, ch. 73-190; s. 3, ch. 76-243; s. 1, ch. 77-382; s. 1, ch. 79-50; s. 1, ch. 82-46; s. 1, ch. 82-54; s. 4, ch. 84-341.
[1]Note.—Repealed effective October 1, 1988, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.

373.0698 Creation and operation of basin boards; other laws superseded.—The provisions of ss. 373.0693-373.0697 shall govern the creation and operation of basin boards within any water management district, the provisions of any other general or special law to the contrary notwithstanding.

History.—s. 5, ch. 84-341.

[1]373.079 Members of governing board; oath of office; staff.—

(1) Each member of the governing board of the district, before entering upon his official duties, shall take and subscribe to an oath, before some officer authorized by law to administer oaths, that he will honestly, faithfully, and impartially perform the duties devolving upon him in office as member of the governing board of the district to which he was appointed and that he will not neglect any of the duties imposed upon him by this chapter.

(2) Immediately after their appointment, and every 2 years thereafter, members composing the governing board shall meet at some convenient place and choose one of their number as chairman of the board, and some suitable person, who may or may not be a member of the governing board, and who may be required to execute bond for the faithful performance of his duties as the governing board may determine, as secretary. Such board shall adopt a seal with a suitable device and shall keep a well-bound book entitled, in effect, "Record of Governing Board of ___ District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts, which book shall at reasonable times be open to the inspection of any citizen of this state or taxpayer in the district or his agent or attorney.

(3) The chairman and members of the board shall receive no compensation for services as such; but, while officially on work for the district, they shall receive their actual traveling expenses between their respective places of residence and the place where official district business is conducted, subsistence,

lodging, and other expenses in the actual amount incurred therefor. These expenses may not exceed the statutory amount allowed state officers and employees. Payment or reimbursement to governing board members for the use of private or charter aircraft may be no greater than that allowed for commercial air travel for equivalent distances. This subsection applies retroactively to the effective date of the creation of each of the five separate water management districts.

(4)(a) The governing board of the district is authorized to employ an executive director and such engineers, other professional persons, and other personnel and assistants as it deems necessary and under such terms and conditions as it may determine and to terminate such employment. The governing board may delegate all or part of its authority under this paragraph to the executive director.

(b) Any internal auditor employed by a water management district shall be hired by the governing board of the water management district and shall report directly to the board.

(5) The governing board may employ a legal staff for the purposes of:

(a) Providing legal counsel on matters relating to the exercise of its powers and duties;

(b) Representing it in all proceedings of an administrative or judicial nature; and

(c) Otherwise assisting in the administration of the provisions of this chapter.

(6) By resolution the governing board may determine the location of its principal office and provide for the change thereof.

(7) The governing board shall meet at least once a month and upon call of the chairman.

History.—s. 15, part I, ch. 72-299; s. 1, ch. 82-46; ss. 6, 12, ch. 84-341.
[1]Note.—Repealed effective October 1, 1988, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]**373.085 Use of works or land by other districts or private persons.**—

(1) The governing board has authority to prescribe the manner in which local works provided by other districts or by private persons will connect with and make use of the works or land of the district, to issue permits therefor, and to cancel the permits for noncompliance with the conditions thereof or for other cause. It is unlawful to connect with or make use of the works or land of the district without consent in writing from its governing board, and the board has authority to prevent or, if done, estop or terminate the same. The use of the works or land of the district for access is governed by this section and is not subject to the provisions of s. 704.01. However, any land or works of the district which have historically been used for public access to the ocean by means of the North New River Canal and its tributaries may not be closed for this purpose unless the district can demonstrate that significant harm to the resource would result from such public use.

(2) Damage resulting from unlawful use of such works, or from violations of the conditions of permit issued by the board shall, if made by other than a public agency, be subject to such penalty as is or may be prescribed by law and in addition thereto by a date and in the manner prescribed by the board, repair of said damage to the satisfaction of said board, or deposit with said board a sum sufficient therefor, and if by a public agency, then at the expense of such agency the repair of said damage to the satisfaction of the board or the deposit with said board of a sum sufficient therefor.

History.—s. 17, ch. 26209, 1949; s. 25, ch. 73-190; s. 1, ch. 82-46; s. 7, ch. 84-341.
[1]Note.—Repealed effective October 1, 1988, by s. 1, ch. 82-46, and scheduled for review pursuant to s. 11.611 in advance of that date.
Note.—Former s. 378.17.

373.106 Permit required for construction involving underground formation.—

(1) No construction may be begun on a project involving artificial recharge or the intentional introduction of water into any underground formation except as permitted in chapter 377, without the written permission of the governing board of any water management district within which the construction will take place. Such application shall contain the detailed plans and specifications for the construction of the project.

(2) Each water management district has the exclusive authority to process and issue permits under this section and permits and licenses delegated under s. 403.812, except permits required by the department pursuant to 42 U.S.C. s. 300h until delegated by the department to the districts.

(3) A water management district may do any act necessary to replenish the ground water of the district. The district may, among other things, for the purposes of replenishing the ground water supplies within the district:

(a) Buy water;

(b) Exchange water;

(c) Distribute water to persons in exchange for ceasing or reducing ground water extractions;

(d) Spread, sink, and inject water into the underground;

(e) Store, transport, recapture, reclaim, purify, treat, or otherwise manage and control water for the beneficial use of persons or property within the district; and

(f) Build the necessary works to achieve ground water replenishment.

History.—s. 18, part I, ch. 72-299; s. 14, ch. 78-95; s. 71, ch. 83-310; s. 2, ch. 84-338; s. 1, ch. 84-341.

373.109 Permit application fees.—When a water management district governing board implements a permit system under this chapter or one which has been delegated [1]to it pursuant to s. 403.812, it may establish a schedule of fees for filing applications for the required permits. Such fees shall not exceed the cost to the district for processing the application. However, permit fees shall not be required from any governmental entity.

(1) All moneys received under the provisions of this section shall be allocated for the use of the water management district and shall be in addition to moneys otherwise appropriated in any general appropriation act.

(2) The failure of any person to pay the fees established hereunder constitutes grounds for revocation or denial of his permit.

History.—s. 19, part I, ch. 72-299; s. 7, ch. 76-243; s. 8, ch. 84-341.
[1]Note.—The words "to it" were inserted by the editors.

373.129 Maintenance of actions.—The department, the governing board of any water management district, or any local board is authorized to commence and maintain proper and necessary actions and proceedings in any court of competent jurisdiction for any of the following purposes:

(1) To enforce rules, regulations, and orders adopted or issued pursuant to this law.

(2) To enjoin or abate violations of the provisions of this law or rules, regulations, and orders adopted pursuant hereto.

(3) To protect and preserve the water resources of the state.

(4) To defend all actions and proceedings involving its powers and duties pertaining to the water resources of the state.

(5)(a) To recover a civil penalty for each offense in an amount not to exceed $10,000 per offense. Each date during which such violation occurs constitutes a separate offense.

(b) A civil penalty recovered pursuant to paragraph (a) shall be deposited in the Water Management Lands Trust Fund established under s. 373.59 and utilized exclusively by the water management district that deposits the money into the fund. Any such civil penalty recovered after the expiration of such fund shall be deposited in the Pollution Recovery Fund created by s. 403.165 and utilized exclusively within the water management district that deposits the money into the fund.

(6) To recover investigative costs, court costs, and reasonable attorney's fees.

History.—s. 16, ch. 57-380; s. 16, ch. 63-336; ss. 23, 35, ch. 69-106; s. 23, ch. 73-190; s. 42, ch. 79-65; s. 9, ch. 84-341.
Note.—Former s. 373.221.

PART II

PERMITTING OF CONSUMPTIVE USES OF WATER

373.246 Declaration of water shortage or emergency.

373.246 Declaration of water shortage or emergency.—

(1) The governing board or the department by regulation shall formulate a plan for implementation during periods of water shortage. Copies of the water shortage plan shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than October 31, 1983. As a part of this plan the governing board or the department shall adopt a reasonable system of water-use classification according to source of water supply; method of extraction, withdrawal, or diversion; or use of water or a combination thereof. The plan may include provisions for variances and alternative measures to prevent undue hardship and ensure equitable distribution of water resources.

(2) The governing board or the department by order may declare that a water shortage exists for a source or sources within all or part of the district when insufficient water is or will be available to meet the present and anticipated requirements of the users or when conditions are such as to require temporary reduction in total use within the area to protect water resources from serious harm. Such orders will be final agency action.

(3) In accordance with the plan adopted under subsection (1), the governing board or the department may impose such restrictions on one or more classes of water uses as may be necessary to protect the water resources of the area from serious harm and to restore them to their previous condition.

(4) A declaration of water shortage and any measures adopted pursuant thereto may be rescinded by the governing board or the department.

(5) When a water shortage is declared, the governing board or the department shall cause notice thereof to be published in a prominent place within a newspaper of general circulation throughout the area. Publication of such notice will serve as notice to all users in the area of the condition of water shortage.

(6) The governing board or the department shall notify each permittee in the district by regular mail of any change in the condition of his permit or any suspension of his permit or of any other restriction on his use of water for the duration of the water shortage.

(7) If an emergency condition exists due to a water shortage within any area of the district, and if the department, or the executive director of the district with the concurrence of the governing board, finds that the exercise of powers under subsection (1) is not sufficient to protect the public health, safety, or welfare; the health of animals, fish or aquatic life; a public water supply; or recreational, commercial, industrial, agricultural, or other reasonable uses, it or he may, pursuant to the provisions of s. 373.119, issue emergency orders reciting the existence of such an emergency and requiring that such action, including, but not limited to, apportioning, rotating, limiting, or prohibiting the use of the water resources of the district, be taken as the department or the executive director deems necessary to meet the emergency.

(8) An affected party to whom an emergency order is directed under subsection (7) shall comply immediately, but may challenge such an order in the manner set forth in s. 373.119.

History.—s. 10, part II, ch. 72-299; s. 14, ch. 78-95; s. 11, ch. 82-101; s. 10, ch. 84-341.

PART III

REGULATION OF WELLS

373.323 Water well contractor licenses; driller and drilling equipment registration.
373.326 Exemptions.
373.329 Fees.
373.333 Enforcement.
373.336 Penalties.
373.339 Existing regulations preserved.
373.342 Permits.

373.323 Water well contractor licenses; driller and drilling equipment registration.—[Repealed effective October 1, 1988, by s. 1, ch. 84-94, and scheduled for review pursuant to s. 11.61 in advance of that date.]

373.326 Exemptions.—[Repealed effective Oc-

tober 1, 1988, by s. 1, ch. 84-94, and scheduled for review pursuant to s. 11.61 in advance of that date.]

373.329 Fees.—[Repealed effective October 1, 1988, by s. 1, ch. 84-94, and scheduled for review pursuant to s. 11.61 in advance of that date.]

[1]**373.333 Enforcement.**—

(1) Whenever the water management district has reasonable grounds for believing that there has been a violation of this part or any rule or regulation adopted pursuant hereto, it shall give written notice to the person alleged to be in violation. Such notice shall identify the provision of this part or regulation issued hereunder alleged to be violated and the facts alleged to constitute such violation.

(2) Such notice shall be served in the manner required by law for the service of process upon a person in a civil action or by registered United States mail to the last known address of the person. Notice alleging a violation of a rule setting minimum standards for the location, construction, repair, or abandonment of wells shall be accompanied by an order of the water management district requiring remedial action which, if taken within the time specified in such order, will effect compliance with the requirements of this part and regulations issued hereunder. Such order shall become final unless a request for hearing as provided in chapter 120 is made within 30 days from the date of service of such order.

History.—s. 10, part III, ch. 72-299; s. 78, ch. 83-310; s. 1, ch. 84-94; s. 3, ch. 84-338; s. 2, ch. 84-341.

[1]Note.—Repealed effective October 1, 1988, by s. 1, ch. 84-94, and scheduled for review pursuant to s. 11.61 in advance of that date.

373.336 Penalties.—[Repealed effective October 1, 1988, by s. 1, ch. 84-94, and scheduled for review pursuant to s. 11.61 in advance of that date.]

373.339 Existing regulations preserved.—[Repealed effective October 1, 1988, by s. 1, ch. 84-94, and scheduled for review pursuant to s. 11.61 in advance of that date.]

373.342 Permits.—[Repealed effective October 1, 1988, by s. 1, ch. 84-94, and scheduled for review pursuant to s. 11.61 in advance of that date.]

PART IV

MANAGEMENT AND STORAGE OF SURFACE WATERS

373.423 Inspection.

373.423 Inspection.—

(1) During the construction or alteration of any dam, impoundment, reservoir, appurtenant work, or works, the governing board or department shall make at its expense such periodic inspections as it deems necessary to ensure conformity with the approved plans and specifications included in the permit.

(2) If during construction or alteration the governing board or department finds that the work is not being done in accordance with the approved plans and specifications as indicated in the permit, it shall give the permittee written notice stating with which particulars of the approved plans and specifications the construction is not in compliance and shall order immediate compliance with such plans and specifications. The failure to act in accordance with the orders of the governing board or department after receipt of written notice shall result in the initiation of revocation proceedings in accordance with s. 373.429.

(3) Upon completion of the work, the executive director of the district or the Department of Environmental Regulation or its successor agency shall have periodic inspections made of permitted dams, reservoirs, impoundments, appurtenant work, or works to protect the public health and safety and the natural resources of the state. No person shall refuse immediate entry or access to any authorized representative of the governing board or the department who requests entry for purposes of such inspection and presents appropriate credentials.

History.—s. 7, part IV, ch. 72-299; s. 21, ch. 73-190; s. 48, ch. 79-65; s. 13, ch. 84-341.

PART V

FINANCE AND TAXATION

373.536 District budget and hearing thereon.

373.536 District budget and hearing thereon.—

[1](1) The fiscal year of districts created under the provisions of this chapter shall extend from October 1 of one year through September 30 of the following year. The budget officer of the district shall, on or before July 15 of each year, submit for consideration by the governing board of the district a tentative budget for the district covering its proposed operation and requirements for the ensuing fiscal year. The tentative budget shall be adopted in accordance with the provisions of s. 200.065; however, if the mailing of the notice of proposed property taxes is delayed beyond August 29 in any county in which the district lies, the district shall advertise its intention to adopt a tentative budget and millage rate, pursuant to s. 200.065(3)(g), in a newspaper of general paid circulation in that county. The budget shall set forth, classified by object and purpose, and by fund if so designated, the proposed expenditures of the district for bonds or other debt, for construction, for acquisition of land, for operation and maintenance of the district works, for the conduct of the affairs of the district generally, and for other purposes, to which may be added an amount to be held as a reserve.

(2) The budget shall also show the estimated amount which will appear at the beginning of the fiscal year as obligated upon commitments made but uncompleted. There shall be shown the estimated unobligated or net balance which will be on hand at the beginning of the fiscal year, and the estimated amount to be raised by district taxes and from other sources for meeting the requirements of the district.

(3) As provided in s. 200.065(2)(d), the board shall publish one or more notices of its intention to finally adopt a budget for the district for the ensuing fiscal year. The notice shall appear adjacent to an advertisement which shall set forth the tentative budget in full. The notice and advertisement shall be published in one or more newspapers having a combined general circulation in the counties having land in the district.

(4) The hearing to finally adopt a budget and millage rate shall be by and before the governing board of the district as provided in s. 200.065 and may be continued from day to day until terminated by the board. The final budget for the district will thereupon be the operating and fiscal guide for the district for the ensuing year; however, transfers of funds may be made within the budget by action of the governing board at a public meeting of the governing board. Should the district receive unanticipated funds after the adoption of the final budget, the final budget may be amended by including such funds, so long as notice of intention to amend is published one time in one or more newspapers qualified to accept legal advertisements having a combined general circulation in the counties in the district. The notice shall set forth the proposed amendment and shall be published at least 10 days prior to the public meeting of the board at which the proposed amendment is to be considered. However, in the event of a disaster or of an emergency arising to prevent or avert the same, the governing board shall not be limited by the budget but shall have authority to apply such funds as may be available therefor or as may be procured for such purpose.

History.—s. 28, ch. 25209, 1949; s. 3, ch. 29780, 1955; s. 4, ch. 61-497; s. 1, ch. 65-432; s. 1, ch. 67-74; s. 25, ch. 73-190; s. 18, ch. 74-234; s. 48, ch. 80-274; s. 230, ch. 81-259; s. 3, ch. 84-164.

[1]Note.—Section 4, ch. 84-164, provides that ch. 84-164 "shall apply to assessment rolls and taxes levied thereon for 1984 and each year thereafter."

Note.—Former s. 378.28.

CHAPTER 374

CANAL AUTHORITY; NAVIGATION DISTRICTS; WATERWAYS DEVELOPMENT

PART I CANAL AUTHORITY

PART II NAVIGATION DISTRICTS

PART I

CANAL AUTHORITY

374.001 Transfer of canal authority to the Department of Natural Resources.
374.002 Management plans for retention or disposition of certain Cross Florida Barge Canal lands and for Rodman Dam and Reservoir.
374.011 Canal authority, creation; short title.
374.021 Capital.
374.031 Board of directors.
374.041 General powers.
374.051 Special powers.
374.061 Obligations of indebtedness.
374.071 Eminent domain.
374.081 State lands; right of taking.
374.091 County donations of rights-of-way.
374.101 Tolls.
374.111 Revenues, use.
374.122 Pilots.
374.132 Tax exemption.
374.141 Reports.
374.151 Officers; bonds, per diem, compensation.
374.161 Contracts.
374.171 Transfer to Federal Government.
374.181 Liberal construction of act.

[1]**374.001 Transfer of canal authority to the Department of Natural Resources.**—

(1) The Canal Authority of the State of Florida is transferred by a type three transfer, as defined in s. 20.06(3), to the Department of Natural Resources and assigned to the Division of Resource Management. All funds of the canal authority shall be transferred to and maintained in a trust fund account designated as the Cross Florida Barge Canal Trust Fund administered by the Department of Natural Resources.

(2) Fee title, easements, and other interests in all lands held by the canal authority shall be transferred to the Department of Natural Resources and shall vest in the Board of Trustees of the Internal Improvement Trust Fund. Such title, easements, and other interests in land shall be maintained in the board of trustees pending legislative direction as to disposition pursuant to s. 253.783(2)(a) and shall not revert. The trustees shall utilize such lands or interests in lands pending such disposition for recreation or water management, or other purposes authorized to be performed by water management districts pursuant to s. 373.139, which uses the Legislature finds to be necessary and for a public purpose. Such lands shall be exempt from taxation.

(3) This act shall not be construed to abrogate or impair any contractual agreement entered into by the canal authority or the Board of Commissioners of the Cross Florida Canal Navigation District.

History.—ss. 1, 5, 11, ch. 79-167; ss. 3, 5, ch. 84-287.

[1]Note.—Effective only upon deauthorization of the Cross Florida Barge Canal Project by the United States Congress, on the effective date of such deauthorization by the United States Congress.

374.002 Management plans for retention or disposition of certain Cross Florida Barge Canal lands and for Rodman Dam and Reservoir.—The canal authority is authorized to enter into a contract with the Department of Natural Resources for the development of the management plans required by s. 253.783(2)(a) and (b).

History.—s. 15, ch. 79-167; s. 5, ch. 84-287.

[1]**374.011 Canal authority, creation; short title.**—There is hereby created a body corporate, with the name "The Canal Authority of the State of Florida," (herein called the corporation), which shall operate under the supervision of the Department of Natural Resources. The principal office and necessary branch offices of the corporation shall be established at such places and under such rules and regulations as the board of directors may prescribe. This act may be cited as the "Canal Authority Act."

History.—s. 1, ch. 16476, 1933; s. 1, ch. 61-244; ss. 25, 35, ch. 69-106; s. 12, ch. 79-167; s. 5, ch. 84-287.

[1]Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress except for the possible effect of laws affecting this section prior to that date.

[1]**374.021 Capital.**—The capital of said corporation shall consist of the rights, privileges and franchises herein and hereby granted to said corporation,

be used by it in acquiring the necessary right-of-way for the Cross Florida Barge Canal, as herein provided.

(2) It shall be the duty of each of said boards of county commissioners, each year, to order the property appraisers of each of said counties to levy and assess, and the county tax collector to collect a tax at the rate fixed by the said resolution of the district board upon all of the real and personal property in said counties for said year and said levies and assessments shall be included in the tax roll and warrant of the property appraisers in each of said counties for such year. The tax collector of each said county shall collect such taxes so levied by the district board in the same manner and at the same time as state and county taxes are collected and shall pay and remit the same upon collection, within the time and in the manner required by law, to the district board.

(3) The property appraiser, tax collector, and the board of county commissioners of each and every county in said district shall, when requested by the district board, prepare from their official records and deliver to the board any and all information that may be requested from time to time from him or them regarding the tax valuations, levies, assessments or collections in such counties.

(4) If any of the lands acquired by the canal authority of Florida with funds provided by the Cross Florida Canal Navigation District under this act become surplus after the rights-of-way needs of the canal authority have been met, such land may be sold and the proceeds of such sale shall be paid to the counties comprising said district in direct proportion to the contribution of each county to the Cross Florida Navigation District.

History.—s. 21, ch. 17023, 1935; s. 9, ch. 61-269; ss. 1, chs. 65-237, 65-405; ss. 21, 35, ch. 69-106; s. 1, ch. 77-102; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-287.

[1]Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]374.511 Publication of financial statement.—At least once in each year the district board shall publish once in some newspaper published in each of the counties of the district, a complete detailed statement of all moneys received and disbursed by the district during the preceding year. Such statement shall also show the several sources from which such funds were received, and the balance on hand at the time of publishing the statement, and shall show the complete financial condition of the district.

History.—s. 22, ch. 17023, 1935; s. 12, ch. 79-167; s. 2, ch. 83-265; s. 5, ch. 84-287.

[1]Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date. Repealed effective October 1, 1989, by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

[1]374.521 Liberal construction.—It is intended that the provisions of this act shall be liberally construed to accomplish the purposes provided for, or intended to be provided for, herein, and where strict construction would result in the defeat of the accomplishment of any of the acts authorized herein, and a liberal construction would permit or assist in the accomplishment thereof, the liberal construction shall be chosen.

History.—s. 23, ch. 17023, 1935; s. 12, ch. 79-167; s. 5, ch. 84-287.

[1]Note.—Repealed by s. 12, ch. 79-167, effective upon the effective date of deauthorization of the Cross Florida Barge Canal Project by the U.S. Congress, except for the possible effect of laws affecting this section prior to that date.

CHAPTER 375

OUTDOOR RECREATION AND CONSERVATION

375.031 Acquisition of land; procedures.

375.031 Acquisition of land; procedures.—

(1) The department is empowered and authorized to identify for acquisition lands, water areas, and related resources and to perform all other activities necessary or incident to improving, maintaining, selling, leasing, or disposing of land, water areas, and related resources, and improvements thereon. Prior to the acquisition of such land by the department, the seller of the land shall file a statement with the Department of State disclosing, for at least the last 5 years prior to the conveyance of title to the state, all financial transactions concerning the land, all parties having a financial interest in any transaction, and the amount of the tax assessment thereon for each year. The Board of Trustees of the Internal Improvement Trust Fund shall hold title to lands so acquired, but the beneficial use, control, and management shall be with the department. All lands identified for acquisition under this chapter shall be acquired with funds from the Land Acquisition Trust Fund.

(2) The department may acquire, control, and oversee the development and use of all land, water areas, and related resources generally classified as outdoor areas and may construct, improve, enlarge, extend, and maintain capital improvements and facilities upon such outdoor areas as needed. In performing these functions, the department shall give full consideration to the recommendations of the committee and of other agencies using or desiring to use land or water areas provided by the department.

(3)(a) All land, water areas, and related resources hereafter needed by the state for outdoor recreation, wildlife management, forestry management, nature preservation, water conservation and control, and other similar or related purposes shall be acquired by the Division of State Lands of the Department of Natural Resources pursuant to the procedures set forth in chapter 253.

(b) On behalf of the Board of Trustees of the Internal Improvement Trust Fund and before the appraisal of a parcel approved for purchase pursuant to this chapter, the executive director of the Department of Natural Resources or the director of the Division of State Lands may enter into an option contract to buy such parcel. The option contract shall state that the final purchase price is subject to approval by the board and that this price may not exceed the maximum offer allowed by law. The consideration for such option may not exceed $1,000 or .01 percent of the estimate by the department of the value of the parcel, whichever is greater.

(4) The department may acquire by purchase, lease-purchase agreement, or otherwise, on such terms and conditions as it deems wise, any land, water areas, related resources, or other property which it deems is reasonably necessary for outdoor recreation or natural resources conservation under this act, and any and all rights, title, and interest in such land, water areas, related resources, and other property, including any public lands, parks, playgrounds, reservations, roads, or parkways, owned by or in which any county, political subdivision, city, town, village, public agency, or officer of the state has any right, title, or interest, or parts thereof or rights therein and any fee simple absolute or lesser interest in private property, and fee simple absolute in, easement upon, or the benefit of restrictions upon, abutting property to preserve and protect recreation and conservation areas and projects.

(5) Land, water areas, and related resources which may be identified through the procedures provided in this act include, but are not limited to, parks and recreation areas, wildlife preserves, forest areas, wetlands, floodways and water storage areas, beaches, water access sites, boating and navigational channels, submerged lands, historical and archaeological sites, and rights-of-way and sites for access roads which may be necessary for maximum development, use, and enjoyment of any outdoor recreation or conservation areas. The terms "land" and "lands" where used singly in this act shall be construed as inclusive of lands, water areas, and related resources.

(6) The department may acquire by the exercise of the power of eminent domain, in accordance with the statutes of the state, any land or water areas, related resources, and property and any and all rights, title, and interest in such land or water areas, related resources, and other property which it determines reasonably necessary for the preservation of floodways and water storage areas, boating and navigational channels, rights-of-way for access roads which may be necessary for maximum development and use of any outdoor recreation and conservation areas, and rights-of-way for access which may be necessary for the use and enjoyment of public waterways.

(7) The department may contract for the management or lease of acquired land, water areas, and related resources, or improvements thereon, with any state agency for its authorized purposes. The department may, in its discretion, require such state agency to pay, as rentals on such land, water areas, related resources, or improvements, all or any part of the revenues derived from the land.

(8) The department may, if it deems it desirable and in the best interest of the program, request the board of trustees to sell or otherwise dispose of any lands or water storage areas acquired under this act. The board of trustees, when so requested, shall offer the lands or water storage areas, on such terms as the department may determine, first to other state agencies and then, if still available, to the county or municipality in which the lands or water storage areas lie. If not acquired by another state agency or local governmental body for beneficial public purposes, the lands or water storage areas shall then be offered by the board of trustees at public sale, after first giving notice of such sale by publication in a newspaper published in the county or counties in which such lands or water storage areas lie not less than once a week for 3 consecutive weeks. All proceeds from the sale or disposition of any lands or water storage areas pursuant to this section shall be deposited in the Land Acquisition Trust Fund.

(9) The department may sell, lease, or otherwise dispose of certain products and user rights in, under, or upon land, water areas, and related resources acquired under the provisions of this act, including, but not limited to, oil and minerals, timber and forest products, sand, gravel, earth, grazing rights, and farming rights on such terms and conditions as it determines, if the sale, lease, or other disposition is not inconsistent with or injurious to the outdoor recreation, conservation, and other purposes for which such lands and water areas were acquired.

(10) The department is empowered and authorized to provide matching funds to counties and municipalities of up to 50 percent of the cost of purchasing, exclusive of condemnation, rights-of-way for access roads or walkways to public beaches contiguous with the Atlantic Ocean or the Gulf of Mexico.

History.—s. 3, ch. 63-36; s. 3, ch. 67-351; ss. 23, 27, 35, ch. 69-106; s. 1, ch. 72-104; s. 1, ch. 75-81; s. 17, ch. 79-255; s. 3, ch. 80-356; s. 6, ch. 83-114; s. 15, ch. 84-330.

cf.—s. 267.151 Program of vertebrate paleontology within Florida State Museum.

CHAPTER 376

POLLUTANT DISCHARGE PREVENTION AND REMOVAL

376.11 Florida Coastal Protection Trust Fund.
376.30 Legislative intent with respect to pollution of surface and ground waters.
376.301 Definitions of terms used in ss. 376.30-376.317.
376.302 Discharge of pollutants prohibited.
376.303 Powers and duties of the Department of Environmental Regulation.
376.307 Water Quality Assurance Trust Fund.
376.308 Liabilities and defenses of facilities.
376.313 Nonexclusiveness of remedies and individual cause of action for damages under ss. 376.30-376.315.
376.317 Superseded laws; state preemption.

376.11 Florida Coastal Protection Trust Fund.—

(1) The purpose of this section is to provide a mechanism to have financial resources immediately available for cleanup and rehabilitation after a pollutant has been discharged, to prevent further damage by the pollutant, and to pay for damages. It is the legislative intent that this section be liberally construed to effect the purposes set forth, such interpretation being especially imperative in light of the danger to the environment and resources.

(2) The Florida Coastal Protection Trust Fund is established, to be used by the department as a nonlapsing revolving fund for carrying out the purposes of ss. 376.011-376.21. To this fund shall be credited all excise taxes, registration fees, penalties, judgments, and other fees and charges related to ss. 376.011-376.21. Charges against the fund shall be in accordance with this section.

(3)(a) Moneys in the fund that [illegible] needed

currently to meet the obligations of the department in the exercise of its responsibilities under ss. 376.011-376.21 shall be deposited with the Treasurer to the credit of the fund and may be invested in such manner as is provided for by statute. Interest received on such investment shall be credited to the fund.

(b)1. Effective July 1, 1980, 50 percent of the interest earned from investments of the fund when the balance of the fund is greater than $30 million shall be used for the acquisition of spoil disposal sites and improvements to existing and future spoil sites for the ports of St. Petersburg Bayboro Harbor, Jacksonville, Port Canaveral, Ft. Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, Port St. Joe, Tampa, Panama City, Pensacola, and other navigable waters of the state. In the event that the balance of the fund is reduced to $30 million or less, the interest normally accruing to the priority acquisition and improvement program for spoil disposal sites shall be discontinued until the balance of the fund exceeds $30 million. The provisions of this subparagraph shall not apply if the Federal Government preempts the authority to levy, collect, and use an excise tax pursuant to this section or if the Governor and Cabinet declare an emergency related to a major pollutant hazard.

2. The Department of Natural Resources shall establish a priority acquisition and improvement program for spoil disposal sites, which sites are to be acquired using moneys from the fund, based upon its recommendations and the recommendations made by the ports and the Department of Environmental Regulation. Such priority acquisition and improvement program shall take into consideration the existing need of each port for spoil disposal sites, the frequency and volume of maintenance dredging at each port, the movement of petroleum and other pollutant hazards at each port, the protection of recreational and environmental quality, and whether the proposed site meets the permit requirements of chapters 403 and 253.

3. The recipient port authority or appropriate governmental entity shall contribute not less than 50 percent of the cost of the acquisition of a spoil disposal site. Such contribution may include land owned or improvements to the spoil disposal site. The department shall establish procedures for the payment of funds and matching contributions consistent with the provisions herein.

4. Any moneys received from the sale of dredged materials deposited on a spoil disposal site acquired hereunder or from the sale of an acquired spoil disposal site shall be paid to the fund until the fund has been reimbursed for its participation in the purchase of that site. Any remaining funds shall be paid to the contributing governmental entity until that entity has been reimbursed for its contribution. Any funds remaining thereafter shall be paid to the fund.

(4)(a) There is hereby levied, to be collected from and paid by each registrant, including facilities subject to the excise tax levied by ss. 376.30-376.315, an excise tax upon each registrant for the privilege of operating a terminal facility and handling all pollutants covered by ss. 376.011-376.21, the amount of which is to be determined by the department as measured by the volume in barrels of liquid pollutants transferred to or from the registrant.

(b) The excise tax shall be 2 cents per barrel transferred until the balance in the fund equals or exceeds $30 million. For the fiscal year immediately following the year in which the balance in the fund equals or exceeds $30 million, no excise tax shall be levied unless:

1. The balance in the fund is less than or equal to $25 million. For the fiscal year immediately following the year in which the balance in the fund is less than or equal to $25 million, the excise tax shall be and shall remain 2 cents per barrel transferred until the fund again equals or exceeds $30 million. For the fiscal year immediately following the year in which the fund again is equal to or exceeds $30 million, the excise tax and fund shall be controlled as when the fund first was equal to or exceeded $30 million.

2. There is a discharge of catastrophic proportions, the results of which could significantly reduce the balance in the fund. In the event of such a catastrophic occurrence, the Governor and Cabinet as the head of the Department of Natural Resources may, by rule, relevy the excise tax in an amount not to exceed 10 cents per barrel for a period of time sufficient to maintain the fund at a balance of $30 million, after payment of the costs and damages related to the catastrophic discharge.

3. The fund is unable to pay any proven claims against the fund at the end of the fiscal year. Notwithstanding any other provision of this section, for the fiscal year following the year in which the fund is unable to pay any proven claims against the fund at the end of the fiscal year, the excise tax shall be and shall remain 5 cents per barrel transferred until all outstanding proven claims have been paid and the fund again equals or exceeds $10 million. For the fiscal year immediately following the year in which the fund, after levy of the 5-cent excise tax, again is equal to or exceeds $10 million, the excise tax and fund shall be controlled in accordance with subparagraph 1., unless otherwise provided.

4. The fund has had appropriated to it by the Legislature, but has not yet repaid, state funds from the General Revenue Fund. In such event, the excise tax shall continue to be in effect until all such funds are repaid to the General Revenue Fund.

(c) The excise tax provided for in this section shall be collected monthly by the Department of Revenue on the basis of records certified to the Department of Revenue and Department of Natural Resources and shall be credited to the fund. However, for the purposes of this section, the excise tax on each barrel of the pollutant shall be imposed only once, at the first transfer of the specific pollutant. Each tax barrel of the specific pollutant shall only be considered once for the purpose of this excise tax. This excise tax shall be in addition to all other taxes imposed upon or paid by the registrant. However, any terminal facility with a storage capacity of 250 barrels or less shall report and pay the excise tax semiannually.

(d) Except for the 3-percent collection allowance, the same duties and privileges imposed by chapter 212 respecting the remission of tax; the making of returns; penalties and interest; the keeping of books, records, and accounts; and the compliance with the rules of the Department of Revenue in the administration of that chapter apply to, and are binding on, all registrants who are subject to this section, except for the provisions of s. 212.12(1).

(e) The Department of Revenue shall maintain records indicating the amount of taxes collected. These records shall be confidential, as provided in [1]s. 213.072.

(f) The Department of Revenue shall promulgate rules, establish audit procedures for the audit of registrants under this section, assess for delinquencies, and prescribe and publish such forms as may be necessary to effectuate the purposes of this section.

(g) The Department of Revenue, according to the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.

[2](5) Moneys in the Florida Coastal Protection Trust Fund shall be disbursed for the following purposes and no others:

(a) Administrative expenses, personnel expenses, and equipment costs of the department related to the enforcement of ss. 376.011-376.21 subject to s. 376.185.

(b) All immediate costs involved in the abatement of pollution related to the discharge of pollutants covered by ss. 376.011-376.21 and the abatement of other potential pollution hazards as authorized herein.

(c) All costs and expenses of the cleanup and rehabilitation of waterfowl, wildlife, and all other natural resources damaged by the discharge of pollutants, whether performed or authorized by the department or any other state or local agency.

(d) All provable costs and damages which are the proximate results of the discharge of pollutants covered by ss. 376.011-376.21.

(e) The acquisition of spoil disposal sites and improvements to existing and future spoil sites for the ports of St. Petersburg Bayboro Harbor, Jacksonville, Port Canaveral, Ft. Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, Port St. Joe, Tampa, Panama City, Pensacola, and other navigable waters of the state.

(f) A one-time expenditure of $11 million to the Water Quality Assurance Trust Fund created in s. 376.307.

(g) An annual expenditure of up to 50 percent of the interest earned from investments of the Florida Coastal Protection Trust Fund when the balance is greater than $30 million, to the Water Quality Assurance Trust Fund created pursuant to s. 376.307; however, this expenditure shall be reduced by any administrative expenses, personnel expenses, and equipment costs of the department related to the enforcement of ss. 376.011-376.21.

(h) The service charge imposed pursuant to chapter 215.

(6) Any interest in lands acquired using moneys in the Florida Coastal Protection Trust Fund shall be held by the Trustees of the Internal Improvement Trust Fund, and such lands shall be acquired pursuant to the procedures set forth in s. 253.025.

(7) The department shall recover to the use of the fund from the person or persons causing the discharge or from the Federal Government, jointly and severally, all sums owed or expended from the fund, pursuant to s. 376.12(4), except that recoveries resulting from damage due to a discharge of a pollutant or other similar disaster shall be apportioned between the Florida Coastal Protection Trust Fund and the General Revenue Fund so as to repay the full costs to the General Revenue Fund of any sums disbursed therefrom as a result of such disaster. Requests for reimbursement to the fund for the above costs, if not paid within 30 days of demand, shall be turned over to the Department of Legal Affairs for collection.

History.—s. 11, ch. 70-244; s. 1, ch. 70-439; s. 2, ch. 71-137; s. 11, ch. 74-336; s. 3, ch. 80-182; s. 4, ch. 81-228; s. 62, ch. 83-310; s. 14, ch. 83-359; s. 1, ch. 83-353; s. 4, ch. 84-335.

[1]Note.—Section 213.072 was repealed by s. 4, ch. 80-222.

[2]Note.—The amendment of this subsection by s. 1 of ch. 83-353 during the special session of July 12-13, 1983, failed to incorporate the amendment of the same subsection by s. 14, ch. 83-359, during the special session of June 15-24, 1983. Although the circumstance that separate sessions were involved takes the transaction out of the operation of s. 1.04, there was no apparent intent to nullify the amendment of the June 15-24 special session. Therefore, the subsection as published gives full effect to both amendments.

cf.—ss. 215.20, 215.22 Service charge deduction for cost of general government paid from General Revenue Fund.

376.30 Legislative intent with respect to pollution of surface and ground waters.—

(1) The Legislature finds and declares that the preservation of surface and ground waters is a matter of the highest urgency and priority, and that such use can only be served effectively by maintaining the quality of inland waters in as close to a pristine condition as possible, taking into account multiple-use accommodations necessary to provide the broadest possible promotion of public and private interests.

(2) The Legislature further finds and declares that:

(a) The storage of pollutants within the jurisdiction of the state and state inland waters is a hazardous undertaking;

(b) Spills, discharges, and escapes of pollutants that occur as a result of procedures taken by private and governmental entities involving the storage of such products pose threats of great danger and damage to the environment of the state, to citizens of the state, and to other interests deriving livelihood from the state;

(c) Such hazards have occurred in the past, are occurring now, and present future threats of potentially catastrophic proportions, all of which are expressly declared to be inimical to the paramount interests of the state as set forth in this section; and

(d) Such state interests outweigh any economic burdens imposed by the Legislature upon those engaged in storing pollutants and related activities.

(3) The Legislature intends by the enactment of ss. 376.30-376.315 to exercise the police power of the state by conferring upon the Department of Environmental Regulation the power to:

(a) Deal with the hazards and threats of danger and damage posed by such storage and related activities;

(b) Require the prompt containment and removal of products occasioned thereby; and

(c) Establish a fund to provide for the inspection and supervision of such activities and guarantee the prompt payment of reasonable costs resulting therefrom.

(4) The Legislature further finds and declares that the preservation of the quality of surface and

ground waters is of prime public interest and concern to the state in promoting its general welfare, preventing disease, promoting health, and providing for the public safety and that the interest of the state in such preservation outweighs any burdens of liability imposed by the Legislature upon those persons engaged in storing pollutants and related activities.

(5) The Legislature further declares that it is the intent of ss. 376.30-376.315 to support and complement applicable provisions of the Federal Water Pollution Control Act, as amended, specifically those provisions relating to the national contingency plan for removal of pollutants.

History.—s. 84, ch. 83-310; s. 5, ch. 84-338.

376.301 Definitions of terms used in ss. 376.30-376.317.—When used in ss. 376.30-376.317, unless the context clearly requires otherwise, the term:

(1) "Barrel" means 42 U.S. gallons at 60° Fahrenheit.

(2) "Department" means the Department of Environmental Regulation.

(3) "Discharge" includes, but is not limited to, any spilling, leaking, seeping, pouring, emitting, emptying, or dumping of any pollutant which occurs and which affects lands and the surface and ground waters of the state not regulated by ss. 376.011-376.21.

(4) "Facility" means a nonresidential location containing any stationary tank or tanks which are not covered by ss. 376.011-376.21 and which contain pollutants and have individual storage capacities greater than 550 gallons, except for any aboveground crude oil storage tank covered by chapter 377, or a nonresidential location which contains or stores solid or gaseous pollutants in containers having individual storage capacities greater than 550 gallons.

(5) "Fund" means the Water Quality Assurance Trust Fund.

(6) "Operator" means any person operating a facility, whether by lease, contract, or other form of agreement.

(7) "Owner" means any person owning a facility.

(8) "Person" means any individual, partner, joint venture, or corporation; any group of the foregoing, organized or united for a business purpose; or any governmental entity.

(9) "Person in charge" means the person on the scene who is in direct, responsible charge of a facility from which pollutants are discharged, when the discharge occurs.

(10) "Pollutants" includes any "product" as defined in s. 377.19(11), pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

(11) "Pollution" means the presence on the land or in the waters of the state of pollutants in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

(12) "Secretary" means the secretary of the Department of Environmental Regulation.

History.—s. 84, ch. 83-310; s. 6, ch. 84-338.

376.302 Discharge of pollutants prohibited.—The discharge of pollutants into or upon any waters of the state or lands, which discharge violates any departmental "standard" as defined in s. 403.803(13), is prohibited.

History.—s. 84, ch. 83-310; s. 8, ch. 84-338.

376.303 Powers and duties of the Department of Environmental Regulation.—

(1) The department has the power and the duty to:

(a) Establish rules, including, but not limited to, construction standards, permitting of tanks, maintenance and installation standards, and removal or disposal standards, to implement the intent of ss. 376.30-376.317 and to regulate underground and aboveground facilities and their onsite integral piping systems not covered by ss. 376.011-376.21, except for aboveground crude oil storage tanks covered by chapter 377.

(b) Provide for the development and implementation of criteria and plans to prevent and meet occurrences of pollution of various kinds and degrees.

(c) Establish a requirement that any facility covered by this act be subject to complete and thorough inspections at reasonable times. Any facility which has discharged a pollutant in violation of the provisions of ss. 376.30-376.317 shall be fully and carefully monitored by the department to ensure that such discharge does not continue to occur.

(d) Keep an accurate record of the costs and expenses incurred for the removal of prohibited discharges and thereafter diligently to pursue the recovery of any sums so incurred from the person responsible or from the United States Government under any applicable federal act.

(e) Bring an action on behalf of the state to enforce the liabilities imposed by ss. 376.30-376.317. The provisions of ss. 403.121, 403.131, 403.141, and 403.161 apply to enforcement under ss. 376.30-376.317.

(2) The powers and duties of the department under ss. 376.30-376.317 shall extend to the land mass of the state not described in ss. 376.011-376.21.

History.—s. 84, ch. 83-310; s. 9, ch. 84-338.

376.307 Water Quality Assurance Trust Fund.—

(1) There is created in the State Treasury the Water Quality Assurance Trust Fund, to be administered by the Department of Environmental Regulation.

(2) The fund may be used to carry out the provisions of this act and for the cleanup and restoration of any site contaminated with:

(a) Hazardous wastes;

(b) "Hazardous substances" as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767;

(c) A pollutant;

(d) A substance which is or is suspected to be carcinogenic, mutagenic, teratogenic, or toxic to human beings, or acutely toxic to indigenous species of significance to the biological community affected by the hazardous waste or substance; or

(e) A substance which poses a serious danger to the public health, safety, or welfare.

(3) The trust fund shall be funded as follows:

(a) A one-time transfer of $11 million from the Florida Coastal Protection Trust Fund pursuant to s. 376.11(5)(f). This transfer shall not be subject to the General Revenue Fund deduction authorized in ss. 215.20 and 215.22.

(b) An annual transfer of interest funds from the Florida Coastal Protection Trust Fund pursuant to s. 376.11(5)(g).

(c) A monthly transfer of the interest from the State Water Pollution Control Trust Fund.

(4) The trust fund shall be used by the department as a nonlapsing revolving fund for carrying out the purposes of this act. To this fund shall be credited all excise taxes, penalties, judgments, and other fees and charges related to ss. 376.30-376.315. Charges against the fund shall be in accordance with this section.

(5)(a) There is hereby levied an excise tax, to be collected from and paid by a person for the privilege of operating a terminal facility, as defined in s. 376.031(9), and from a person for the privilege of operating a facility not covered by ss. 376.011-376.21, which is served by air, rail, truck, pipeline located in this state, or a vessel, used for the purpose of storing, handling, or transferring pollutants. The state and political subdivisions in the state are exempt from the excise tax.

(b) The excise tax shall be 2 cents per barrel, or equivalent measure as established by the department, coming to rest in the state, until the balance in the fund equals or exceeds an unobligated balance of $12 million, at which time no excise tax shall be levied unless:

1. The balance in the fund is less than or equal to an unobligated balance of $3 million, in which case the 2-cent tax will resume within 90 days following the end of the month in which such unobligated balance occurs and continue until the balance in the fund again equals or exceeds an unobligated balance of $12 million.

2. The fund is unable to pay any proven costs against the fund, in which case the excise tax will be and remain 5 cents per barrel, or equivalent measure established by the department, until the fund equals or exceeds $1.5 million, when the provisions of subparagraph 1. will control.

3. The fund has had appropriated to it by the Legislature, but has not yet repaid, state funds from the General Revenue Fund. In such event, the excise tax will continue to be in effect until all such funds are repaid to the General Revenue Fund.

(c) The excise tax provided for in this section shall be collected monthly by the Department of Revenue on the basis of records certified to the Department of Revenue and the Department of Environmental Regulation and shall be credited to the fund. However, for the purposes of this section, the excise tax on each barrel of the pollutant shall be imposed only once, at the first transfer of a specific barrel of pollutant which comes to rest in this state. Each barrel of pollutant shall be considered only once for the purposes of this excise tax. This excise tax shall be in addition to all other taxes imposed upon or paid by the operator. However, any facility with a storage capacity of 250 barrels or less shall report and pay the excise tax semiannually.

(d) Except for the 3-percent collection allowance, the same duties and privileges imposed by chapter 212 respecting the remission of tax; the making of returns; penalties and interest; the keeping of books, records, and accounts; and the compliance with the rules of the Department of Revenue in the administration of that chapter apply to, and are binding on, all registrants who are subject to this section.

(e) The Department of Revenue shall maintain records indicating the amount of taxes collected. These records are confidential, as provided in s. 213.053.

(f) The Department of Revenue shall promulgate rules, establish audit procedures for the audit of operators under this section, assess for delinquencies, and prescribe and publish such forms as may be necessary to effectuate the purposes of this section.

(g) The Department of Revenue, according to the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.

(6) The department shall recover to the use of the fund from a person or persons at any time causing or having caused the discharge or from the Federal Government, jointly and severally, all sums owed or expended from the fund, pursuant to s. 376.308(4), except that sums recovered as a result of damage due to a discharge of a pollutant or other similar disaster shall be apportioned between the fund and the General Revenue Fund so as to repay the full costs to the General Revenue Fund of any sums disbursed therefrom as a result of such disaster. Any request for imbursement to the fund for such costs, if not within 30 days of demand, shall be turned over to department for collection.

(7) Moneys in the fund which are not needed currently to meet the obligations of the department in the exercise of its responsibilities under ss. 376.30-376.315 shall be deposited with the Treasurer to the credit of the fund and may be invested in such manner as is provided for by statute. The interest received on such investment shall be credited to the fund.

(8) It is the duty of the department in administering the fund diligently to pursue the reimbursement to the fund of any sum expended from the fund for cleanup and abatement in accordance with the provisions of this section. For the purposes of s. 95.11, the limitation period within which to institute an action to recover such sums shall commence on the last date on which any such sums were expended, and not the date that the discharge occurred.

History.—s. 84, ch. 83-310; s. 3, ch. 83-353; s. 10, ch. 84-338.

[1]Note.—The reference to s. 376.11(5)(f) was substituted by the editors for reference to s. 376.11(5)(c) to correct an apparent error in s. 3, ch. 83-353.

376.308 Liabilities and defenses of facilities.—In any suit instituted by the department under ss. 376.30-376.315, it is not necessary for the department to plead or prove negligence in any form or manner. The department need only plead and prove that the prohibited discharge or other polluting condition has occurred. The only defenses of a person alleged to be responsible for the discharge to any action under ss.

376.30-376.315 are to plead and prove that the occurrence was solely the result of any of the following or any combination of the following:

(1) An act of war.

(2) An act of government, either state, federal, or municipal.

(3) An act of God, which means only an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency.

(4) An act or omission of a third party, other than an employee or agent of the defendant or other than one whose act or omission occurs in connection with a contractual relationship existing, directly or indirectly, with the defendant, except when the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail, if the defendant establishes by a preponderance of the evidence that:

(a) The defendant exercised due care with respect to the pollutant concerned, taking into consideration the characteristics of such hazardous waste, in light of all relevant facts and circumstances; and

(b) The defendant took precautions against foreseeable acts or omissions of any such third party and against the consequences that could foreseeably result from such acts or omissions.

History.—s. 84, ch. 83-310; s. 11, ch. 84-338.

376.313 Nonexclusiveness of remedies and individual cause of action for damages under ss. 376.30-376.315.—

(1) The remedies in ss. 376.30-376.315 shall be deemed to be cumulative and not exclusive.

(2) Nothing in ss. 376.30-376.315 requires the pursuit of any claim against the fund as a condition precedent to any other remedy.

(3) Notwithstanding any other provision of law, nothing contained in ss. 376.30-376.315 prohibits any person from bringing a cause of action in a court of competent jurisdiction for all damages resulting from a discharge or other condition of pollution covered by ss. 376.30-376.315. In any such suit, it is not necessary for such person to plead or prove negligence in any form or manner. Such person need only plead and prove the fact of the prohibited discharge or other pollutive condition and that it has occurred. The only defenses to such cause of action shall be those specified in s. 376.308. In addition to any other remedy, the injured party is entitled to recover the costs of the action and reasonable attorneys' fees.

History.—s. 84, ch. 83-310; s. 12, ch. 84-338.

376.317 Superseded laws; state preemption.—

(1) If any provision of ss. 376.30-376.317 or of the rules developed pursuant to such sections, which provision pertains to a facility maintained for the purpose of the underground storage of petroleum products for use as fuel in vehicles, including, but not limited to, those vehicles used on and off roads, aircraft, watercraft, and rail, is in conflict with any other provision, limitation, or restriction which is now in effect under any law of this state or any ordinance of a local government, political subdivision, or municipality, or any rule or regulation adopted thereunder, the provision of ss. 376.30-376.317 shall control, except as provided in subsection (3).

(2) Except as provided in subsection (3), the state preempts the regulation of the prevention and removal of pollutant discharges from a facility described in subsection (1) which has no single tank having a capacity exceeding 40,000 gallons at any time.

(3) A county government is authorized to adopt countywide ordinances that regulate underground storage tanks, as described herein, which ordinances are more stringent or extensive than any state law or rule regulating such tanks, provided:

(a) The original ordinance was legally adopted and in force before September 1, 1984; or

(b) The ordinance establishing the local program was approved by the department.

The department is authorized to adopt rules that permit any county government to establish, in accordance with s. 403.182, a program regulating underground storage tanks, which program is more stringent or extensive than that established by any state law or rule regulating underground storage tanks. When adopting the rules, the department shall consider local conditions that warrant such more stringent or extensive regulation of underground storage tanks, including, but not limited to, the proximity of the county to a sole or single-source aquifer, the potential threat to the public water supply because of the proximity of underground storage tanks to public wells or ground water, or the detection of petroleum products in public or private water supplies.

History.—s. 13, ch. 84-338.

CHAPTER 377

ENERGY RESOURCES

PART I REGULATION OF OIL AND GAS RESOURCES

PART II PLANNING AND DEVELOPMENT

PART I

REGULATION OF OIL AND GAS RESOURCES

377.22 Rules, regulations, and orders.

377.22 Rules, regulations, and orders.—

(1) The Department of Natural Resources shall provide, by rules and regulations, for ratable takings in all pools on a reasonable and equitable basis.

(2) The department shall adopt such rules and regulations, and shall issue such orders, governing all phases of the exploration, drilling, and production of oil, gas, or other petroleum products in the state, including exploration, drilling, and production in the offshore waters of the state as may be necessary for the proper administration and enforcement of this chapter. Such rules, regulations, and orders shall ensure that all precautions are taken to prevent the spillage of oil or any other pollutant in all phases of the drilling for, and extracting of, oil, gas, or other

petroleum products. The department shall revise such rules and regulations from time to time as may be necessary for the proper administration and enforcement of this chapter. Rules, regulations, and orders promulgated in accordance with this section shall be for, but shall not be limited to, the following purposes:

(a) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the pollution of the fresh, salt, or brackish waters or the lands of the state.

(b) To prevent the alteration of the sheet flow of water in any area.

(c) To require that appropriate safety equipment be installed to minimize the possibility of an escape of oil or other petroleum products in the event of accident, human error, or a natural disaster during drilling, casing, or plugging of any well and during extraction operations.

(d) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the escape of oil or other petroleum products from one stratum to another.

(e) To prevent the intrusion of water into an oil or gas stratum from a separate stratum, except as provided by rules of the division relating to the injection of water for proper reservoir conservation and brine disposal.

(f) To require a reasonable bond, conditioned upon the performance of the duty to plug properly each dry and abandoned well and the full and complete restoration, by the applicant, of the area over which the drilling or production is conducted to the similar contour and general condition in existence prior to such operation.

(g) To require and carry out a reasonable program of monitoring or inspection of all drilling operations or producing wells, including regular inspections by division personnel.

(h) To require the making of reports showing the location of all oil and gas wells; the making and filing of logs; the taking and filing of directional surveys; the filing of electrical, sonic, radioactive, and mechanical logs of oil and gas wells; if taken, the saving of cutting and cores, the cuts of which shall be given to the Bureau of Geology; and the making of reports with respect to drilling and production records. However, such information, or any part thereof, at the request of the operator, shall be held confidential by the division for a period of 90 days after the completion of a well, and, at the option of the division, for a longer period.

(i) To prevent wells from being drilled, operated, or produced in such a manner as to cause injury to neighboring leases or property.

(j) To prevent the drowning by water of any stratum, or part thereof, capable of producing oil or gas in paying quantities and to prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool.

(k) To require the operation of wells with efficient gas-oil ratio, and to fix such ratios.

(l) To prevent "blowouts," "caving," and "seepage," in the sense that conditions indicated by such terms are generally understood in the oil and gas business.

(m) To prevent fires.

(n) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures, and storage and transportation equipment and facilities.

(o) To regulate the "shooting," perforating and chemical treatment of wells.

(p) To regulate secondary recovery methods, including the introduction of gas, air, water, or other substance into producing formations.

(q) To regulate gas cycling operations.

(r) If necessary for the prevention of waste, as herein defined, to determine, limit, and prorate the production of oil or gas, or both, from any pool or field in the state.

(s) To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation or delivery of oil or gas, or any product.

(t) To regulate the spacing of wells and to establish drilling units.

(u) To prevent, so far as is practicable, reasonably avoidable drainage from each developed unit which is not equalized by counterdrainage.

(v) To require that geophysical operations requiring a permit be conducted in a manner which will minimize the impact on hydrology and biota of the area, especially environmentally sensitive lands and coastal areas.

(w) To regulate aboveground crude oil storage tanks in a manner which will protect the water resources of the state.

History.—s. 16, ch. 22819, 1945; ss. 25, 35, ch. 69-106; s. 2, ch. 72-394; s. 1, ch. 76-103; s. 1, ch. 80-283; s. 7, ch. 84-338.

PART II

PLANNING AND DEVELOPMENT

377.704 Appropriation of funds from settlement of petroleum overcharge litigation.
377.709 Advanced funding by electric utilities of local governmental solid waste facilities that generate electricity.

377.704 Appropriation of funds from settlement of petroleum overcharge litigation.—There are and will be funds available to this state due to settlements of litigation brought by the United States Department of Energy against oil companies and refineries. It is the intent of the Legislature that funds received as a result of federal statute or administrative or regulatory actions requiring the disbursement to states of refund moneys for alleged overcharges for crude oil or refined petroleum products sold during the period of time in which federal price controls on such crude oil and refined petroleum products were in effect, whether by themselves or in conjunction with other moneys appropriated by the Legislature, may not be expended unless appropriated in the General Appropriations Act or other subsequent specific appropriation by law.

History.—s. 1, ch. 84-104.

377.709 Advanced funding by electric utilities of local governmental solid waste facilities that generate electricity.—

(1) The Legislature declares that it is critical to encourage energy conservation in order to protect the health, prosperity, and general welfare of this state and its citizens. The Legislature also declares that the disposal of solid refuse is an important governmental obligation and that, if the disposal is not accomplished in a proper manner, such refuse poses a definite threat to the public health and welfare. The Legislature further declares that the combustion of refuse by solid waste facilities to supplement the electricity supply not only represents effective conservation efforts but also represents an environmentally preferred alternative to conventional solid waste disposal in this state. Therefore, the Legislature directs the Florida Public Service Commission to establish a funding program to encourage the development by local governments of solid waste facilities that use solid waste as a primary source of fuel for the production of electricity.

(2) As used in this section, the term:

(a) "Commission" means the Florida Public Service Commission.

(b) "Cost-effective" means that the cost of electrical capacity and energy produced by a solid waste facility financed and constructed pursuant to this section and delivered to an electric utility is no greater than the cost to that utility of producing an equivalent amount of capacity and energy had the alternative facility not been constructed and operated.

(c) "Electric utility" means any electric utility over which the commission has ratesetting authority.

(d) "Electrical component" means the turbine, generator, and associated transmission facilities of a solid waste facility.

(e) "Local government" means any municipality, county, consolidated government, or special district, authority, or commission, or any combination thereof.

(f) "Solid waste facility" means a facility which disposes of solid refuse by any process that produces heat and incorporates, as a part of the facility, the means of converting heat to electrical energy in amounts greater than actually required for the operation of the facility.

(3)(a) Upon the petition of a local government, the commission shall have the authority, subject to the provisions of this section, to require an electric utility to enter into a contract with the local government to provide advanced funding to such government for the construction of the electrical component of a solid waste facility.

(b) A contract may not be entered into without the prior approval of the contract by the commission. The commission may approve or disapprove a contract, or it may modify a contract with the concurrence of the parties to the contract. When reviewing a contract, the commission shall consider those items it deems appropriate, including, but not limited to, the cost-effectiveness of the unit and the financial ability of the electric utility to provide the funding. If an electric utility and a local government cannot agree to the terms of a contract, or if it is shown that an electric utility has refused to negotiate a contract with a local government, the commission may prescribe the terms of the contract subject to the provisions of this section. The commission, however, shall not approve a contract which is violative of any of the following provisions:

1. If the commission determines that advanced-capacity payments to the local government during the period of construction are appropriate, such payments must be the lesser of:

a. The net present value of avoided-capacity cost for the electric utility calculated over the period of time during which the local government contracts to provide electrical capacity to the utility. The avoided-capacity cost is that cost established by the commission pursuant to s. 366.05(9) and in effect by commission rule at the time the order approving the contract is issued; or

b. An amount which is not more than the amount of the design costs of the electrical component of the solid waste facility as determined by the commission to be reasonable and prudent at the time of its order, or such portion thereof that is proportionate to the electrical capacity made available by contract to the electric utility.

2. If the commission determines that energy payments to the local government are appropriate, such payments may not be greater than the lesser of:

a. The hourly incremental energy rates of the electric utility as provided for in its approved tariffs over the period of the contract; or

b. The energy costs associated with the avoided-capacity costs of the electric utility as determined by the commission.

3. The electric utility must currently be providing electrical energy at retail within the geographic area of the local government or within the geographic area of one or more of the participating local governments.

4. The amount of financing, including all carrying costs, plus reasonable and prudent administrative costs incurred by the electric utility, must be recovered from the ratepayers of the electric utility pursuant to the provisions of the Florida Energy Efficiency and Conservation Act. An electric utility may not be required to pay to the local government any funding in excess of that collected from its ratepayers.

5. Funding of the electrical component of the solid waste facility must be cost-effective to the ratepayer and must not cause or contribute to the uneconomic duplication of electric facilities.

(4) The amounts required of an electric utility as advanced-capacity payments shall be paid to the local government unit during the construction of the project as established by the contract and approved by the order. Such payments are subject to being refunded in full or proportionately to the electric utility if the electrical component of the solid waste facility fails, for any reason, to operate at a 70-percent-capacity factor based on a 12-month rolling average. Any refund shall be calculated and paid annually. If during the life of the contract a solid waste facility is abandoned, closed down, or rendered illegal by applicable law, ordinance, or regulation, the full amount of any unrefunded advanced-capacity payments is subject to being refunded to the electric utility. Any refund by a local government of advanced-capacity payments to an electric utility shall be refunded by the electric utility to its customers as a credit shown on the customers' bills as soon as is practicable after the receipt of the refunded portions. The obligation to make a refund is binding on the local government and its successors in interest. In the case of a combination of local governments, if such combination is dissolved or otherwise ceases to function, the refund is a legal and binding obligation of the individual local governments which participated in the formation of the combination, in proportion to their interests.

(5) The commission shall adopt all rules necessary to implement this section.

History.—s. 1, ch. 84-198.
cf.—ss. 366.80-366.85 Florida Energy Efficiency and Conservation Act.

CHAPTER 378

LAND RECLAMATION

378.031 Reclamation or acquisition of nonmandatory lands; legislative intent.
378.032 Definitions.
378.033 Nonmandatory Land Reclamation Committee; creation; composition.
378.034 Submission of a reclamation program request; procedures.
378.035 Department responsibilities and duties with respect to Nonmandatory Land Reclamation Trust Fund.
378.036 Land acquisitions financed by Nonmandatory Land Reclamation Trust Fund moneys.
378.037 Comptroller; responsibilities and duties with respect to reimbursement of reclamation costs.
378.038 Rulemaking.

378.031 Reclamation or acquisition of nonmandatory lands; legislative intent.—It is the intent of the Legislature to provide an economic incentive to encourage the reclamation of the maximum number of acres of eligible nonmandatory lands in the most timely and efficient manner or the donation or purchase of nonmandatory lands. The Legislature recognizes that certain lands mined or disturbed prior to July 1, 1975, have been naturally reclaimed.

History.—s. 5, ch. 76-136; s. 3, ch. 82-184; s. 1, ch. 83-23; s. 31, ch. 83-216; s. 17, ch. 83-339; s. 1, ch. 84-330.

378.032 Definitions.—As used in ss. 378.032-378.038, the term:

(1) "Approved reclamation program" means a reclamation program which has been approved by the Governor and Cabinet as head of the Department of Natural Resources.

(2) "Clay settling area" for purposes of the reimbursement provisions of s. 378.037 means an area completely enclosed by an earthen dam and used for waste clay disposal.

(3) "Committee" means the Nonmandatory Land Reclamation Committee.

(4) "Department" means the Department of Natural Resources.

(5) "Eligible lands" means those lands mined or disturbed by the severance of phosphate rock prior to July 1, 1975, and included as eligible lands in the master reclamation plan adopted pursuant to s. 378.021.

(6) "Master reclamation plan" means the standards, criteria, and guidelines for nonmandatory land reclamation adopted pursuant to s. 378.021 and contained in chapter 16C-17, Florida Administrative Code.

(7) "Mined-out area" for purposes of the reimbursement provisions of s. 378.037 means all eligible lands other than clay settling areas.

(8) "Nonmandatory lands" means those lands mined or disturbed by the severance of phosphate rock prior to July 1, 1975, which lands are not subject to mandatory reclamation under s. 211.32(1). However, such lands which are put into use as a clay settling area, or a dam for use with a clay settling area, after July 1, 1984, shall be subject to the reclamation provisions of s. 211.32(1).

(9) "Reclamation contract" means the agreement entered into between the department and an applicant to implement the applicant's approved reclamation program.

(10) "Reclamation program application" means any application for reclamation, donation, or acquisition.

(11) "Year" means the fiscal year of the state.

History.—s. 2, ch. 84-330.

[1]378.033 Nonmandatory Land Reclamation Committee; creation; composition.—

(1) The Nonmandatory Land Reclamation Committee is created within the Department of Natural Resources to serve as an advisory body on matters relating to nonmandatory land reclamation. The committee shall be composed of five members appointed by the Governor and confirmed by the Cabinet. In making the appointments, the Governor shall consider the needs of the program for engineering, fiscal, reclamation, and environmental expertises. Three of the committee members shall be selected respectively from Hamilton County, Polk County, and Hillsborough County.

(2)(a) In order to achieve staggered terms, of those members first appointed, two members shall be appointed for terms of 2 years each, and three members shall be appointed for terms of 4 years each. Thereafter, a member of the committee shall serve a 4-year term or until his successor is appointed. A member of the committee is eligible for reappointment.

(b) A vacancy on the committee shall be filled for the remainder of the unexpired term in the same manner as the original appointment. A single vacancy on the committee will not impair the right of the remaining members to exercise the powers of the committee.

(3) The members of the committee shall select a chair, whose office shall rotate among the members of the committee annually.

(4) The committee shall meet at least annually at the call of the chair. The presence of four members is required to constitute a quorum; a vote of three members is necessary for committee action.

(5) Committee members shall serve without pay. However, members shall be reimbursed from the Nonmandatory Land Reclamation Trust Fund for per diem and travel expenses pursuant to ss. 20.05 and 112.061.

History.—ss. 3, 11, ch. 84-330.
[1]Note.—Expires July 1, 1994, pursuant to s. 11, ch. 84-330, and is scheduled for review pursuant to s. 11.611 in advance of that date.

necessary to effect the reclamation consistent with the standards of the approved master reclamation plan;

2. The reclamation contract amount; or

3. The amount allowed based on prereclamation land form, to include mined-out areas at $4,000 per reclaimed acre and clay settling areas and other land forms at $2,500 per reclaimed acre adjusted annually by the appropriate inflationary index for construction.

(2) The Comptroller shall adopt rules to implement the payment provisions of the master reclamation plan and this section, including, but not limited to, periodic reimbursements and competitive procurement of services and commodities to the extent practicable, unless a landowner elects to utilize his own personnel and equipment. The landowner may select a method of reimbursement from the alternatives adopted by the Comptroller.

History.—s. 7, ch. 84-330.

378.038 Rulemaking.—The department shall adopt reasonable rules which recognize the cost reimbursement limitations of s. 378.037(1)(b) to implement the provisions of this act, including, but not limited to, size requirements for areas which are the subject of a reclamation program application, an appropriate inflationary index for construction, time limits for completing the approved reclamation, minimum standards and criteria for reclamation, and procedures to ensure that the trust fund is managed in accordance with good accounting principles and the provisions of this chapter.

History.—s. 8, ch. 84-330.

CHAPTER 380

LAND AND WATER MANAGEMENT

PART I ENVIRONMENTAL LAND AND WATER MANAGEMENT

PART II COASTAL PLANNING AND MANAGEMENT

PART I

ENVIRONMENTAL LAND AND WATER MANAGEMENT

380.045 Resource planning and management committees; objectives; procedures.
380.05 Areas of critical state concern.
380.06 Developments of regional impact.
380.08 Protection of landowners' rights.

380.045 Resource planning and management committees; objectives; procedures.—

(1) Prior to recommending an area as an area of critical state concern pursuant to s. 380.05, the Governor, acting as the chief planning officer of the state, shall appoint a resource planning and management committee for the area under study by the state land planning agency. The objective of the committee shall be to organize a voluntary, cooperative resource planning and management program to resolve existing, and prevent future, problems which may endanger those resources, facilities, and areas described in s. 380.05(2) within the area under study by the state land planning agency.

(2) The committee shall include, but shall not be limited to, representation from each of the following: elected officials from the local governments within the area under study; the planning office of each of the local governments within the area under study; the state land planning agency; any other state agency under chapter 20 a representative of which the Governor feels is relevant to the compilation of the committee; and a water management district, if appropriate, and regional planning council all or part of whose jurisdiction lies within the area under study. After the appointment of the members, the Governor shall select a chairman and vice chairman. A staff member of the state land planning agency shall be appointed by the director of such agency to serve as the secretary of the committee. The state land planning agency shall, to the greatest extent possible, provide technical assistance and administrative support to the committee. Meetings will be called as needed by the chairman or on the demand of three or more members of the committee. The committee will act on a simple majority of a quorum present and shall make a report within 6 months to the head of the state land planning agency. The committee shall, from the time of appointment, remain in existence for no less than 6 months.

(3) Not later than 12 months after its appointment by the Governor, the committee shall either adopt a proposed voluntary resource planning and management program for the area under study or recommend that a voluntary resource planning and management program not be adopted. The proposed voluntary resource planning and management program shall contain the committee findings with respect to problems that endanger those resources, facilities, and areas described in s. 380.05(2) and shall contain detailed recommendations for state, regional, and local governmental actions necessary to resolve current and prevent future problems identified by the committee. A major objective of the proposed voluntary resource planning and management program shall be the effective coordination of state, regional, and local planning; program implementation; and regulatory activities for comprehensive resource management. The committee shall submit the proposed voluntary resource planning and management program to the head of the state land planning agency, who shall transmit the program along with the recommendations of the agency for monitoring and enforcing the program, as well as any other recommendations deemed appropriate, to the Administration Commission.

(4) The Administration Commission shall by resolution approve, approve as modified, or reject the proposed voluntary resource planning and management program and state land planning agency recommendations; and the Administration Commission shall request each state or regional agency that is responsible for implementing a portion of an approved program to conduct its programs and regulatory activities in a manner consistent with the approved

program. Each state and regional agency involved in implementing the program shall cooperate to the maximum extent possible in ensuring that the program is given full effect.

(5) The state land planning agency shall report to the Administration Commission within 12 months of the approval of the program by the commission concerning the implementation and the effects of the approved voluntary resource planning and management program. The report shall include, but shall not be limited to:

(a) An assessment of state agency compliance with the program, including the degree to which the program recommendations have been integrated into agency planning, program implementation, regulatory activities, and rules;

(b) An assessment of the compliance by each affected local government with the program;

(c) An evaluation of state, regional, and local monitoring and enforcement activities and recommendations for improving such activities; and

(d) A recommendation as to whether or not all or any portion of the study area should be designated an area of critical state concern pursuant to s. 380.05.

The state land planning agency may make such other reports to the commission as it deems necessary, including recommending that all or any portion of the study area be designated an area of critical state concern because of special circumstances in the study area or in the implementation of the approved voluntary resource planning and management program.

History.—s. 2, ch. 79-73; s. 1, ch. 84-281.

380.05 Areas of critical state concern.—

(1)(a) The state land planning agency may from time to time recommend to the Administration Commission specific areas of critical state concern. In its recommendation, the agency shall include recommendations with respect to the purchase of lands situated within the boundaries of the proposed area as environmentally endangered lands and outdoor recreation lands under the Land Conservation Act of 1972. The agency also shall include any report or recommendation of a resource planning and management committee appointed pursuant to s. 380.045; the dangers that would result from uncontrolled or inadequate development of the area and the advantages that would be achieved from the development of the area in a coordinated manner; a detailed boundary description of the proposed area; specific principles for guiding development within the area; and an inventory of lands owned by the state, federal, county, and municipal governments within the proposed area.

(b) Within 45 days following receipt of a recommendation from the agency, the commission shall either reject the recommendation as tendered or adopt the recommendation with or without modification and by rule designate the area of critical state concern and the principles for guiding the development of the area. The rule shall require state and regional agencies to coordinate their plans and to conduct their programs and regulatory activities consistent with the adopted principles for guiding development, within the scope of statutory authority granted to the state land planning agency by the Legislature. The rule shall become effective 20 days after being filed with the Secretary of State, except that an emergency rule adopted by the commission and designating an area of critical state concern shall become effective immediately on being filed. Any rule adopted pursuant to this paragraph shall be presented to the Legislature for review pursuant to paragraph (c). An economic impact statement prepared pursuant to s. 120.54(2)(a) shall not be a ground for a challenge of the rule; however, a landowner shall not be precluded from using adverse economic results as grounds for challenge. Such principles for guiding development shall apply to any development undertaken subsequent to the legislative review pursuant to paragraph (c) of the designation of the area of critical state concern with or without modification but prior to the adoption of land development rules and regulations or a local comprehensive plan for the critical area pursuant to subsections (6) and (8). No boundaries or principles for guiding development shall be adopted without a specific finding by the commission that the boundaries or principles are consistent with the protection of the resources or area sought to be protected. The commission is not authorized to adopt any rule that would provide for a moratorium on development in any area of critical state concern.

(c) A rule adopted by the commission pursuant to paragraph (b) designating an area of critical state concern and principles for guiding development shall be submitted to the President of the Senate and the Speaker of the House of Representatives for review no later than 30 days prior to the next regular session of the Legislature. The Legislature may reject, modify, or take no action relative to the adopted rule. In its deliberations, the Legislature may consider, among other factors, whether a resource planning and management committee has established a program pursuant to s. 380.045. In addition to any other data and information required pursuant to this chapter, each rule presented to the Legislature shall include a detailed legal description of the boundary of the area of critical state concern, proposed principles for guiding development, and a detailed statement of how the area meets the criteria for designation as provided in subsection (2).

(d) If, after the repeal of the boundary designation of an area of critical state concern pursuant to subsection (15), the state land planning agency determines that the administration of the local land development regulations or a local comprehensive plan within a formerly designated area is inadequate to protect the former area of critical state concern, then the state land planning agency may recommend to the commission that the area be redesignated as an area of critical state concern. Within 45 days following the receipt of the recommendation from the agency, the commission shall either reject the recommendation as tendered or adopt the same with or without modification. The commission may, by rule, make such redesignation effective immediately, at which time the boundaries, regulations, and plans in effect at the time the previous designation was repealed shall be reinstated. Within 90 days of such redesignation, the commission shall begin rulemaking procedures to designate the area an area of critical state concern under paragraph (b).

(2) An area of critical state concern may be designated only for:

(a) An area containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including, but not limited to, state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and aquifer recharge areas, the uncontrolled private or public development of which would cause substantial deterioration of such resources. Specific criteria which shall be considered in designating an area under this paragraph include:

1. Whether the economic value of the area, as determined by the type, variety, distribution, relative scarcity, and condition of the environmental or natural resources within the area, is of substantial regional or statewide importance.

2. Whether the ecological value of the area, as determined by the physical and biological components of the environmental system, is of substantial regional or statewide importance.

3. Whether the area is a designated critical habitat of any state or federally designated threatened or endangered plant or animal species.

4. Whether the area is inherently susceptible to substantial development due to its geographic location or natural aesthetics.

5. Whether any existing or planned substantial development within the area will directly, significantly, and deleteriously affect any or all of the environmental or natural resources of the area which are of regional or statewide importance.

(b) An area containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, the private or public development of which would cause substantial deterioration or complete loss of such resources, sites, or districts. Specific criteria which shall be considered in designating an area under this paragraph include:

1. Whether the area is associated with events that have made a significant contribution to the history of the state or region.

2. Whether the area is associated with the lives of persons who are significant to the history of the state or region.

3. Whether the area contains any structure that embodies the distinctive characteristics of a type, period, or method of construction, that represents the work of a master, that possesses high artistic values, or that represents a significant and distinguishable entity the components of which may lack individual distinction and which are of regional or statewide importance.

4. Whether the area has yielded, or will likely yield, information important to the prehistory or history of the state or region.

(c) An area having a significant impact upon, or being significantly impacted by, an existing or proposed major public facility or other area of major public investment including, but not limited to, highways, ports, airports, energy facilities, and water management projects.

(3) Each regional planning agency may recommend to the state land planning agency from time to time areas wholly or partially within its jurisdiction that meet the criteria for areas of critical state concern as defined in this section. Each regional planning agency shall solicit from the local governments within its jurisdiction suggestions as to areas to be recommended. A local government in an area where there is no regional planning agency may recommend to the state land planning agency from time to time areas wholly or partially within its jurisdiction that meet the criteria for areas of critical state concern as defined in this section. If the state land planning agency does not recommend to the commission as an area of critical state concern an area substantially similar to one that has been recommended, it shall respond in writing as to its reasons therefor.

(4) Prior to submitting any recommendation to the commission under subsection (1), the state land planning agency shall give notice to any committee appointed pursuant to s. 380.045 and to all local governments and regional planning agencies that include within their boundaries any part of any area of critical state concern proposed to be designated by the rule, in addition to any notice otherwise required under chapter 120.

(5) After the commission adopts a rule designating the boundaries of, and principles for guiding development in, an area of critical state concern and within 180 days of such adoption, the local government having jurisdiction may submit to the state land planning agency its existing land development regulations and local comprehensive plan for the area, if any, or shall prepare, adopt, and submit the new or modified regulations and plan, the local government taking into consideration the principles set forth in the rule designating the area.

(6) If the state land planning agency finds that the land development regulations and local comprehensive plan submitted by a local government comply with the principles for guiding the development of the area specified under the rule designating the area, the state land planning agency shall by rule approve the land development regulations and plan. Such approval shall be no later than 60 days after submission of the land development regulations and plan by the local government. No proposed land development regulation or local comprehensive plan within an area of critical state concern becomes effective under this subsection until the state land planning agency rule approving it becomes effective.

(7) The state land planning agency and any applicable regional planning agency shall, to the greatest extent possible, provide technical assistance to local governments in the preparation of the land development regulations and local comprehensive plan for areas of critical state concern.

(8) If any local government fails to submit land development regulations or a local comprehensive plan within 180 days after the commission adopts a rule designating an area of critical state concern, or if the regulations or plan submitted do not comply with the principles for guiding development set out in the rule designating the area of critical state concern, in either case, within 120 days, the state land planning agency shall submit to the commission recommended land development regulations and a local comprehensive plan or portions thereof applicable to that local government's portion of the area of critical state concern. Within 45 days following receipt of the recommendation from the agency, the commission shall either reject the recommendation as tendered or adopt the recommendation with or without modification, and by rule establish land development regulations and a local comprehensive plan applicable to that local government's portion of the area of critical state concern. However, such rule shall not become effective prior to legislative review of an area of critical state concern pursuant to paragraph (1)(c). In the rule, the commission shall specify the extent to which its land development regulations and plans will supersede, or will be supplementary to, local land development regulations and plans. Notice of any proposed rule issued under this section shall be given to all local governments and regional planning agencies in the area of critical state concern, in addition to any other notice required under chapter 120. The land development regulations and local comprehensive plan adopted by the commission under this section may include any type of regulation and plan that could have been adopted by the local government. Any land development regulations or local comprehensive plan adopted by the commission under this section shall be administered by the local government as part of, or in the absence of, the local land development regulations and local comprehensive plan.

(9) If, within 12 months after the commission adopts a rule designating an area of critical state concern, land development regulations or local comprehensive plans for the area have not become effective under either subsection (6) or subsection (8), the designation of the area as an area of critical state concern terminates. No part of such area may be recommended for redesignation until at least 12 months after the date the designation terminates pursuant to this subsection. The running of the 12-month period subsequent to the initial designation shall be tolled upon challenge pursuant to the provisions of chapter 120 to either the designation of the area of critical state concern or the adoption of land development regulations and local comprehensive plans under subsection (6) or subsection (8).

(10) At any time after the adoption of land development regulations and plans by the commission under this section, a local government may propose land development regulations or a local comprehensive plan which, if approved by the state land planning agency as provided in subsection (6), will supersede any regulations or plans adopted under subsection (8).

(11) Land development regulations or a local comprehensive plan submitted by a local government in an area of critical state concern and approved pursuant to subsection (6) may be amended or rescinded by the local government, but the amendment or rescission becomes effective only upon approval thereof by the state land planning agency. The state land planning agency shall either approve or reject the requested changes within 60 days of receipt thereof. Land development regulations or local comprehensive plans for an area of critical state concern adopted by the commission under subsection (8) may be amended or rescinded by rule by the commission in the same manner as for original adoption.

(12) Upon the request of a substantially interested person pursuant to s. 120.54(5), a local government or regional planning agency within the designated area, or the state land planning agency, the commission may by rule remove, contract, or expand any designated boundary. Boundary expansions are subject to legislative review pursuant to paragraph (1)(c). No boundary may be modified without a specific finding by the commission that such changes are consistent with necessary resource protection. The total boundaries of an entire area of critical state concern shall not be removed by the commission unless a minimum time of 1 year has elapsed from the adoption of regulations and a local comprehensive plan pursuant to subsection (1), subsection (6), subsection (8), or subsection (10). Before totally removing such boundaries, the commission shall make findings that the regulations and plans adopted pursuant to subsection (1), subsection (6), subsection (8), or subsection (10) are being effectively implemented by local governments within the area of critical state concern to protect the area and that adopted local government comprehensive plans within the area have been conformed to principles for guiding development for the area.

(13) If the state land planning agency determines that the administration of the local land development regulations or local comprehensive plans within the area is inadequate to protect the state or regional interest prior to the repeal of the critical state concern designation pursuant to subsection (15), the state land planning agency may institute appropriate judicial proceedings, as provided in s. 380.11, to compel proper enforcement of the land development regulations or plans.

(14) Any local government which lies either wholly or partially within an area of critical state concern and which has previously adopted a local government comprehensive plan pursuant to chapter 163 shall conform such plan to the principles for guiding development for the area of critical state concern. No later than January 1, 1984, or any other time as agreed upon in writing by the state land planning agency and the governing body of the local government, these plans shall be submitted to the state land planning agency for review and action as provided in subsection (6) or subsection (8).

(15) Any rule adopted pursuant to this section designating the boundaries of an area of critical state concern and the principles for guiding development therein shall be repealed by the commission no earlier than 12 months and no later than 3 years after approval by the state land planning agency or adoption by the commission of all land development regulations and local comprehensive plans pursuant to subsection (6), subsection (8), or subsection (10). Any repeal pursuant to this subsection may be limited to any portion of the area of critical state concern. Such repeal shall be contingent upon approval by the state land planning agency of local land development regulations and plans pursuant to subsection (6) or subsection (10) and upon such regulations and plans being effective for a period of 12 months.

(16) No person shall undertake any development within any area of critical state concern except in accordance with this chapter.

(17) If an area of critical state concern has been designated under subsection (1) and if land develop-

ment regulations for the area of critical state concern have not yet become effective under subsection (6) or subsection (8), a local government may grant development permits in accordance with such land development regulations as were in effect immediately prior to the designation of the area as an area of critical state concern.

(18) Neither the designation of an area of critical state concern nor the adoption of any regulations for such an area shall in any way limit or modify the rights of any person to complete any development that has been authorized by registration of a subdivision pursuant to chapter 498 or former chapter 478, by recordation pursuant to local subdivision plat law, or by a building permit or other authorization to commence development on which there has been reliance and a change of position, and which registration or recordation was accomplished, or which permit or authorization was issued, prior to the approval under subsection (6), or the adoption under subsection (8), of land development regulations for the area of critical state concern. If a developer has by his actions in reliance on prior regulations obtained vested or other legal rights that in law would have prevented a local government from changing those regulations in a way adverse to his interests, nothing in this chapter authorizes any governmental agency to abridge those rights.

(19) In addition to any other notice required to be given under the local land development regulations, the local government shall give notice to the state land planning agency of any application for a development permit in any area of critical state concern, except to the extent that the state land planning agency has in writing waived its right to such notice in regard to all or certain classes of such applications. The state land planning agency may by rule specify additional classes of persons who shall have the right to receive notices of, and participate in, hearings under this section.

(20) At no time shall a land area be designated an area of critical state concern if the effect of such designation would be to subject more than 5 percent of the land of the state to supervision under this section; except that, if any supervision by the state is retained, the area shall be considered to be included within the limitations of this subsection. If 5 percent of the lands of the state are designated as areas of critical state concern pursuant to this section, a redesignation pursuant to paragraph (1)(d) will not be prohibited by this subsection.

(21) Within 30 days after the effective date of the designation of an area of critical state concern pursuant to paragraph (1)(c) or paragraph (1)(d), the state land planning agency shall record a legal description of the boundaries of the area of critical state concern in the public records of the county or counties in which the area of critical state concern is located.

History.—s. 5, ch. 72-317; s. 1, ch. 74-326; s. 1, ch. 76-190; s. 4, ch. 79-73; s. 255, ch. 81-259; s. 3, ch. 84-308; s. 2, ch. 84-281.
cf.—ch. 259 Land Conservation Act of 1972.

380.06 Developments of regional impact.—

(1) DEFINITION.—The term "development of regional impact," as used in this section, means any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.

(2) ADOPTION OF GUIDELINES AND STANDARDS BY ADMINISTRATION COMMISSION.—

(a) The state land planning agency shall recommend to the Administration Commission specific guidelines and standards for adoption pursuant to this subsection. The Administration Commission shall by rule adopt guidelines and standards to be used in determining whether particular developments shall be presumed to be of regional impact. The standards and guidelines previously adopted by the Administration Commission and approved by the Legislature shall remain in effect unless revised pursuant to this section. Revisions to the present standards and guidelines, after adoption by the Administration Commission, shall be transmitted on or before March 1 to the President of the Senate and the Speaker of the House of Representatives for presentation at the next regular session of the Legislature. Unless approved by joint resolution of the Legislature, the revisions to the present standards and guidelines shall not become effective.

(b) In adopting its guidelines and standards, the Administration Commission shall consider and shall be guided by:

1. The extent to which the development would create or alleviate environmental problems such as air or water pollution or noise.
2. The amount of pedestrian or vehicular traffic likely to be generated.
3. The number of persons likely to be residents, employees, or otherwise present.
4. The size of the site to be occupied.
5. The likelihood that additional or subsidiary development will be generated.
6. The extent to which the development would create an additional demand for, or additional use of, energy, including the energy requirements of subsidiary developments.
7. The unique qualities of particular areas of the state.

(c) Any modifications to the initial guidelines and standards prescribed pursuant to this subsection shall not modify or abridge rights that have vested pursuant to subsection (18) or development-of-regional-impact status determinations acquired through executed agreements or binding letters issued pursuant to this section, upon which the developer has relied and upon the basis of which he has changed his position prior to the effective date of such rules.

(3) RECOMMENDATIONS OF MODIFICATIONS BY REGIONAL PLANNING AGENCY.—Each regional planning agency may recommend to the state land planning agency from time to time modifications to guidelines and standards adopted under subsection (2). Each regional planning agency shall solicit from the local governments within its jurisdiction suggestions regarding modifications to be recommended.

(4) DETERMINATIONS BY STATE LAND PLANNING AGENCY.—

(a) If any developer is in doubt whether his proposed development would be a development of regional impact, whether his rights have vested pursu-

ant to subsection (18), or whether a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to subsection (18) would divest such rights, he may request a determination from the state land planning agency. A request for a binding letter of interpretation shall be in writing and in such form and content as prescribed by the state land planning agency. Within 15 days of receiving an application for a binding letter of interpretation or a supplement to a pending application, the state land planning agency shall determine and notify the applicant whether the information in the application is sufficient to enable the agency to issue a binding letter or shall request any additional information needed. The applicant shall either provide the additional information requested or shall notify the state land planning agency in writing that the information will not be supplied and the reasons therefor. If the applicant does not respond to the request for additional information within 120 days, the application for a binding letter of interpretation shall be deemed to be withdrawn. Within 30 days of acknowledging receipt of a sufficient application, or of receiving notification that the information will not be supplied, the state land planning agency shall issue a binding letter of interpretation with respect to the proposed development. A binding letter of interpretation issued by the state land planning agency shall bind all state, regional, and local agencies, as well as the developer.

(b) In determining whether a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to subsection (18) would divest such rights, the state land planning agency shall review the proposed change within the context of:

1. Criteria specified in paragraph (17)(b);
2. Its conformance with any adopted state comprehensive plan and any rules of the state land planning agency;
3. All rights and obligations arising out of the vested status of such development;
4. Permit conditions or requirements imposed by the Department of Environmental Regulation, the Department of Natural Resources, or any water management district created by s. 373.069 or any of their successor agencies or by any appropriate federal regulatory agency; and
5. Any regional impacts arising from the proposed change.

(c) If a proposed substantial change to a development of regional impact concerning which rights had previously vested pursuant to subsection (18) would result in reduced regional impacts, the change shall not divest rights to complete the development pursuant to subsection (18).

(5) CONDITIONS FOR DEVELOPMENT OF REGIONAL IMPACT.—A developer may undertake a development of regional impact if:

(a) The land on which the development is proposed is within the jurisdiction of a local government that has adopted subdivision regulations or a zoning ordinance under chapter 163 or under appropriate special or local laws or ordinances and the development has been approved under the requirements of this section;

(b) The land on which the development is proposed is within an area of critical state concern ar the development has been approved under the r quirements of s. 380.05; or

(c) The developer has given written notice to th state land planning agency and to any local gover ment having jurisdiction to adopt zoning or subdiv sion regulations for the area in which the develo ment is proposed and, after 90 days have passed, r zoning or subdivision regulations have been adopte or designation of area of critical state concern issue

(6) FILING BY DEVELOPER OF APPLIC TION FOR APPROVAL OF DEVELOPMENT.— the development of regional impact is to be locat within the jurisdiction of a local government that h adopted a zoning ordinance or subdivision regul tions, the developer shall file an application for d velopment approval with the appropriate local go ernment having jurisdiction. The application sha contain, in addition to such other matters as may b required, a statement that the developer proposes undertake a "development of regional impact" as d fined under this section.

(7) PREAPPLICATION CONFERENCE O PROPOSED DEVELOPMENT; PROCEDURE T ELIMINATE QUESTION FROM APPLIC TION.—

(a) Before filing an application for developme approval, the developer shall contact the region planning agency with jurisdiction over the propose development to arrange a preapplication conferenc Upon the request of the developer or the region planning agency, other affected state and region agencies shall participate in this conference and sh identify the types of permits issued by the agencie the level of information required, and the permit i suance procedures as applied to the proposed d opment. The regional planning agency shall prov the developer information about the development regional-impact process and the use of preapplicati conferences to identify issues, coordinate appropria state and local agency requirements, and otherwi promote a proper and efficient review of the pr posed development.

(b) The regional planning agency shall establi by rule a procedure by which a developer may ent into binding written agreements with the region planning agency to eliminate questions from the a plication for development approval when those que tions are found to be unnecessary for developmen of-regional-impact review. It is the legislative inte of this subsection to encourage reduction of pape work, to discourage unnecessary gathering of da and to encourage the coordination of the develo ment-of-regional-impact review process with feder state, and local environmental reviews when such r views are required by law.

(8) OPTIONAL COORDINATED REVIE PROCESS.—An optional coordinated review proce is established consisting of the following:

(a) As part of the preapplication conference, t developer may, in addition to regular developme of-regional-impact review, elect to proceed in a co dinated review process with other affected state regional licensing agencies. The developer may sele the state or regional agencies which will participa in this coordinated review process.

(b) The developer may request a binding agreement from an agency on any of the following:

1. The identifiable areas of agency jurisdiction over the proposed development.

2. The identifiable agency rules, subject to changes imposed by law, applicable to the proposed development.

3. The types and categories of information which may be required at the time of the license or permit application for the proposed development.

4. Any other appropriate agreement pursuant to appropriate state or federal law or regulation.

Any agreements entered into under this paragraph are subject to the provisions of chapter 120 and are not subject to paragraph (14)(a). Every agreement entered into pursuant to this paragraph shall be binding upon the developer and the agency, unless the agency determines that the information upon which the agreement was based was inaccurate, that conditions have changed substantially, or that a modification has been proposed which materially changes the circumstances of the proposed development. The developer shall notify the agency of any such modification. The binding agreement shall be valid for a period of 5 years after issuance.

(c) The developer may request that agencies, for nonbinding information purposes only, identify issues or problems which could later constitute grounds for permit denial or major modifications of the proposed agreement.

(d) The regional planning agency shall notify all affected agencies and coordinate this review process. To further effectuate this review process, the regional planning agency may encourage additional preapplication conferences, the development of permit-processing schedules with other agencies, concurrent processing of applications, and the use of the development-of-regional-impact application for development approval as a substitute for permit-data requirements or plans when appropriate.

(e) The developer must submit copies of the application for development approval to all state or regional agencies which are to participate in this coordinated review process.

(9) RECEIPT BY REGIONAL PLANNING AGENCY OF APPLICATION FOR DEVELOPMENT APPROVAL; DETERMINATION OF SUFFICIENCY.—

(a) When an application for development approval is filed with a local government, the developer shall also send copies of the application to the appropriate regional planning agency and the state land planning agency.

(b) If a regional planning agency determines that the application for development approval is insufficient for the agency to discharge its responsibilities under subsection (11), it shall provide in writing to the appropriate local government and the applicant a statement of any additional information desired within 30 days of the receipt of the application by the regional planning agency. The applicant may supply the information requested by the regional planning agency and shall communicate its intention to do so in writing to the appropriate local government and the regional planning agency within 5 working days of the receipt of the statement requesting such information, or the applicant shall notify the appropriate local government and the regional planning agency in writing that the requested information will not be supplied. Within 30 days after receipt of such additional information, the regional planning agency shall review it and may request only that information needed to clarify such additional information or to answer new questions raised by, or directly related to, such additional information. If an applicant does not provide the information requested by a regional planning agency within 120 days of its request, or within a time agreed upon by the applicant and the regional planning agency, the application shall be considered withdrawn.

(c) The regional planning agency shall notify the local government that a public hearing date may be set when the regional planning agency determines that the application is sufficient or when it receives notification from the developer that the additional requested information will not be supplied, as provided for in paragraph (b).

(10) NOTICE AND HEARING ON APPLICATION ON PROPOSED DEVELOPMENT.—Upon receipt of the sufficiency notification from the regional planning agency required by paragraph (9)(c), the appropriate local government shall give notice and hold a public hearing on the application in the same manner as for a rezoning as provided under the appropriate special or local law or ordinance, except that such hearing proceedings shall be recorded by tape or a certified court reporter and made available for transcription at the expense of any interested party. When a development of regional impact is proposed within the jurisdiction of more than one local government, the local governments, at the request of the developer, may hold a joint public hearing. The local government shall comply with the following additional requirements:

(a) The notice of public hearing shall state that the proposed development would be a development of regional impact.

(b) The notice shall be published at least 60 days in advance of the hearing and shall specify where the information and reports on the development of regional impact application may be reviewed.

(c) The notice shall be given to the state land planning agency, to the applicable regional planning agency, to any state or regional permitting agency participating in a coordinated review process under subsection (8), and to such other persons as may have been designated by the state land planning agency as entitled to receive such notices.

(d) A public hearing date shall be set by the appropriate local government at the next scheduled meeting.

(11) REPORT AND RECOMMENDATIONS BY REGIONAL PLANNING AGENCY.—

(a) Within 50 days after receipt of the notice of public hearing required in paragraph (10)(c), the regional planning agency, if one has been designated for the area including the local government, shall prepare and submit to the local government a report and recommendations on the regional impact of the proposed development. In preparing its report and recommendations, the regional planning agency shall identify regional issues based upon the following review criteria and make recommendations to the

government on these regional issues, specifically considering whether, and the extent to which:

1. The development will have a favorable or unfavorable impact on the environment and natural resources of the region.

2. The development will have a favorable or unfavorable impact on the economy of the region.

3. The development will efficiently use or unduly burden water, sewer, solid waste disposal, or other necessary public facilities.

4. The development will efficiently use or unduly burden public transportation facilities.

5. The development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

6. The development complies with such other criteria for determining regional impact as the regional planning agency deems appropriate, including, but not limited to, the extent to which the development would create an additional demand for, or additional use of, energy, provided such criteria and related policies have been adopted by the regional planning agency pursuant to s. 120.54. Regional planning agencies may also review and comment upon issues which affect only the local governmental entity with jurisdiction pursuant to this section; however, such issues shall not be grounds for, or be included as, issues in a regional planning agency appeal of a development order under s. 380.07.

(b) At the request of the regional planning agency, other appropriate agencies shall review the proposed development and shall prepare reports and recommendations on issues that are clearly within the jurisdiction of those agencies. Such agency reports shall become part of the regional planning agency report; however, the regional planning agency may attach dissenting views. When water management district and Department of Environmental Regulation permits have been issued, the regional planning council may comment on the regional implications of the permits, but may not offer conflicting recommendations.

(c) The regional planning agency shall afford the developer or any substantially affected party reasonable opportunity to present evidence to the regional planning agency head relating to the proposed regional agency report and recommendations.

(12) APPROVAL BY LOCAL GOVERNMENT OF DEVELOPMENT IN AN AREA OF CRITICAL STATE CONCERN.—If the development is in an area of critical state concern, the local government shall approve it only if it complies with the land development regulations therefor under s. 380.05.

(13) CRITERIA FOR APPROVAL OF DEVELOPMENT NOT IN AREA OF CRITICAL STATE CONCERN.—If the development is not located in an area of critical state concern, in considering whether the development shall be approved, denied, or approved subject to conditions, restrictions, or limitations, the local government shall consider whether, and the extent to which:

(a) The development unreasonably interferes with the achievement of the objectives of an adopted state land development plan applicable to the area;

(b) The development is consistent with the local land development regulations; and

(c) The development is consistent with the report and recommendations of the regional planning agency submitted pursuant to subsection (11).

(14) DECISION AND ISSUANCE OF DEVELOPMENT ORDER BY LOCAL GOVERNMENT.—

(a) The appropriate local government shall render a decision on the application within 30 days after the hearing unless an extension is requested by the developer.

(b) When possible, local governments shall issue development orders concurrently with any other local permits or development approvals that may be applicable to the proposed development.

(c) The development order shall include findings of fact and conclusions of law consistent with subsections (12) and (13). The development order:

1. Shall specify the monitoring procedures and the local official responsible for assuring compliance by the development with the development order.

2. May establish expiration dates for the development order, including a deadline for commencing physical development, for compliance with conditions of approval or phasing requirements, and for the termination of the order.

3. Shall specify the requirements for the annual report designated under subsection (16), including the date of submission, parties to whom the report is submitted, and contents of the report, based upon the rules adopted by the state land planning agency. Such rules shall specify the scope of any additional local requirements that may be necessary for the report.

4. May specify the types of changes to the development which will require submission for a substantial deviation determination under paragraph (17)(a).

5. Shall include a legal description of the property.

(d) Notice of the adoption of a development order or the subsequent modification of an adopted development order shall be recorded by the developer in accordance with s. 28.222, with the clerk of the circuit court for each county in which the development is located. The notice shall include a legal description of the property covered by the order and shall state which unit of local government adopted the development order, the date of adoption, the date of adoption of any modifications to the development order, the location where the adopted order with any modifications may be examined, and that the development order constitutes a land development regulation applicable to the property. The recording of this notice shall not constitute a lien, cloud, or encumbrance on real property, nor actual nor constructive notice of any such lien, cloud, or encumbrance. This paragraph only applies to developments initially approved under this section after July 1, 1980.

(e) If the property is annexed by another local jurisdiction, the annexing jurisdiction shall adopt a new development order that incorporates all previous rights and obligations specified in the prior development order.

(15) ENFORCEMENT OF DEVELOPMENT ORDER BY LOCAL GOVERNMENT.—The local government issuing the development order is primarily responsible for monitoring the development and enforcing the provisions of the development order. Local governments shall not issue any permits or approvals or provide any extensions of services if the

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developer fails to act in substantial compliance with the development order.

(16) REPORTS BY DEVELOPER.—The developer shall submit an annual report on the development of regional impact to the local government, the regional planning agency, the state land planning agency, and all affected permit agencies, on the date specified in the development order. If the annual report is not received, the regional planning agency or the state land planning agency shall notify the local government. If the local government does not receive the annual report or receives notification that the regional planning agency or the state land planning agency has not received the report, the local government shall request in writing that the developer submit the report within 30 days. The failure to submit the report after 30 days shall result in the temporary suspension of the development order by the local government.

(17) MODIFICATION OF DEVELOPMENT ORDER; DETERMINATION BY LOCAL GOVERNMENT OF SUBSTANTIAL DEVIATION.—

(a) A developer shall submit proposed changes to a development of regional impact previously approved pursuant to this section to the local government for a substantial deviation determination. The local government shall review the proposed changes pursuant to the criteria enumerated in this subsection and shall make a substantial deviation determination. The local government shall, at the conclusion of local review, modify the development order to reflect approved changes to the development and shall notify the regional planning agency and the state land planning agency of the changes to the development order, with the findings subject to the appeal provisions of s. 380.07. If the proposed changes are found to be a substantial deviation, the development shall be subject to further review pursuant to this section. Nothing in this section precludes the right of the local government or of the state land planning agency to injunctive relief under s. 380.11. As used in this section, the term "substantial deviation" means any change to the previously approved development of regional impact which creates a reasonable likelihood of additional adverse regional impact, or any other regional impact created by the change not previously reviewed by the regional planning agency.

(b) In determining whether a development of regional impact previously approved pursuant to this section is subject to further review pursuant to this section, the local government shall consider the following changes which shall be presumed not to be substantial deviations requiring further review:

1. An increase in the number of dwelling units of not more than 5 percent or 200 dwelling units, whichever is less.

2. A decrease in the number of dwelling units which does not require a major redistribution of density.

3. A decrease in the area set aside for common open space of not more than 5 percent or 50 acres, whichever is less.

4. An increase in the area set aside for common open space.

5. An increase in the floor area proposed for nonresidential use of not more than 5 percent or 10,000 square feet, whichever is less.

6. A decrease in the regional impact of the development.

7. A change required by permit conditions or requirements imposed by the Department of Environmental Regulation, the Department of Natural Resources, or any water management district created by s. 373.069 or any of their successor agencies or by any appropriate federal regulatory agency.

(c) Unless the presumptions set forth in paragraph (b) are rebutted by clear and convincing evidence offered by the moving party, the development shall not be subject to further development-of-regional-impact review pursuant to this section. The appropriate local government shall afford a reasonable opportunity for a developer or other substantially affected party to present evidence to support or rebut such presumptions.

(18) PRESERVATION OF SPECIFIED RIGHTS OF DEVELOPERS.—Nothing in this section shall limit or modify the rights of any person to complete any development that has been authorized by registration of a subdivision pursuant to chapter 478, by recordation pursuant to local subdivision plat law, or by a building permit or other authorization to commence development on which there has been reliance and a change of position, and which registration or recordation was accomplished, or which permit or authorization was issued, prior to the effective date of the rules issued by the Administration Commission pursuant to subsection (2). If a developer has, by his actions in reliance on prior regulations, obtained vested or other legal rights that in law would have prevented a local government from changing those regulations in a way adverse to his interests, nothing in this chapter authorizes any governmental agency to abridge those rights.

(a) For the purpose of determining the vesting of rights under this subsection, approval pursuant to local subdivision plat law, ordinances, or regulations of a subdivision plat by formal vote of a county or municipal governmental body having jurisdiction after August 1, 1967, and prior to July 1, 1973, is sufficient to vest all property rights for the purposes of this subsection; and no action in reliance on, or change of position concerning, such local governmental approval is required for vesting to take place.

(b) For the purpose of this act, the conveyance of, or the agreement to convey, property to the county, state, or local government as a prerequisite to zoning change approval shall be construed as an act of reliance to vest rights as determined under this subsection, provided such zoning change is actually granted by such government.

(19) PUBLICATION OF NOTICES OF APPLICATIONS FOR DEVELOPMENTS OF REGIONAL IMPACT.—The state land planning agency shall print biweekly, and mail to any person upon payment of a reasonable charge to cover costs of preparation and mailing, a list of all notices of applications for developments of regional impact that have been filed with the state land planning agency.

(20) APPLICATIONS FOR COMPREHENSIVE DEVELOPMENT OF REGIONAL IMPACT AND FOR MASTER DEVELOPMENT APPROVAL.—

(a) If a development project includes two or more developments of regional impact, a developer may

file a comprehensive development-of-regional-impact application.

(b) If a proposed development is planned for development over an extended period of time, the developer may file an application for master development approval of the project and agree to present subsequent increments of the development for preconstruction review. This agreement shall be entered into by the developer, the regional planning agency, and the appropriate local government having jurisdiction. The provisions of subsection (8) do not apply to this subsection.

1. Prior to adoption of the master plan development order, the developer, the landowner, the appropriate regional planning agency, and the local government having jurisdiction shall review the draft of the development order to ensure that anticipated regional impacts have been adequately addressed and that information requirements for subsequent incremental application review are clearly defined. The development order for a master application shall specify the information which must be submitted with an incremental application and shall identify those issues which can result in the denial of an incremental application.

2. The review of subsequent incremental applications shall be limited to that information specifically required and those issues specifically raised by the master development order, unless substantial changes in the conditions underlying the approval of the master plan development order are demonstrated or the master development order is shown to have been based on substantially inaccurate information.

(c) The state land planning agency, by rule, shall establish uniform procedures to implement this subsection.

(21) APPLICATION BY DOWNTOWN DEVELOPMENT AUTHORITY.—

(a) A downtown development authority may submit a development-of-regional-impact application for development approval pursuant to subsection (6). The area described in the application may consist of any or all of the land over which a downtown development authority has the power described in s. 380.031(5). For the purposes of this subsection, a downtown development authority shall be considered the developer whether or not the development will be undertaken by the downtown development authority.

(b) In addition to information required by the development-of-regional-impact application, the application for development approval submitted by a downtown development authority shall specify the total amount of development planned for each land use category. In addition to the requirements of subsection (14), the development order shall specify the amount of development approved within each land use category. Development undertaken in conformance with a development order issued under this section does not require further review.

(c) If a development is proposed within the area of a downtown development plan approved pursuant to this section which would result in development in excess of the amount specified in the development order for that type of activity, the local government shall make a substantial deviation determination in regard to that proposal, pursuant to subsection (17).

(d) The provisions of subsection (8) do not apply to this subsection.

(22) ADOPTION OF RULES BY STATE LAND PLANNING AGENCY AND REGIONAL PLANNING AGENCIES.—

(a) The state land planning agency shall adopt rules to ensure uniform procedural review of developments of regional impact by the state land planning agency and regional planning agencies under this section. These rules shall be adopted pursuant to chapter 120 and shall include all forms, application content, and review guidelines necessary to implement developments-of-regional-impact review.

(b) All regional planning agencies shall develop a list of regional issues to be used in reviewing development-of-regional-impact applications. Within 9 months of the effective date of this paragraph, these lists of regional issues must be submitted to the state land planning agency for its adoption or rejection. Should a new agency be designated a regional planning agency pursuant to s. 380.031(15), that agency shall have 9 months from its date of designation to submit a list of regional issues to the state land planning agency for its adoption or rejection.

(c) Regional planning agencies shall be subject to rules adopted by the state land planning agency; however, a regional planning agency may adopt additional rules, not inconsistent with rules adopted by the state land planning agency, to promote efficient review of developments-of-regional-impact applications. Regional planning agency rules shall be adopted pursuant to chapter 120.

(23) EXEMPTIONS.—

(a) Any proposed hospital which has a designed capacity of not more than 100 beds is exempt from the provisions of this section.

(b) Any proposed electrical transmission line or electrical power plant is exempt from the provisions of this section, except any steam or solar electrical generating facility of less than 50 megawatts in capacity attached to a development of regional impact.

(c) Any proposed addition to an existing sports facility complex is exempt from the provisions of this section if the addition meets the following characteristics:

1. It would not operate concurrently with the scheduled hours of operation of the existing facility.

2. Its seating capacity would be no more than 75 percent of the capacity of the existing facility.

3. The sports facility complex property is owned by a public body prior to July 1, 1983.

This exemption does not apply to any pari-mutuel facility.

(24) AREAWIDE DEVELOPMENT PLAN.—An authorized "developer," as defined in paragraph (a), may submit an areawide development plan to be reviewed pursuant to the procedures and standards for development-of-regional-impact review set forth in this section. After review and approval of an areawide development plan under this section, all development within the defined planning area must conform to the approved areawide development plan. Individual developments that conform to the approved areawide development plan shall not be required to undergo further development-of-regional-impact re-

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view, unless such review is otherwise provided for in the development order.

(a) As used in this subsection, the term:

1. "Areawide development plan" means a plan of development that encompasses a defined planning area that will include at least two or more developments.

2. "Developer" means any person or association of persons, including a governmental agency as defined in s. 380.031(6), that petitions for authorization to file an application for development approval for an areawide development plan.

(b) The state land planning agency shall establish by rule procedures and criteria for a developer to petition for authorization to submit a proposed areawide development plan for a defined planning area. At a minimum, the rules shall provide for:

1. The submission of a petition to the local government, the regional planning agency, and the state land planning agency. Such petition shall include proof that timely, actual notice has been provided by the petitioner to every person owning land within the proposed areawide development plan. This notice shall be in addition to other notice of public hearings as required by this act.

2. The provision of a public hearing or joint public hearing if required by paragraph (d), with appropriate notice, before the affected local government.

3. The provision of criteria for evaluating a petition; including, but not limited to:

a. Whether the developer is financially capable of processing the application for development approval through to final approval pursuant to this section.

b. Whether the defined planning area and anticipated development in the defined planning area appear to be of such a character, magnitude, and location that a proposed areawide development plan will be in the public interest. The rules shall specify that any public interest determination under this criterion is preliminary and not binding on the state land planning agency, regional planning agency, or local government.

4. The provision of standard forms for petitions and applications for development approval for use under this subsection.

(c) Any person may submit a petition to a local government having jurisdiction over an area to be developed, which petition requests the local government to approve such person as a developer, whether or not any or all development will be undertaken by such person, and to approve the area as appropriate for an areawide development of regional impact.

(d)1. The local government shall schedule a public hearing within 60 days after receipt of the petition. The public hearing shall be advertised at least 30 days prior to the hearing. At least 30 days prior to the public hearing, the local government shall specifically notify in writing the regional planning agency and the state land planning agency of the hearing. At the public hearing, all interested parties may testify and submit evidence regarding the petitioner's qualifications; the need for, and benefits of, an areawide development of regional impact; and other issues relevant to a full consideration of the petition.

2. If more than one local government has jurisdiction over the defined planning area in an areawide development plan, the local governments shall hold a joint public hearing. Such joint hearing shall address, at a minimum, the need to resolve conflicting ordinances or comprehensive plans, if any. The local government which holds the joint hearing shall comply with the following additional requirements:

a. The notice of the hearing shall be published at least 60 days in advance of the hearing and shall specify where the petition may be reviewed.

b. The notice of the hearing shall be given to the state land planning agency, to the applicable regional planning agency, and to any other persons who may have been designated by the state land planning agency as entitled to receive such notices.

c. A public hearing date shall be set by the appropriate local government at the next scheduled meeting.

(e) Following the public hearing, the local government shall issue a written order, appealable under s. 380.07, which approves, approves with conditions, or denies the petition. The local government shall approve the petitioner as the developer if the local government finds that the petitioner and defined planning area meet the standards and criteria, consistent with applicable law, established by the state land planning agency.

(f) The local government shall submit any order which approves the petition, or approves the petition with conditions, to the petitioner, to all owners of property within the defined planning area, to the regional planning agency, and to the state land planning agency, within 30 days after the order becomes effective.

(g) The petitioner, an owner of property within the defined planning area, the appropriate regional planning agency by vote at a regularly scheduled meeting, or the state land planning agency may appeal the decision of the local government to the Florida Land and Water Adjudicatory Commission by filing a notice of appeal with the commission. The procedures established in s. 380.07 shall be followed for such an appeal.

(h) After the time for appeal of the decision has run, an approved developer may submit an application for development approval for a proposed areawide development plan for land within the defined planning area, pursuant to subsection (6). The undertaking of development in conformance with an areawide development order issued under this section does not require further development-of-regional-impact review.

(i) In reviewing an application for a proposed areawide development plan, the regional planning agency shall evaluate, and the local government shall consider, the following criteria, in addition to any other criteria set forth in this section:

1. Whether the developer has demonstrated its legal, financial, and administrative ability to perform any commitments it has made in the application for a proposed areawide development plan.

2. Whether the developer has demonstrated that all property owners within the defined planning area consent, or do not object to, the proposed areawide development plan.

3. Whether the area and the anticipated development are consistent with the applicable local, regional, and state comprehensive plans.

(j) In addition to the requirements of subsection (13), a development order approving, or approving with conditions, a proposed areawide development plan shall specify the approved land uses and the amount of development approved for each land use category in the defined planning area. The development order shall incorporate by reference the approved areawide development plan. The local government shall not approve an areawide development plan that is inconsistent with the local comprehensive plan.

(k) Any owner of property within the defined planning area may withdraw his consent to the areawide development plan at any time prior to local government approval, with or without conditions, of the petition; and the plan and the exemption from development-of-regional-impact review of individual projects under this section shall not thereafter apply to the owner's property. After the areawide development plan is approved, a landowner may withdraw his consent only with the approval of the local government.

(l) After a development order approving an areawide development plan is received, the developer shall submit any proposed changes to the local government for a modification of the development order and a substantial deviation determination pursuant to subsection (17). A proposed change in the type of land use or an increase in the amount of development shall be presumed to create a substantial deviation.

History.—s. 6, ch. 72-317; s. 2, ch. 74-376; s. 5, ch. 75-167; s. 1, ch. 76-69; s. 2, ch. 77-215; s. 149, ch. 79-400; s. 3, ch. 80-313; s. 22, ch. 83-222; s. 4, ch. 83-308; s. 1, ch. 84-331.

380.08 Protection of landowners' rights.—

(1) Nothing in this chapter authorizes any governmental agency to adopt a rule or regulation or issue any order that is unduly restrictive or constitutes a taking of property without the payment of full compensation, in violation of the constitutions of this state or of the United States.

(2) If any governmental agency authorized to adopt a rule or regulation or issue any order under this chapter determines that, to achieve the purposes of this chapter, it is in the public interest to acquire the fee simple or lesser interest in any parcel of land, such agency shall so certify to the state land planning agency, the Board of Trustees of the Internal Improvement Trust Fund, and other appropriate governmental agencies. Prior to such agency's acquiring such land, the seller of the land shall file a statement with the Department of State disclosing, for at least the last 5 years prior to the conveyance of title to the state, all financial transactions concerning the land, all parties having a financial interest in any transaction, and the amount of the tax assessment on the land for each year.

(3) If any governmental agency denies a development permit under this chapter, it shall specify its reasons in writing and indicate any changes in the development proposal that would make it eligible to receive the permit.

History.—s. 8, ch. 72-317; s. 2, ch. 75-81; s. 16, ch. 84-330.

PART II

COASTAL PLANNING AND MANAGEMENT

380.21 Legislative intent.

380.21 Legislative intent.—

(1) The Legislature finds that:

(a) The coast is rich in a variety of natural, commercial, recreational, ecological, industrial, and aesthetic resources, including, but not limited to, "energy facilities," as that term is defined in s. 304(5) of the federal Coastal Zone Management Act of 1972, of immediate potential value to the present and future well-being of the residents of this state.

(b) It is in the state and national interest to protect, maintain, and develop these resources through coordinated management.

(c) State land and water management policies should, to the maximum possible extent, be implemented by local governments through existing processes for the guidance of growth and development.

(2) The Legislature therefore grants authorization for the Department of Environmental Regulation to compile a program based on existing statutes and existing rules and submit an application to the appropriate federal agency as a basis for receiving administrative funds under the federal Coastal Zone Management Act of 1972. It is the further intent of the Legislature that enactment of this legislation shall not amend existing statutes or provide additional regulatory authority to any governmental body except as otherwise provided by s. 380.23. The enactment of this legislation shall not in any other way affect any existing statutory or regulatory authority.

(3)(a) The Legislature finds that the coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and aesthetic resources of immediate and potential value to the present and future well-being of the residents of this state which will be irretrievably lost or damaged if not properly managed. The participation by citizens of the state will be an important factor in developing a plan for management of the coastal zone, and management of the state's coastal zone will require a highly coordinated effort among state, regional, and local officials and agencies.

(b) The state coastal zone management plan shall be a part of the state comprehensive plan. It shall contain a boundary, policies, goals, and programs necessary to comply with the requirements of the federal Coastal Zone Management Act of 1972, as amended (16 U.S.C. ss. 1451-1464), specifically delineating the role of state, regional, and local agencies in implementing the plan; and it shall provide that the appeal of any regulatory decision, other than those appeals provided for by existing law, shall be to the Governor and Cabinet.

History.—s. 5, ch. 70-287, s. 5, ch. 84-257.

CHAPTER 381

PUBLIC HEALTH; GENERAL PROVISIONS

381.025 Legislative intent; long-range planning.
381.272 Onsite sewage disposal systems; installations; conditions.
381.295 Water vending machines.

which restrict the provision of surgical services and outlet forceps delivery and the administration of anesthesia at birth centers. The department shall adopt rules specifically related to the performance of such services and the administration of anesthesia at such facilities.

(2) Any facility which, as of June 15, 1984, had an agreement with a consultant who is licensed pursuant to chapter 458 or chapter 459 but who is not practicing obstetrics, is exempt from the provisions of this act which define the term "consultant."

History.—ss. 4, 27, ch. 84-253.

*Note.—Expires October 1, 1984, pursuant to s. 27, ch. 84-253, and is scheduled for review pursuant to s. 11.61 in advance of that date.

CHAPTER 388

MOSQUITO CONTROL

388.411 Public lands, arthropod control.

388.411 Public lands, arthropod control.—[Repealed by s. 47, ch. 84-338.]

CHAPTER 393

DEVELOPMENTAL DISABILITIES

393.001 Florida Developmental Disabilities Planning Council.
393.066 Community services and treatment for the retarded and other developmentally disabled.

393.001 Florida Developmental Disabilities Planning Council.—

(1) For the purpose of this section, the term "developmental disability" means a severe, chronic disability of a person which is attributable to a mental or physical impairment, or a combination of mental or physical impairments, and which:

(a) Is manifested before age 22;

(b) Is likely to continue indefinitely;

(c) Results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency;

(d) Reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration; or

(e) Places him at risk of becoming developmentally disabled, if he is a child, or requires services and treatment similar to those required by those persons who meet the criteria defined above.

(2) There is created the Florida Developmental Disabilities Planning Council, herein referred to as the "council," which shall be an interdepartmental and interagency advisory body, with respect to the departments and agencies of the state, for programs and services affecting persons with developmental disabilities. In addition, the council shall be the state developmental disabilities planning council required by 42 U.S.C. s. 6067, as amended, of the Developmentally Disabled Assistance and Bill of Rights Act.

(3) The duties of the council are:

(a) To advocate in behalf of persons with developmental disabilities.

(b) To advise the executive and legislative branches of state government and the private sector on programs, policies, and proposed legislation pertaining to current and potential services to persons with developmental disabilities and their families.

(c) To review and comment on proposed state legislation, rules, operating policies, and plans relating to services and programs for persons with developmental disabilities, including, but not limited to, the development of such proposals by all departments and agencies of state government.

(d) To assess, review, and monitor the services and programs being provided for persons who are developmentally disabled consistent with 42 U.S.C. s. 6000, as amended. Client records shall be made available for the implementation of this paragraph only with the permission of the client or pursuant to applicable state law.

(e) To develop, prepare, adopt, review annually, and revise as necessary, in consultation with the departments and agencies of state government, a state plan prescribing a program which meets the needs of persons with developmental disabilities and to submit such plan and all revisions to the plan to the Governor's office, the President of the Senate, and the Speaker of the House of Representatives for review and recommendations. Such state plan shall meet the requirements of, and shall be the state plan submitted under, 42 U.S.C. s. 6063, as amended.

(4) The council shall be composed of 27 members to be appointed by the Governor, who shall make appropriate provision for the rotation of membership on the council. The council at all times shall include in its membership representatives of the principal state agencies, higher education training facilities, local agencies, and nongovernmental agencies and groups concerned with services to persons with developmental disabilities.

(a) At least one-half of the membership of the council shall consist of persons who are:

1. Persons with developmental disabilities or parents or guardians of such persons; or

2. Immediate relatives or guardians of persons with mentally impairing developmental disabilities.

(b) Of the members of the council described in paragraph (a), at least one-third shall be individuals described in subparagraph (a)2.; and at least one of such individuals shall be an immediate relative or guardian of an institutionalized person with a developmental disability.

(c) The Governor may remove any member of the council from office for cause.

(5)(a) All members of the council are voting members. A majority of the members of the council constitutes a quorum.

(b) The members shall annually elect one member to serve as chairman and one member to serve as vice-chairman of the council. The council shall meet at least four times yearly.

(c) Members of the council shall serve without

CHAPTER 403

ENVIRONMENTAL CONTROL

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PART I

POLLUTION CONTROL

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403.021 Legislative declaration; public policy.—

(1) The pollution of the air and waters of this state constitutes a menace to public health and welfare; creates public nuisances; is harmful to wildlife and fish and other aquatic life; and impairs domestic, agricultural, industrial, recreational, and other beneficial uses of air and water.

(2) It is declared to be the public policy of this state to conserve the waters of the state and to protect, maintain, and improve the quality thereof for public water supplies, for the propagation of wildlife and fish and other aquatic life, and for domestic, agricultural, industrial, recreational, and other beneficial uses and to provide that no wastes be discharged into any waters of the state without first being given the degree of treatment necessary to protect the beneficial uses of such water.

(3) It is declared to be the public policy of this state and the purpose of this act to achieve and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state, and facilitate the enjoyment of the natural attractions of this state.

(4) It is declared that local and regional air and water pollution control programs are to be supported to the extent practicable as essential instruments to provide for a coordinated statewide program of air and water pollution prevention, abatement, and control for the securing and maintenance of appropriate levels of air and water quality.

(5) It is hereby declared that the prevention, abatement, and control of the pollution of the air and waters of this state are affected with a public interest, and the provisions of this act are enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

(6) The Legislature finds and declares that control, regulation, and abatement of the activities which are causing or may cause pollution of the air or water resources in the state and which are or may be detrimental to human, animal, aquatic, or plant life, or to property, or unreasonably interfere with the comfortable enjoyment of life or property be increased to ensure conservation of natural resources; to ensure a continued safe environment; to ensure purity of air and water; to ensure domestic water supplies; to ensure protection and preservation of the public health, safety, welfare, and economic well-being; to ensure and provide for recreational and wildlife needs as the population increases and the economy expands; and to ensure a continuing growth of the economy and industrial development.

(7) The Legislature further finds and declares that:

(a) Compliance with this law will require capital outlays of hundreds of millions of dollars for the installation of machinery, equipment, and facilities for the treatment of industrial wastes which are not productive assets and increased operating expenses to owners without any financial return and should be separately classified for assessment purposes.

(b) Industry should be encouraged to install new machinery, equipment, and facilities as technology in environmental matters advances, thereby improving the quality of the air and waters of the state and benefiting the citizens of the state without pecuniary benefit to the owners of industries; and the Legislature should prescribe methods whereby just valuation may be secured to such owners and exemptions from certain excise taxes should be offered with respect to such installations.

(c) Facilities as herein defined should be classified separately from other real and personal property of any manufacturing or processing plant or installation, as such facilities contribute only to general welfare and health and are assets producing no profit return to owners.

(d) In existing manufacturing or processing plants it is more difficult to obtain satisfactory results in treating industrial wastes than in new plants being now planned or constructed and that with respect to existing plants in many instances it will be necessary to demolish and remove substantial portions thereof and replace the same with new and more modern equipment in order to more effectively treat, eliminate, or reduce the objectionable characteristics of any industrial wastes and that such replacements should be classified and assessed differently from replacements made in the ordinary course of business.

(8) The Legislature further finds and declares that the public health, welfare, and safety may be affected by disease-carrying vectors and pests. The department shall assist all governmental units charged

with the control of such vectors and pests. Furthermore, in reviewing applications for permits, the department shall consider the total well-being of the public and shall not consider solely the ambient pollution standards when exercising its powers, if there may be danger of a public health hazard.

(9)(a) The Legislature finds and declares that it is essential to preserve and maintain authorized water depth in the existing navigation channels, port harbors, turning basins, and harbor berths of this state in order to provide for the continued safe navigation of deepwater shipping commerce. The department shall recognize that maintenance of authorized channel depths is an ongoing, continuous, beneficial, and necessary activity; and it shall develop a regulatory process which shall enable the ports of this state to conduct such activities in an environmentally sound, expeditious, and efficient manner.

(b) The provisions of paragraph (a) apply only to the port waters, spoil disposal sites, port harbors, navigation channels, turning basins, and harbor berths used for deepwater commercial navigation in the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, and Pensacola.

(10) It is the policy of the state to ensure that the existing and potential drinking water resources of the state remain free from harmful quantities of contaminants. The department, as the state water quality protection agency, shall compile, correlate, and disseminate available information on any contaminant which endangers or may endanger existing or potential drinking water resources. It shall also coordinate its regulatory program with the regulatory programs of other agencies to assure adequate protection of the drinking water resources of the state.

History.—s. 3, ch. 67-436; s. 1, ch. 78-98; ss. 1, 5, ch. 81-228; s. 4, ch. 84-79; s. 46, ch. 84-338.

403.031 Definitions.—In construing this chapter, or rules and regulations adopted pursuant hereto, the following words, phrases, or terms, unless the context otherwise indicates, have the following meanings:

(1) "Contaminant" is any substance which is harmful to plant, animal, or human life.

(2) "Department" is the Department of Environmental Regulation.

(3) "Effluent limitations" means any restriction established by the department on quantities, rates, or concentrations of chemical, physical, biological, or other constituents which are discharged from sources into waters of the state.

(4) "Installation" is any structure, equipment, or facility, or appurtenances thereto, or operation which may emit air or water contaminants in quantities prohibited by rules of the department.

(5) "Person" means the state or any agency or institution thereof or any municipality, political subdivision, public or private corporation, individual, partnership, association, or other entity and includes any officer or governing or managing body of any municipality, political subdivision, or public or private corporation.

(6) "Plant" is any unit operation, complex, area, or multiple of unit operations that produce, process, or cause to be processed any materials, the processing of which can, or may, cause air or water pollution.

(7) "Pollution" is the presence in the outdoor atmosphere or waters of the state of any substances, contaminants, noise, or manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of air or water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

(8) "Sewerage system" means pipelines or conduits, pumping stations, and force mains and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal.

(9) "Source" is any and all points of origin of the item defined in subsection (1), whether privately or publicly owned or operated.

(10) "Treatment works" and "disposal systems" mean any plant or other works used for the purpose of treating, stabilizing, or holding wastes.

(11) "Wastes" means sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any waters of the state.

(12) "Waters" include, but are not limited to, rivers, lakes, streams, springs, impoundments, and all other waters or bodies of water, including fresh, brackish, saline, tidal, surface, or underground waters. Waters owned entirely by one person other than the state are included only in regard to possible discharge on other property or water. Underground waters include, but are not limited to, all underground waters passing through pores of rock or soils or flowing through in channels, whether manmade or natural. Solely for purposes of this chapter, waters of the state also include the area bounded by the following:

(a) Commence at the intersection of State Road (SRD) 5 (U.S. 1) and the county line dividing Dade and Monroe Counties, said point also being the mean high-water line of Florida Bay, located in section 4, township 60 south, range 39 east of the Tallahassee Meridian for the point of beginning. From said point of beginning, thence run northwesterly along said SRD 5 to an intersection with the north line of section 18, township 58 south, range 39 east; thence run westerly to a point marking the southeast corner of section 12, township 58 south, range 37 east, said point also lying on the east boundary of the Everglades National Park; thence run north along the east boundary of the aforementioned Everglades National Park to a point marking the northeast corner of section 1, township 58 south, range 37 east; thence run west along said park to a point marking the northwest corner of said section 1; thence run northerly along said park to a point marking the northwest corner of section 24, township 57 south, range 37 east; thence run westerly along the south lines of sections 14, 15, and 16 to the southwest corner of section 16; thence leaving the Everglades National Park boundary run northerly along the west line of section 16 to the northwest corner of section 16; thence east along the northerly line of section 16 to a point at the intersection of the east one-half and west one-half of section 9; thence northerly along the line separating the

east one-half and the west one-half of sections 9, 4, 33, and 28; thence run easterly along the north line of section 28 to the northeast corner of section 28; thence run northerly along the west line of section 22 to the northwest corner of section 22; thence easterly along the north line of section 22 to a point at the intersection of the east one-half and west one-half of section 15; thence run northerly along said line to the point of intersection with the north line of section 15; thence easterly along the north line of section 15 to the northeast corner of section 15; thence run northerly along the west lines of sections 11 and 2 to the northwest corner of section 2; thence run easterly along the north lines of sections 2 and 1 to the northeast corner of section 1, township 56 south, range 37 east; thence run north along the east line of section 36, township 55 south, range 37 east to the northeast corner of section 36; thence run west along the north line of section 36 to the northwest corner of section 36; thence run north along the west line of section 25 to the northwest corner of section 25; thence run west along the north line of section 26 to the northwest corner of section 26; thence run north along the west line of section 23 to the northwest corner of section 23; thence run easterly along the north line of section 23 to the northeast corner of section 23; thence run north along the west line of section 13 to the northwest corner of section 13; thence run east along the north line of section 13 to a point of intersection with the west line of the southeast one-quarter of section 12; thence run north along the west line of the southeast one-quarter of section 12 to the northwest corner of the southeast one-quarter of section 12; thence run east along the north line of the southeast one-quarter of section 12 to the point of intersection with the east line of section 12; thence run east along the south line of the northwest one-quarter of section 7 to the southeast corner of the northwest one-quarter of section 7; thence run north along the east line of the northwest one-quarter of section 7 to the point of intersection with the north line of section 7; thence run northerly along the west line of the southeast one-quarter of section 6 to the northwest corner of the southeast one-quarter of section 6; thence run east along the north lines of the southeast one-quarter of section 6 and the southwest one-quarter of section 5 to the northeast corner of the southwest one-quarter of section 5; thence run northerly along the east line of the northwest one-quarter of section 5 to the point of intersection with the north line of section 5; thence run northerly along the line dividing the east one-half and the west one-half of Lot 5 to a point intersecting the north line of Lot 5; thence run east along the north line of Lot 5 to the northeast corner of Lot 5, township 54½ south, range 38 east; thence run north along the west line of section 33, township 54 south, range 38 east to a point intersecting the northwest corner of the southwest one-quarter of section 33; thence run easterly along the north line of the southwest one-quarter of section 33 to the northeast corner of the southwest one-quarter of section 33; thence run north along the west line of the northeast one-quarter of section 33 to a point intersecting the north line of section 33; thence run easterly along the north line of section 33 to the northeast corner of section 33; thence run northerly along the west line of section 27 to a point intersecting the northwest corner of the southwest one-quarter of section 27; thence run easterly to the northeast corner of the southwest one-quarter of section 27; thence run northerly along the west line of the northeast one-quarter of section 27 to a point intersecting the north line of section 27; thence run west along the north line of section 27 to the northwest corner of section 27; thence run north along the west lines of sections 22 and 15 to the northwest corner of section 15; thence run easterly along the north lines of sections 15 and 14 to the point of intersection with the L-31N Levee, said intersection located near the southeast corner of section 11, township 54 south, range 38 east; thence run northerly along Levee L-31N crossing SRD 90 (U.S. 41 Tamiami Trail) to an intersection common to Levees L-31N, L-29, and L-30, said intersection located near the southeast corner of section 2, township 54 south, range 38 east; thence run northeasterly, northerly, and northeasterly along Levee L-30 to a point of intersection with the Dade/Broward Levee, said intersection located near the northeast corner of section 17, township 52 south, range 39 east; thence run due east to a point of intersection with SRD 27 (Krome Ave.); thence run northeasterly along SRD 27 to an intersection with SRD 25 (U.S. 27), said intersection located in section 3, township 52 south, range 39 east; thence run northerly along said SRD 25, entering into Broward County, to an intersection with SRD 84 at Andytown; thence run southeasterly along the aforementioned SRD 84 to an intersection with the southwesterly prolongation of Levee L-35A, said intersection being located in the northeast one-quarter of section 5, township 50 south, range 40 east; thence run northeasterly along Levee L-35A to an intersection of Levee L-36, said intersection located near the southeast corner of section 12, township 49 south, range 40 east; thence run northerly along Levee L-36, entering into Palm Beach County, to an intersection common to said Levees L-36, L-39, and L-40, said intersection located near the west quarter corner of section 19, township 47 south, range 41 east; thence run northeasterly, easterly, and northerly along Levee L-40, said Levee L-40 being the eastern boundary of the Loxahatchee National Wildlife Refuge, to an intersection with SRD 80 (U.S. 441), said intersection located near the southeast corner of section 32, township 43 south, range 40 east; thence run westerly along the aforementioned SRD 80 to a point marking the intersection of said road and the northeasterly prolongation of Levee L-7, said Levee L-7 being the westerly boundary of the Loxahatchee National Wildlife Refuge; thence run southwesterly and southerly along said Levee L-7 to an intersection common to Levees L-7, L-15 (Hillsborough Canal), and L-6; thence run southwesterly along Levee L-6 to an intersection common to Levee L-6, SRD 25 (U.S. 27), and Levee L-5, said intersection being located near the northwest corner of section 27, township 47 south, range 38 east; thence run westerly along the aforementioned Levee L-5 to a point intersecting the east line of range 36 east; thence run northerly along said range line to a point marking the northeast corner of section 1, township 47 south, range 36 east; thence run westerly along the north line of township 47 south, to an intersection with Levee L-23/24 (Miami Canal); thence run northwesterly along the Miami Canal Levee to a point intersecting the north line

of section 22, township 46 south, range 35 east; thence run westerly to a point marking the northwest corner of section 21, township 46 south, range 35 east; thence run southerly to the southwest corner of said section 21; thence run westerly to a point marking the northwest corner of section 30, township 46 south, range 35 east, said point also being on the line dividing Palm Beach and Hendry Counties; from said point, thence run southerly along said county line to a point marking the intersection of Broward, Hendry, and Collier Counties, said point also being the northeast corner of section 1, township 49 south, range 34 east; thence run westerly along the line dividing Hendry and Collier Counties and continuing along the prolongation thereof to a point marking the southwest corner of section 36, township 48 south, range 29 east; thence run southerly to a point marking the southwest corner of section 12, township 49 south, range 29 east; thence run westerly to a point marking the southwest corner of section 10, township 49 south, range 29 east; thence run southerly to a point marking the southwest corner of section 15, township 49 south, range 29 east; thence run westerly to a point marking the northwest corner of section 24, township 49 south, range 28 east, said point lying on the west boundary of the Big Cypress Area of Critical State Concern as described in Rule 27F-3, Florida Administrative Code; thence run southerly along said boundary crossing SRD 84, (Alligator Alley) to a point marking the southwest corner of section 24, township 50 south, range 28 east; thence leaving the aforementioned west boundary of the Big Cypress Area of Critical State Concern run easterly to a point marking the northeast corner of section 25, township 50 south, range 28 east; thence run southerly along the east line of range 28 east to a point lying approximately 0.15 miles south of the northeast corner of section 1, township 52 south, range 28 east; thence run southwesterly 2.4 miles more or less to an intersection with SRD 90 (U.S. 41 Tamiami Trail), said intersection lying 1.1 miles more or less west of the east line of range 28 east; thence run northwesterly and westerly along SRD 90 to an intersection with the west line of section 10, township 52 south, range 28 east; thence leaving SRD 90 run southerly to a point marking the southwest corner of section 15, township 52 south, range 28 east; thence run westerly crossing the Faka Union Canal 0.6 miles more or less to a point; thence run southerly and parallel to the Faka Union Canal to a point located on the mean high-water line of Faka Union Bay; thence run southeasterly along the mean high-water line of the various bays, rivers, inlets, and streams to the point of beginning.

(b) The area bounded by the line described in paragraph (a) generally includes those waters to be known as waters of the state. The landward extent of these waters shall be determined as provided in s. 17-817. Any waters which are outside the general boundary line described in paragraph (a) but which are contiguous thereto by virtue of the presence of a watercourse or as determined pursuant to s. 17-4.022, Florida Administrative Code, shall be a part of this water body. Any areas within the line described in paragraph (a) which are not within the jurisdiction of the department as determined pursuant to s. 17-[illegible].022, Florida Administrative Code, shall be excluded therefrom. If the Florida Environmental Regulation Commission designates the waters within the boundaries an Outstanding Florida Water, waters outside the boundaries shall not be included as part of such designation unless a hearing is held pursuant to notice in each appropriate county and the boundaries of such lands are specifically considered and described for such designation.

History.—s. 4, ch. 67-436; ss. 25, 35, ch. 69-106; s. 1, ch. 71-36; s. 2, ch. 71-137; s. 153, ch. 71-377; s. 1, ch. 73-46; s. 112, ch. 73-333; ss. 1, 2, ch. 74-123; s. 1, ch. 77-174; s. 72, ch. 79-65; s. 13, ch. 84-79.

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules and regulations adopted and promulgated by it and, for this purpose, to:

(1) Approve and promulgate current and long-range plans developed to provide for air and water quality control and pollution abatement.

(2) Hire only such employees as may be necessary to effectuate the responsibilities of the department.

(3) Utilize the facilities and personnel of other state agencies, including the Department of Health and Rehabilitative Services, and delegate to any such agency any duties and functions as the department may deem necessary to carry out the purposes of this act.

(4) Secure necessary scientific, technical, research, administrative, and operational services by interagency agreement, by contract, or otherwise. All state agencies, upon direction of the department, shall make these services and facilities available.

(5) Accept state appropriations and loans and grants from the Federal Government and from other sources, public or private, which loans and grants shall not be expended for other than the purposes of this act.

(6) Exercise general supervision of the administration and enforcement of the laws, rules, and regulations pertaining to air and water pollution.

(7) Adopt, modify, and repeal rules and regulations to carry out the intent and purposes of this act. Any rule or regulation adopted pursuant to this act shall be consistent with the provisions of federal law, if any, relating to control of emissions from motor vehicles, effluent limitations, pretreatment requirements, or standards of performance. Rules adopted pursuant to this act shall not require dischargers of waste into waters of the state to improve natural background conditions. Discharges from steam electric generating plants existing or licensed under this chapter on July 1, 1984, shall not be required to be treated to a greater extent than may be necessary to assure that the quality of nonthermal components of discharges from nonrecirculated cooling water systems is as high as the quality of the makeup waters; that the quality of nonthermal components of discharges from recirculated cooling water systems is no lower than is allowed for blowdown from such systems; or that the quality of noncooling system discharges which receive makeup water from a receiving body of water which does not meet applicable department water quality standards is as high as the quality of the receiving body of water. The department may not adopt standards more stringent than federal regulations, except as provided in s. 403.804.

(8) Issue such orders as are necessary to effectuate the control of air and water pollution and enforce the same by all appropriate administrative and judicial proceedings.

(9) Adopt a comprehensive program for the prevention, control, and abatement of pollution of the air and waters of the state, and from time to time review and modify such program as necessary.

(10) Develop a comprehensive program for the prevention, abatement, and control of the pollution of the waters of the state. In order to effect this purpose, a grouping of the waters into classes may be made in accordance with the present and future most beneficial uses. Such classifications may from time to time be altered or modified. However, before any such classification is made, or any modification made thereto, public hearings shall be held by the department.

(11) Establish ambient air quality and water quality standards for the state as a whole or for any part thereof, and also standards for the abatement of excessive and unnecessary noise. The department is authorized to establish reasonable zones of mixing for discharges into waters.

(a) When a receiving body of water fails to meet a water quality standard for pollutants set forth in department rules, a steam-electric generating plant discharge of pollutants that is existing or licensed under this chapter on July 1, 1984, may nevertheless be granted a mixing zone, provided that:

1. The standard would not be met in the water body in the absence of the discharge;

2. The discharge is in compliance with all applicable technology-based effluent limitations;

3. The discharge does not cause a measurable increase in the degree of noncompliance with the standard at the boundary of the mixing zone; and

4. The discharge otherwise complies with the mixing zone provisions specified in department rules.

(b) No mixing zone for point source discharges shall be permitted in Outstanding Florida Waters except for:

1. Sources which have received permits from the department prior to April 1, 1982, or the date of designation, whichever is later;

2. Blowdown from new power plants certified pursuant to the Florida Electrical Power Plant Siting Act; and

3. Discharges of water necessary for water management purposes which have been approved by the governing board of a water management district and, if required by law, by the secretary.

Nothing in this act shall be construed to invalidate any existing department rule relating to mixing zones. The department shall cooperate with the Department of Highway Safety and Motor Vehicles in the development of regulations required by s. 316.272(1).

(12)(a) Cause field studies to be made and samples to be taken out of the air and from the waters of the state periodically and in a logical geographic manner so as to determine the levels of air quality of the air and water quality of the waters of the state.

(b) Determine the source of the pollution whenever a study is made or a sample collected which proves to be below the air or water quality standard set for air or water.

(13) Require persons engaged in operations which may result in pollution to file reports which may contain information relating to locations, size of outlet, height of outlet, rate and period of emission, and composition and concentration of effluent and such other information as the department shall prescribe to be filed relative to pollution.

(14) Establish a permit system whereby a permit may be required for the operation, construction, or expansion of any installation that may be a source of air or water pollution and provide for the issuance and revocation of such permits and for the posting of an appropriate bond to operate.

(a) Notwithstanding any other provision of this chapter, the Department of Environmental Regulation may authorize, by rule, the Department of Transportation to perform any activity requiring a permit from the Department of Environmental Regulation covered by this chapter, upon certification by the Department of Transportation that it will meet all requirements imposed by statute, rule, or standard for environmental control and protection as such statute, rule, or standard applies to a governmental program. To this end, the Department of Environmental Regulation may accept such certification of compliance for programs of the Department of Transportation, may conduct investigations for compliance, and, if a violation is found to exist, may take all necessary enforcement action pertaining thereto, including, but not limited to, the revocation of certification. The authorization shall be by rule of the Department of Environmental Regulation, shall be limited to the maintenance, repair, or replacement of existing structures, and shall be conditioned upon compliance by the Department of Transportation with specific guidelines or requirements which are set forth in the formal acceptance and deemed necessary by the Department of Environmental Regulation to assure future compliance with this chapter and applicable department rules. The failure of the Department of Transportation to comply with any provision of the written acceptance shall constitute grounds for its revocation by the Department of Environmental Regulation.

(b) The provisions of chapter 120 shall be accorded any person when substantial interests will be affected by an activity proposed to be conducted by the Department of Transportation pursuant to its certification and the acceptance of the Department of Environmental Regulation. If a proceeding is conducted pursuant to s. 120.57, the Department of Environmental Regulation may intervene as a party. Should a hearing officer of the Division of Administrative Hearings of the Department of Administration submit a recommended order pursuant to s. 120.57, the Department of Environmental Regulation shall issue a final department order adopting, rejecting, or modifying the recommended order pursuant to such action.

(15) Consult with any person proposing to construct, install, or otherwise acquire a pollution control device or system concerning the efficacy of such device or system, or the pollution problem which may be related to the source, device, or system. Nothing in

any such consultation shall be construed to relieve any person from compliance with this act, rules and regulations of the department, or any other provision of law.

(16) Encourage voluntary cooperation by persons and affected groups to achieve the purposes of this act.

(17) Encourage local units of government to handle pollution problems within their respective jurisdictions on a cooperative basis and provide technical and consultative assistance therefor.

(18) Encourage and conduct studies, investigations, and research relating to pollution and its causes, effects, prevention, abatement, and control.

(19) Make a continuing study of the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere of this state and the several parts thereof and make recommendations to appropriate public and private bodies with respect thereto.

(20) Collect and disseminate information and conduct educational and training programs relating to pollution.

(21) Advise, consult, cooperate, and enter into agreements with other agencies of the state, the Federal Government, other states, interstate agencies, groups, political subdivisions, and industries affected by the provisions of this act, rules, or policies of the department.

(22) Adopt, modify, and repeal rules governing the specifications, construction, and maintenance of industrial reservoirs, dams, and containers which store or retain industrial wastes of a deleterious nature.

(23) Adopt rules and regulations to ensure that no detergents are sold in Florida after December 31, 1972, which are reasonably found to have a harmful or deleterious effect on human health or on the environment. Any regulations adopted pursuant to this subsection shall apply statewide. Subsequent to the promulgation of such rules and regulations, no county, municipality, or other local political subdivision shall adopt or enforce any local ordinance, special law, or local regulation governing detergents which is less stringent than state law or regulation. Regulations, ordinances, or special acts adopted by a county or municipality governing detergents shall be subject to approval by the department, except that regulations, ordinances, or special acts adopted by any county or municipality with a local pollution control program approved pursuant to s. 403.182 shall be approved as an element of the local pollution control program.

(24)(a) Establish a permit system to provide for spoil site approval, as may be requested and required by local governmental agencies as defined in s. 403.1822(3), or mosquito control districts as defined in s. 388.011(2), to facilitate these agencies in providing spoil sites for the deposit of spoil from maintenance dredging of navigation channels, port harbors, turning basins, and harbor berths, as part of a federal project, when the agency is acting as sponsor of a contemplated dredge and fill operation involving an established navigation channel, harbor, turning basin, or harbor berth. A spoil site approval granted to the agency shall be granted for a period of 10 to 25 years when such site is not inconsistent with an adopted local governmental comprehensive plan and the requirements of this chapter. The department shall periodically review each permit to determine compliance with the terms and conditions of the permit. Such review shall be conducted at least once every 10 years.

(b) This subsection applies only to those maintenance dredging operations permitted after July 1, 1980, where the United States Army Corps of Engineers is the prime dredge and fill agent and the local governmental agency is acting as sponsor for the operation, and does not require the redesignation of currently approved spoil sites under such previous operations.

(25) Establish and administer a program for the restoration and preservation of bodies of water within the state. The department shall have the power to acquire lands, to cooperate with other applicable state or local agencies to enhance existing public access to such bodies of water, and to adopt all rules necessary to accomplish this purpose.

(26)(a) Develop standards and criteria for waters used for deepwater shipping which standards and criteria consider existing water quality; appropriate mixing zones and other requirements for maintenance dredging in previously constructed deepwater navigation channels, port harbors, turning basins, or harbor berths; and appropriate mixing zones for disposal of spoil material from dredging and, where necessary, develop a separate classification for such waters. Such classification, standards, and criteria shall recognize that the present dedicated use of these waters is for deepwater commercial navigation.

(b) The provisions of paragraph (a) apply only to the port waters, spoil disposal sites, port harbors, navigation channels, turning basins, and harbor berths used for deepwater commercial navigation in the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, and Pensacola.

(27) Establish rules which provide for a special category of water bodies within the state, to be referred to as "Outstanding Florida Waters," which water bodies shall be worthy of special protection because of their natural attributes. Nothing in this subsection shall affect any existing rule of the department.

(28) Perform any other act necessary to control and prohibit air and water pollution, and to delegate any of its responsibilities, authority, and powers, other than rulemaking powers, to any state agency now or hereinafter established.

(29) Adopt by rule special criteria to protect Class II shellfish harvesting waters. Rules previously adopted by the department in s. 17-4.28(8)(a), Florida Administrative Code, are hereby ratified and determined to be a valid exercise of delegated legislative authority and shall remain in effect unless amended by the Environmental Regulation Commission.

History.—s. 7, ch. 67-436; ss. 19, 26, 35, ch. 69-106; s. 1, ch. 71-35; s. 2, ch. 71-36; s. 3, ch. 72-39; s. 1, ch. 72-53; s. 113, ch. 73-333; s. 3, ch. 74-133; s. 1, ch. 77-21; s. 137, ch. 77-104, s. 268, ch. 77-147, s. 2, ch. 77-369; s. 14, ch. 78-95; s. 2, ch. 78-437; s. 73, ch. 79-65; s. 1, ch. 79-150, s. 96, ch. 79-164; s. 160, ch. 79-400; s. 1, ch. 80-66; ss. 2, 5, ch. 81-228; s. 5, ch. 82-27; s. 1, ch. 82-79, s. 2, ch. 82-80; s. 66, ch. 83-310; s. 5, ch. 84-79; s. 1, ch. 84-338.

cf.— ss. 403.501-403.517 Florida Electrical Power Plant Siting Act.

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(1) No stationary installation which will reasonably be expected to be a source of air or water pollution shall be operated, maintained, constructed, expanded, or modified without an appropriate and currently valid permit issued by the department, unless exempted by department rule. In no event shall a permit for a water pollution source be valid for more than 5 years. However, upon expiration, a new permit may be issued by the department in accordance with this act and the rules and regulations of the department.

(2) The department shall adopt, amend, or repeal rules, regulations, and standards for the issuance, denial, and revocation of permits.

(3) The department shall issue permits on such conditions as are necessary to effect the intent and purposes of this section.

(4) The department shall issue permits to construct, operate, maintain, expand, or modify an installation which may reasonably be expected to be a source of pollution only when it determines that the installation is provided or equipped with pollution control facilities that will abate or prevent pollution to the degree that will comply with the standards or rules promulgated by the department, except as provided in s. 403.088, and which will comply with the prohibitions in 40 C.F.R. s. 124.41.

(5)(a) The department may require an application fee in an amount sufficient to cover the costs of reviewing and acting upon any application and the costs of surveillance and other field services associated with any permit issued, but the amount in no case shall exceed $100, except that:

1. The permit fee for any of the following permits shall not exceed $500:
   a. Air pollution, operation permit.
   b. Industrial waste, construction permit.
   c. Domestic waste, temporary operation permit.
   d. Industrial waste, temporary operation permit.
   e. Stormwater, temporary operation permit.
2. The permit fee for any of the following permits shall not exceed $1,000:
   a. Air pollution, construction permit.
   b. Dredge and fill, standard form permit.
   c. Deep well injection, construction permit.
   d. Deep well injection, operation permit.
   e. Hazardous waste permit.
3. The fee for a permit issued pursuant to s. 403.816 is $5,000, and the fee for any modification of such permit requested by the applicant is $1,000.

(b) The fee schedule shall be adopted by rule based on a sliding scale relating to the size or type of installation which is proposed by the applicant. If the department requires by rule or by permit condition that a permit be renewed more frequently than once every 5 years, the permit fee shall be prorated based upon the permit fee schedule in effect at the time of permit renewal.

(6) A permit issued pursuant to this section shall not become a vested right in the permittee. The department may revoke any permit issued by it if it finds that the permitholder:

(a) Has submitted false or inaccurate information in his application;

(b) Has violated law, department orders, rules, or regulations, or permit conditions;

(c) Has failed to submit operational reports or other information required by department rule or regulation; or

(d) Has refused lawful inspection under s. 403.091.

(7) The department shall not issue a permit to any person for the purpose of engaging in, or attempting to engage in, any activity relating to the extraction of solid minerals not exempt pursuant to chapter 211 within any state or national park or state or national forest when the activity will degrade the ambient quality of the waters of the state or the ambient air within those areas. In the event the Federal Government prohibits the mining or leasing of solid minerals on federal park or forest lands, then, and to the extent of such prohibition, this act shall not apply to those federal lands.

(8) A violation of this section is punishable as provided in this chapter.

History.—s. 1, ch. 71-203; s. 4, ch. 74-133; s. 14, ch. 78-95; s. 14, ch. 82-27; s. 1, ch. 82-54; s. 1, ch. 82-122; s. 69, ch. 83-216; s. 24, ch. 84-338.

403.0876 Permits; processing.—

(1) Within 30 days after receipt of an application for a permit under this chapter, the department shall review the application and shall request submittal of all additional information the department is permitted by law to require. If the applicant believes any departmental request for additional information is not authorized by law or departmental rule, the applicant may request a hearing pursuant to s. 120.57. Within 30 days after receipt of such additional information, the department shall review it and may request only that information needed to clarify such additional information or to answer new questions raised by or directly related to such additional information. If the applicant believes the request of the department for such additional information is not authorized by law or departmental rule, the department, at the applicant's request, shall proceed to process the permit application.

(2)(a) A permit shall be approved or denied within 90 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

(b) The failure of the department to approve or deny a permit for an underground injection well within the 90-day time period shall not result in the automatic approval or denial of the permit and shall not prevent the inclusion of specific permit conditions which are necessary to ensure compliance with applicable statutes and rules. If the department fails to approve or deny such a permit within the 90-day period, the applicant may petition for a writ of mandamus to compel the department to act consistently with applicable regulatory requirements.

History.—s. 2, ch. 80-66; s. 25, ch. 84-338.

403.091 Inspections.—

(1) Any duly authorized representative of the department may at any reasonable time enter and inspect, for the purpose of ascertaining the state of compliance with the law or rules and regulations of the department, any property, premises, or place, ex-

cept a building which is used exclusively for a private residence, on or at which a hazardous waste generator, transporter, or facility or other air or water contaminant source; a discharger, including any nondomestic discharger which introduces any pollutant into a publicly owned treatment works; any facility, as defined in s. 376.301(4); or a resource recovery and management facility is located or is being constructed or installed or where records which are required under this chapter, ss. 376.30-376.315, or department rule are kept. Any duly authorized representative may at reasonable times have access to and copy any records required under this chapter or ss. 376.30-376.315; inspect any monitoring equipment or method; sample for any pollutants as defined in s. 376.301(10), effluents, or wastes which the owner or operator of such source may be discharging or which may otherwise be located on or underlying the owner's or operator's property; and obtain any other information necessary to determine compliance with permit conditions or other requirements of this chapter, ss. 376.30-376.315, or department rules. No person shall refuse reasonable entry or access to any authorized representative of the department who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection. The owner or operator of the premises shall receive a report, if requested, setting forth all facts found which relate to compliance status.

(2) An inspection pursuant to subsection (1) may be conducted only after:

(a) Consent for the inspection is received from the owner, operator, or person in charge; or

(b) The appropriate inspection warrant as provided in this section is obtained.

(3)(a) An inspection warrant as authorized by this chapter may be issued by a judge of any county court or circuit court of this state which has jurisdiction of the place or thing to be searched.

(b) Upon proper affidavit being made, an inspection warrant may be issued under the provisions of this chapter or ss. 376.30-376.315:

1. When it appears that the properties to be inspected may be connected with or contain evidence of the violation of any of the provisions of this chapter or ss. 376.30-376.315 or any rule properly promulgated thereunder; or

2. When the inspection sought is an integral part of a larger scheme of systematic routine inspections which are necessary to, and consistent with, the continuing efforts of the department to ensure compliance with the provisions of this chapter or ss. 376.30-376.315 and any rules adopted thereunder.

(c) The judge shall, before issuing the warrant, have the application for the warrant duly sworn to and subscribed by a representative of the department; and he may receive further testimony from witnesses, supporting affidavits, or depositions in writing to support the application. The affidavit and further proof, if had or required, shall set forth the facts tending to establish the grounds specified in paragraph (b) or [1]the reasons for believing that such grounds exist.

(d) Upon examination of the application and proofs submitted and if satisfied that cause exists for the issuing of the inspection warrant, the judge shall thereupon issue a warrant, signed by him with the name of his office, to any department representative, which warrant will authorize the representative forthwith to inspect the property described in the warrant.

History.—s. 10, ch. 67-436; ss. 23, 28, ch. 69-106; s. 1, ch. 69-229; s. 6, ch. 82-27; s. 23, ch. 84-338.

[1]Note.—The words "the reasons" were inserted by the editors.

403.1659 Florida Groundwater Protection Task Force.—

(1) The Florida Groundwater Protection Task Force is created within the Department of Environmental Regulation.

(a) The Groundwater Protection Task Force shall consist of the following members:

1. The Secretary of Community Affairs or his designee;

2. The Secretary of Environmental Regulation or his designee;

3. The Secretary of Health and Rehabilitative Services or his designee;

4. The Commissioner of Agriculture or his designee;

5. The Secretary of Transportation or his designee; and

6. Any additional state agency members as determined and appointed by the Governor in order to properly implement the provisions of this act.

(b) The Secretary of Environmental Regulation or a designee shall chair the task force.

(2) The Florida Groundwater Protection Task Force shall:

(a) Coordinate the temporary provision of potable water to every citizen whose drinking water supply has been deemed by the state to be unsafe, until such time as a permanent source of potable water has been made available.

(b) Ensure that public information is provided to all citizens and local governments in any area in which drinking water has been deemed by the state to be unsafe. The task force shall ensure:

1. The development and maintenance of a mailing list of each citizen and each local government in an area with contaminated drinking water wells.

2. The preparation and distribution of information to all affected citizens and local governments describing state agency functions in the event of groundwater contamination.

3. The preparation and distribution of a newsletter as needed to all affected citizens and local governments, which newsletter shall contain a listing of upcoming scheduled activities, the answers to frequently submitted questions, and a listing of possible solutions or remedies to water contamination problems.

4. The availability of a toll-free telephone number to allow citizens of the state access to information regarding contaminated water supplies.

(c) Make recommendations to any person or governmental agency regarding groundwater contamination affecting public or private wells.

(d) Ensure that a current inventory of all groundwater contamination research activities by public and private universities in the state; federal, state, and local agencies; and private industry is developed and maintained. This inventory shall include, but is not limited to, a statewide listing of all facilities with

groundwater testing capabilities in order to ensure that all citizens have their water tested within a reasonable period of time during a crisis situation.

(e) File, by October 1 annually, a report summarizing the activities of the task force during the past year. The report shall include, but is not limited to, a chronological listing of all groundwater contamination incidents, response strategy used by the state for each incident, actual costs for each incident, and an evaluation and recommendation concerning the needs of the state for the coming year with respect to groundwater contamination problems. A copy of the report shall be sent to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(3) The Florida Groundwater Protection Task Force shall meet as needed, at the call of the chairman, to carry out the provisions of this section.

History.—s. 27, ch. 84-338.

403.1826 Grants, requirements for eligibility.—

(1) Grants shall be made under ss. 403.1821-403.1832 for projects eligible as provided in rules of the department. Only those projects to be constructed after the effective date of this act are eligible for grants pursuant to this act.

(2) No grant may be made for any project unless such project and the plans and specifications therefor are approved by the department, subject to such requirements as the department imposes. The costs for advanced waste treatment facilities, or portions thereof, required for discharge to surface waters or ground water protection or protection of public health are eligible for funding.

(3) No grant may be made until the local governmental agency has available to it that part of the total cost of the project which is in excess of the applicable grant.

(4) The department shall require local governmental funds in the amount of 45 percent of eligible project costs as determined by rules of the department. The department is authorized to establish a maximum grant for each local governmental agency pursuant to this act.

(5) Grants made under ss. 403.1821-403.1832 shall be paid to the local governmental agency as provided by department rule.

(6) A grant may not be made unless the local governmental agency assures the department of the proper and efficient operation and maintenance of the project after construction. Revenue sufficient to ensure that the facility will be self-supporting shall be generated from sources which include, but are not limited to, service charges and connection fees. The revenue generated shall provide for financing future sanitary sewerage capital improvements. The grantee shall accumulate, during the design life of the grant-funded project, moneys [1]in an amount equivalent to the grant amount adjusted for inflationary cost increases.

(7) No grant may be made unless the local governmental agency has filed properly executed forms and applications prescribed by the department.

(8) Any local governmental agency receiving assistance under ss. 403.1821-403.1832 shall keep such records as the department prescribes, including records which fully disclose the amount and disposition by the recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with such assistance given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The department and the Auditor General or any of their duly authorized representatives shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient that are pertinent to grants received under ss. 403.1821-403.1832.

(9) Any project satisfactorily planned and designed in accordance with the requirements of the United States Environmental Protection Agency is eligible for funding under this act.

History.—s. 4, ch. 70-251; s. 1, ch. 70-432; s. 81, ch. 83-310; s. 22, ch. 84-338.

[1]Note.—The words "in an amount" were inserted by the editors.

403.1838 Small Community Sewer Construction Assistance Act.—

(1) This section may be cited as the "Small Community Sewer Construction Assistance Act."

(2)(a) There is established within the Department of Environmental Regulation the Small Community Sewer Construction Assistance Trust Fund.

(b) The funds shall be used by the department to assist small communities with their needs for adequate sewer facilities. The term "small community" means an incorporated municipality with a population of 35,000 or less, according to the latest decennial census.

(3) The department may provide grants to small communities. Grants shall be made from the Small Community Sewer Construction Assistance Trust Fund in accordance with rules adopted by the Environmental Regulation Commission. The department may grant up to $3 million to any small community.

(4) The Environmental Regulation Commission shall:

(a) Require a 45-percent nonstate match, except that, for a grant of less than $60,000, the commission may waive all or a part of the matching requirement:

1. Where water quality standards have been exceeded by an amount that constitutes an immediate health hazard; or

2. In a community where the gross per capita income is below the state average, as determined by the United States Department of Commerce, and where sewer systems have failed to meet department standards.

(b) Require appropriate user charges and connection fees sufficient to ensure the long-term operation and maintenance of the facility to be constructed under any grant.

(c) Require compliance with all water quality standards.

(d) Establish a system to determine eligibility and relative priority for applications for grants by small communities.

(e) Require applications for grants to be submitted on appropriate forms with appropriate supporting documentation, require construction to be in accordance with plans approved by the department, and require recordkeeping.

(5) Any project satisfactorily planned and de-

signed in accordance with the requirements of the United States Environmental Protection Agency is eligible for funding under this act.

(6) A grant may not be made unless the local governmental agency assures the department of the proper and efficient operation and maintenance of the project after construction. Revenue sufficient to ensure that the facility will be self-supporting shall be generated from sources which include, but are not limited to, service charges and connection fees. The revenue generated shall provide for financing future sanitary sewerage capital improvements. The grantee shall accumulate, during the design life of the grant-funded project, moneys in an amount equivalent to the grant amount adjusted for inflationary cost increases.

History.—s. 55, ch. 83-310; s. 29, ch. 84-338.
Note.—The words "in an amount" were inserted by the editors.

403.265 Peat mining; permitting.—

(1) Definitions.—As used in this section, the term:

(a) "Agricultural use of peat" means the use of peat as a soil medium, additive, enhancer, or fertilizer.

(b) "Peat" means a dark brown or black residuum produced by the partial decomposition and disintegration of mosses, sedges, trees, and other plants that grow in marshes and other wet places.

(c) "Peat mining activity" means the extraction of peat or peat soils for sale or consumption or the disturbance of vegetation or soils in anticipation of the extraction of peat or peat soils for sale or consumption. For the purposes of this part, the term "peat mining activity" does not include the removal of peat or peat soils for construction activities or the removal of overburden for other mining activities.

(d) "Peat soil" means soil which contains at least 75 percent dry weight of peat material. Such soil is rich in humus and gives an acid reaction.

(2) Each department permit which authorizes the mining of peat or peat soils or any mining activity associated with the anticipation of the extraction of peat or peat soils for sale or consumption shall require the permittee to institute and complete a reclamation program for the area mined, which program must include the following factors:

(a) Control of the physical and chemical quality of the water draining from the mining area;

(b) Soil stabilization, including contouring and vegetation;

(c) Elimination of health and safety hazards;

(d) Conservation and preservation of remaining natural resources; and

(e) A time schedule for the completion of the program and the various phases thereof.

(3) The department may adopt rules which are consistent with the powers and duties listed in s. 403.912 to govern the mining of peat, including stricter permitting and enforcement provisions for the mining for sale or consumption of peat or peat soils within or contiguous to the areas which have been designated as Outstanding Florida Waters or which were under consideration by the Environmental Regulation Commission for such designation on April 1, 1984.

(4) The mining of peat or peat soils of less than 5 acres per year, and all peat mining activities for the agricultural use of peat, are exempt from the provisions of this section.

(5) Nothing in this section limits the permitting authority of the department to regulate peat mining pursuant to other provisions of this chapter.

History.—s. 2, ch. 84-79.

PART IV

RESOURCE RECOVERY AND MANAGEMENT

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403.702 Legislative findings; public purpose.—

(1) In order to enhance the beauty and quality of our environment; conserve and recycle our natural resources; prevent the spread of disease and the creation of nuisances; protect the public health, safety, and welfare; and provide a coordinated statewide resource recovery and management program, the Legislature finds that:

(a) Inefficient and improper methods of managing solid waste create hazards to public health, cause pollution of air and water resources, constitute a waste of natural resources, have an adverse effect on land values, and create public nuisances.

(b) Problems of solid-waste management have become a matter statewide in scope and necessitate state action to assist local government in improving methods and processes to promote more efficient methods of solid-waste collection and disposal.

(c) The continuing technological progress and improvements in methods of manufacture, packaging, and marketing of consumer products has resulted in an ever-mounting increase of the mass of material discarded by the purchasers of such products, thereby necessitating a statewide approach which

will avoid varied and uncoordinated solutions by local governments around the state.

(d) The economic and population growth of our state and the improvements in the standard of living enjoyed by our population have required increased industrial production together with related commercial and agricultural operations to meet our needs, which have resulted in a rising tide of unwanted and discarded materials.

(e) The failure or inability to economically recover material and energy resources from solid waste results in the unnecessary waste and depletion of our natural resources, and, therefore, maximum resource recovery from solid waste and maximum recycling and reuse of such resources must be considered goals of the state.

(f) Certain solid waste, due to its quantity, concentration, or physical, chemical, biological, or infectious characteristics, is exceptionally hazardous to human health, safety, and welfare and to the environment, and exceptional attention to the transportation, disposal, storage, and treatment of such waste is necessary to protect human health, safety, and welfare and the environment.

(g) This act should be integrated with other acts such that nonhazardous waste discharges currently regulated under this chapter, water or solid waste construction, modification, or operating permits, air emissions, special wastes, and other activities regulated under other more appropriate acts remain in full force and effect and are not preempted by the requirements of this act.

(2) It is declared to be the purpose of this act to:

(a) Plan for and regulate in the most economically feasible, cost-effective, and environmentally safe manner the storage, collection, transport, separation, processing, recycling, and disposal of solid waste in order to protect the public safety, health, and welfare; enhance the environment for the people of this state; and recover resources which have the potential for further usefulness.

(b) Establish and maintain a cooperative state program of planning and technical assistance for resource recovery and management.

(c) Provide the authority, and require counties and municipalities, to adequately plan and provide efficient, environmentally acceptable resource recovery and management and require counties to plan for proper hazardous waste management.

(d) Require review of the design, and issue permits for the operation, of resource recovery and management facilities.

(e) Promote the application of resource recovery systems which preserve and enhance the quality of air, water, and land resources.

(f) Ensure that exceptionally hazardous solid waste is transported, disposed of, stored, and treated in a manner adequate to protect human health, safety, and welfare and the environment.

(g) Promote the recycling, reuse, or treatment of solid waste, specifically including hazardous waste, in lieu of disposal of such wastes.

(h) Promote the application of methods and technology for the treatment, disposal, and transportation of hazardous wastes which are practical, cost-effective, and economically feasible.

History.—s. 1, ch. 74-342; s. 3, ch. 80-302; s. 20, ch. 83-310; s. 30, ch. 84-338.

403.703 Definitions.—As used in this act, the term:

(1) "Department" means the Department of Environmental Regulation or any successor agency performing a like function.

(2) "County or municipality," or any like term, includes political subdivisions engaged in resource recovery and management.

(3) "Person" means any and all persons, natural or artificial, including any individual, firm, or association; any municipal or private corporation organized or existing under the laws of this state or any other state; any county of this state; and any governmental agency of this state or the Federal Government.

(4) "Recycling" means the reuse of solid waste in manufacturing, agriculture, power production, or other processes.

(5) "Resource management" means the process by which solid waste is collected, transported, stored, separated, processed, or disposed of in any other way, according to an orderly, purposeful, and planned program.

(6) "Resource recovery" means the process by which materials, excluding those under control of the Atomic Energy Commission, which still have useful physical or chemical properties after serving a specific purpose are reused or recycled for the same or other purposes, including use as an energy source.

(7) "Resource recovery and management facility" means any solid waste disposal area, volume reduction plant, or other facility, the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste.

(8) "Resource recovery equipment" means equipment or machinery exclusively and integral[illegible] used in the actual process of recovering material resources from solid waste.

(9) "Solid waste" means sludge from a treatment works, water supply treatment plant, pollution control facility or garbage, rubbish, re[illegible] or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

(10) "Volume reduction plant" includes, but is not limited to, incinerators, pulverizers, compactors, shredding and baling plants, transfer stations, composting plants, and other plants which accept and process solid waste for recycling or disposal.

(11) "Yard trash" means vegetative matter resulting from landscaping maintenance and land-clearing operations.

(12) "Trash landfills" means combinations of yard trash and construction and demolition debris along with paper, cardboard, cloth, glass, white goods, street sweepings, vehicle tires, and other like matter.

(13) "Construction and demolition debris" means material generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, or asphalt roofing material.

(14) "Class I solid waste disposal area" means a disposal facility which receives an average of 20 tons or more per day, if scales are available, or 50 cubic yards or more per day of solid waste, as measured in

place after covering, and which receives an initial cover daily.

(15) "Class II solid waste disposal area" means a disposal facility which receives an average of less than 50 cubic yards per day of solid waste, as measured in place after covering, and which receives an initial cover at least once every 4 days.

(16) "Initial cover" means a 6-inch layer of compacted earth, or other suitable material as approved by the department, used to enclose a volume of solid waste prior to intermediate or final cover.

(17) "Monitoring well" means a strategically located well from which water samples are drawn for water quality analysis.

(18) "Closure" means the cessation of operation of a resource recovery and management facility and the act of securing such facility so that it will pose no significant threat to human health or the environment.

(19) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or upon any land or water so that such solid waste or hazardous waste or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters, including ground waters, or otherwise enter the environment.

(20) "Generation" means the act or process of producing hazardous waste.

(21) "Hazardous waste" means solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed.

(22) "Hazardous waste facility" means any building, site, structure, or equipment at or by which hazardous waste is disposed of, stored, or treated.

(23) "Hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

(24) "Manifest" means the method used for identifying the concentration, quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, storage, or treatment.

(25) "Operation," with respect to any resource recovery and management facility, means the disposal, storage, or treatment of solid waste at and by the facility.

(26) "Storage" means the containment or holding of a hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

(27) "Transport" means the movement of hazardous waste from the point of generation or point of entry into the state to any offsite intermediate points, and to the point of offsite ultimate disposal, storage, treatment, or exit from the state.

(28) "Treatment," when used in connection with hazardous waste, means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize it or render it nonhazardous, safe for transport, amenable to recovery, amenable to storage or disposal, or reduced in volume or concentration. The term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(29) "Hazardous substance" means any substance which is defined as a hazardous substance in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 94 Stat. 2767.

History.—s. 1, ch. 74-342; s. 2, ch. 78-329; s. 1, ch. 78-387; s. 84, ch. 79-65; s. 4, ch. 80-302; s. 1, ch. 81-45; s. 267, ch. 81-259; s. 31, ch. 83-310; s. 33, ch. 84-338.

403.704 Powers and duties of the department.—The department shall have responsibility for the implementation and enforcement of the provisions of this act. In addition to other powers and duties, the department shall:

(1) Adopt by rule for the state a resource recovery and management program, as defined in s. 403.705, by July 1, 1976. In developing the state resource recovery and management program, the department shall hold public hearings around the state in accordance with chapter 120 and shall give notice of such public hearings to all local governments and regional planning agencies.

(2) Provide technical assistance to counties, municipalities, and other persons, and cooperate with appropriate federal agencies and private organizations in carrying out the provisions of this act.

(3) Promote the planning and application of recycling and resource recovery systems which preserve and enhance the quality of the air, water, and other natural resources of the state.

(4) Serve as the official state representative for all purposes of the Federal Solid Waste Disposal Act, as amended by Pub. L. No. 91-512, or as subsequently amended.

(5) Utilize private industry through contractual arrangements for implementation of some or all of the requirements of the state resource recovery and management program and for such other activities as may be considered necessary, desirable, or convenient.

(6) Encourage recycling and resource recovery as an energy source.

(7) Assist in and encourage, as much as possible, the development within the state of industries and commercial enterprises which are based upon resource recovery, recycling, and reuse of solid waste.

(8) Charge reasonable fees for any services it performs pursuant to this act, provided user fees shall apply uniformly within each municipality or county to all users who are provided with resource recovery and management services.

(9) Acquire, at its discretion, personal or real property or any interest therein by gift, lease, or purchase for the purpose of providing sites for resource recovery and management facilities.

(10) Acquire, construct, reconstruct, improve, maintain, equip, furnish, and operate, at its discretion, such resource recovery and management facilities as are called for by the state resource recovery and management program.

(11) Receive funds or revenues from the sale of

products, materials, fuels, or energy in any form derived from processing of solid waste by state-owned or state-operated facilities, which funds or revenues shall be deposited into the General Revenue Fund.

(12) Determine by rule the facilities, equipment, personnel, and number of monitoring wells to be provided at each Class I solid waste disposal area.

(13) Encourage, but not require, as part of a Class II solid waste disposal area, a potable water supply; an employee shelter; handwashing and toilet facilities; equipment washout facilities; electric service for operations and repairs; equipment shelter for maintenance and storage of parts, equipment, and tools; scales for weighing solid waste received at the disposal area; a trained equipment operator in full-time attendance during operating hours; and communication facilities for use in emergencies. The department may require an attendant at a Class II solid waste disposal area during the hours of operation if the department affirmatively demonstrates that such a requirement is necessary to prevent unlawful fires, unauthorized dumping, or littering of nearby property.

(14) Require a Class II solid waste disposal area to have at least one monitoring well which shall be placed adjacent to the site in the direction of ground water flow unless otherwise exempted by the department. The department may require additional monitoring wells not farther than 1 mile from the site if it is affirmatively demonstrated by the department that a significant change in the initial quality of the water has occurred in the downstream monitoring well which adversely affects the beneficial uses of the water. These wells may be public or private water supply wells if they are suitable for use in determining background water quality levels.

(15) Promulgate rules for solid waste disposal areas limited exclusively to yard trash, for solid waste disposal areas limited exclusively to construction and demolition debris, and for solid waste disposal areas limited exclusively to trash. Such rules shall take into account the reduced environmental threat caused by the segregated disposal of these solid wastes. Reduced requirements for engineering, location, covering, monitoring wells, or forced-draft burning may be allowed for such solid waste disposal areas, providing the requirements will not allow a threat to the public health or environment to exist and providing the requirements are consistent with all other state or local laws, ordinances, rules, regulations, or orders.

(16) Adopt, repeal, or amend rules to implement, administer, and enforce this act. Whenever the department adopts any rule stricter or more stringent than one which has been set by the United States Environmental Protection Agency, the procedures set forth in s. 403.804(2) shall be followed. The department shall not, however, adopt hazardous waste rules for solid waste for which special studies are required under the Resource Conservation and Recovery Act, as amended, until the studies are completed by the United States Environmental Protection Agency and the information is available to the department for consideration in adopting its own rule.

(17) Issue or modify permits on such conditions as are necessary to effect the intent and purposes of this act, and may deny or revoke permits.

(18) Research alternative, economically feasible, cost-effective, and environmentally safe landfill closure methods which serve to protect the health, safety, and welfare of the public and the environment; solicit public participation during the research process; create a three-member research oversight review committee comprised of industry, university, and legislative staff representatives; and submit a report on these alternatives to the Legislature by February 1, 1985. The department shall incorporate such cost-effective landfill closure methods in the appropriate department rule as alternative closure requirements.

(19) Authorize variances from solid waste closure rules adopted pursuant to this part, provided such variances are applied for and approved in accordance with s. 403.201 and will not result in significant threats to human health or the environment.

(20) Establish an account and deposit to the Hazardous Waste Management Trust Fund and control and administer moneys it may withdraw from the fund.

(21) Budget and receive appropriated funds and accept, receive, and administer grants or other funds or gifts from public or private agencies, including the state and the Federal Government, for the purpose of carrying out the provisions of this act.

(22) Delegate its powers, enter into contracts, or take such other actions as may be necessary to implement this act.

(23) Receive and administer funds appropriated for county hazardous waste management assessments.

(24) Provide technical assistance to local governments and regional agencies to ensure consistency between county hazardous waste management assessments; coordinate the development of such assessments with the assistance of the appropriate regional planning councils; and review and make recommendations to the Legislature relative to the sufficiency of the assessments to meet state hazardous waste management needs.

(25) Promote public awareness of hazardous waste issues and proper methods of management.

(26) Assist the hazardous waste storage, treatment, or disposal industry by providing to the industry any data produced on the types and quantities of hazardous waste generated.

(27) Institute a hazardous waste emergency response program which would include emergency telecommunication capabilities and coordination with appropriate agencies.

History.—s. 1, ch. 74-342; s. 1, ch. 75-54; s. 2, ch. 78-387; s. 5, ch. 80-302; ss. 21, 32, ch. 83-310; s. 31, ch. 84-338.

403.707 Permits.—

(1) No resource recovery and management facility or site may be operated, maintained, constructed, expanded, modified, or closed without an appropriate and currently valid permit issued by the department.

(2) Except as provided in s. 403.722(6), no permit under this section is required for the following activities provided no public nuisance or any condition adversely affecting the environment or public health is created and the activity does not violate other state or local laws, ordinances, rules, regulations, or orders:

(a) Disposal by persons of solid waste resulting from their own activities on their own property. However, the department may by rule require any such person to file a written notification to the depart-

ment of the type of solid waste being disposed of, the location of disposal, and methods of solid waste management being performed.

(b) Normal farming operations.

(c) Solid waste disposal areas limited solely to the disposal of construction and demolition debris.

(3) All applicable provisions of ss. 403.087 and 403.088, relating to permits and temporary operation permits, shall be construed to include the control of resource recovery and management facilities.

(4) When application for a permit for a Class I or Class II solid waste disposal area is made, it is the duty of the department to provide a copy of the application, within 7 days after filing, to the water management district having jurisdiction where the area is to be located. The water management district shall prepare a report as to the impact on water resources. This report shall be submitted to the department no later than 30 days prior to the deadline for final agency action by the department.

(5) The department may not issue a construction permit pursuant to this part for a new sanitary landfill within 3,000 feet of Class I surface waters.

(6) The department may issue a construction permit pursuant to this part only to a solid waste land disposal area, site, or facility which provides the conditions necessary to control the movement of wastes or waste constituents into surface or ground waters or the atmosphere. Such facility shall, if necessary:

(a) Use natural or artificial barriers which are capable of controlling lateral or vertical movement of wastes or waste constituents into surface or ground waters.

(b) Have a foundation or base which is capable of providing support for structures and waste deposits and capable of preventing foundation or base failure due to settlement, compression, or uplift.

(c) Provide for the most economically feasible, cost-effective, and environmentally safe control of leachate, gas, stormwater, and disease vectors and prevent the endangerment of public health and the environment.

Open fires shall not be allowed to be used as a means of disposal at such landfill.

History.—s. 1, ch. 74-342; s. 3, ch. 78-387; s. 14, ch. 82-101; s. 63, ch. 83-218; s. 33, ch. 83-310; s. 32, ch. 84-338.

403.7225 Local hazardous waste management assessments.—

(1) The Legislature recognizes that there is a need for estimating the amount, type, and sources of hazardous waste generated in the state. There is also a need for facilitating proper storage, transportation, volume reduction, treatment, resource recovery, and disposal of these wastes. Proper management of these wastes is imperative in order to protect the public health, safety, and welfare and the environment.

(2) The Department of Environmental Regulation shall establish guidelines for local hazardous waste management assessments and shall specify a standard format. The local hazardous waste management assessments shall include, but not be limited to, the identification of the following:

(a) All hazardous waste generators within the county, including small quantity generators as defined pursuant to federal regulations under 40 C.F.R. pt. 261.5.

(b) The types and quantities of hazardous waste generated within the county.

(c) Current hazardous waste management practices of generators within the county.

(d) Effective waste management practices for hazardous waste generators requiring offsite services, including the identification of types of facilities needed to serve the hazardous waste generators within the county.

(e) Abandoned dump sites within the county.

(f) Operating procedures at sanitary landfills within the county.

(3) Each regional planning council shall coordinate the local hazardous waste management assessments for counties within its region and submit them to the department, according to a department-prescribed format. Each county shall prepare a local hazardous waste management assessment based on guidelines established by the department. The regional planning councils and the counties shall negotiate the proportionate share of each county of the sum appropriated to the region for this purpose. In the event that a regional planning council and a county cannot agree on such share, the secretary of the department shall settle the dispute. The share of the county shall be determined pursuant to the criteria specified in s. 27(2) of chapter 83-310, Laws of Florida. Once the allocation is made available to them, the counties shall have 30 days to decide whether or not they want to perform their own assessments. If a county declines to perform the local hazardous waste management assessment or fails to respond within the 30-day period, the regional planning council shall perform the assessment.

(4) Each county shall designate areas within the county in which a hazardous waste storage facility may be located. Counties may jointly designate areas or sites by interlocal agreement. Public hearings shall be held to determine the area locations. Each county shall amend its comprehensive plan, if necessary, in order to designate areas for storage facilities. Preference shall be given to appropriate public lands and industrial areas as designated on local comprehensive plans. However, this section does not prohibit a county from amending its comprehensive plan to designate other areas for this purpose or prohibit construction of a facility on any other locally approved or state-approved site.

(5) No county may amend its comprehensive plan or undertake rezoning actions in order to prevent areas from being designated for a hazardous waste storage facility.

(6) The regional planning councils shall:

(a) Assist with county hazardous waste management assessments and area selection procedures;

(b) Coordinate and assemble local hazardous waste management assessments, which shall then constitute a regional hazardous waste management facility needs assessment, and area selections;

(c) Provide any technical expertise needed by the counties in developing the assessments;

(d) Promote local and regional public information programs for citizens and generators of hazardous waste;

(e) Review storage facility area selections for the

purpose of siting one or more regional storage facilities; and

(f) Select one or more regional storage facility sites.

(7) The selection of a regional storage facility site will not preclude the siting of a storage facility at some other site which is locally or state approved.

(8) Within 6 months after the completion of all local hazardous waste management assessments within a region, the regional planning council shall complete a regional hazardous waste management facility needs assessment utilizing procedures and guidelines developed by the department in order to ensure consistent development of these planning documents. Further, the regional planning council, in preparing the regional hazardous waste management facility needs assessment, shall utilize all data available from county hazardous waste management assessments. The regional planning council, according to a department-prescribed format, shall include in its regional hazardous waste management facility needs assessment the following:

(a) A summary of the quantities and types of hazardous waste generated within its jurisdiction.

(b) A summary of current hazardous waste management practices by generators in its jurisdiction.

(c) A profile of hazardous waste generators in its jurisdiction by industry, size, and county or city location.

(d) An assessment of the excess demand for offsite, commercial hazardous waste facilities and services.

(e) An assessment of the short-term need and the long-term need for hazardous waste management facilities in its jurisdiction.

(f) A plan to eliminate any excess demand for offsite hazardous waste management facilities or services with the local governments in its jurisdiction, with local governments in other jurisdictions, or with other regional planning councils.

(9) The department shall:

(a)1. Assemble the regional hazardous waste management facility needs assessments and determine if the needs of hazardous waste generators will be met by regional hazardous waste storage facilities or if additional storage, treatment, or disposal facilities are needed in the state and, if needed, which regions have the greatest need; and

2. Submit its determinations to the Legislature.

(b) Prepare a progress report on the development of each regional hazardous waste management facility needs assessment and submit such report to the Legislature no later than January 1 of the year in which such plan is due.

(10) The schedule for completion of county hazardous waste management plans by region is as follows:

(a) For counties within the geographic areas of the Tampa Bay Regional Planning Council, the South Florida Regional Planning Council, the Northeast Florida Regional Planning Council, and the East Central Florida Regional Planning Council and for Volusia County; by January 1, 1985.

(b) For counties within the geographic areas of the Treasure Coast Regional Planning Council, the Southwest Florida Regional Planning Council, the West Florida Regional Planning Council, and the Central Florida Regional Planning Council; by Jul 1, 1985.

(c) For counties within the geographic areas o the the Apalachee Regional Planning Council, th North Central Florida Regional Planning Counci and the Withlacoochee Regional Planning Counci and for Jefferson County; by July 1, 1986.

(11) The preparation of county hazardous wast management assessments, storage facility area selec tions, or regional storage facility site selections shal not prevent siting of storage or treatment facilities i any area of the state.

(12) Any county which undertakes and complete a hazardous waste management assessment and stor age facility area selection prior to the scheduled com pletion dates for counties in the region shall receive proportionate share of moneys available, determine pursuant to subsection (3), at the time it is appropri ated for such purpose.

(13) Water management districts shall provid technical assistance, relative to water resources, to lo cal and regional agencies during the selections of th local storage facility areas and regional transfer facil ity sites.

(14) The department and the regional plannin councils shall administer any funds appropriated fo the purpose of developing the local hazardous wast management assessments and storage facility area o site selections.

(15) Except as provided in this part, no local gov ernment law, ordinance, or rule pertaining to the sub ject of hazardous waste regulation may be more strin gent than department rules adopted under the au thority of this chapter.

(16) Local, regional, and state assessments shal be brought up to date at 5-year intervals, based the schedule for the initial local assessments.

History.—s. 25, ch. 83-310; s. 34, ch. 84-338.

403.7234 Small quantity generator n tion program.—

(1) Each county specified in s. 403.7225(1 (b), and (c) shall send by mail a letter to each sm quantity generator, as defined pursuant to federal regulations in 40 C.F.R. s. 261.5, on the January 1 preceding the date specified in such paragraphs for completion of its hazardous waste assessment; and the United States Postal Service certificate of mailing shall be retained as proof of mailing. In addition, within 14 days after a county completes its hazardous waste assessment, the county shall send such letter to each small quantity generator not notified on the preceding January 1. Thereafter, each county shall annually send such letter on July 1. The letter shall:

(a) Detail the legal responsibilities of the small quantity generator with regard to proper waste management practices, including penalties for noncompliance.

(b) Include a list of hazardous waste management alternatives which are available to the small quantity generator.

(2) Within 30 days of receipt of the letter, each small quantity generator identified in the county assessment shall disclose its management practices and the types and quantities of waste to the county government. Annually, each county shall verify the management practices of at least 20 percent of the small

quantity generators. The procedure for verification used by the county shall be developed by rule by the department within 6 months of July 1, 1983. The Department of Environmental Regulation may also verify management practices of small quantity generators in order to ensure proper management of hazardous waste.

(3) Any small quantity generator who does not comply with the requirements of subsection (2) and who has received two subsequent certified letters from the county is subject to a fine of between $25 and $100 per day for a maximum of 100 days.

History.—s. 29, ch. 83-310; s. 35, ch. 84-338.

403.726 Abatement of imminent hazard caused by hazardous substance.—

(1) The Legislature finds that hazardous waste which has been improperly generated, transported, disposed of, stored, or treated may pose an imminent hazard to the public health, safety, and welfare and the environment.

(2) The department shall take any action necessary pursuant to s. 403.121 or s. 403.131 to abate or substantially reduce any imminent hazard caused by a hazardous substance, including a spill into the environment of a hazardous substance. The department is authorized to use moneys from the Hazardous Waste Management Trust Fund or the Water Quality Assurance Trust Fund to finance such actions, and such expenditures from the fund shall be recoverable pursuant to s. 403.725(5) or s. 376.307.

(3) An imminent hazard exists if any hazardous substance creates an immediate and substantial danger to human health, safety, or welfare or to the environment. The department may institute action in its own name, using the procedures and remedies of s. 403.121 or s. 403.131, to abate an imminent hazard. However, the department is authorized to recover a civil penalty of not more than $25,000 for each day of continued violation. Whenever serious harm to human health, safety, and welfare; the environment; or private or public property may occur prior to completion of an administrative hearing or other formal proceeding which might be initiated to abate the risk of serious harm, the department may obtain, ex parte, an injunction without paying filing and service fees prior to the filing and service of process.

(4) The department may implement the provisions of chapter 386 and ss. 387.08 and 387.10 in its own name whenever a hazardous substance is being generated, transported, disposed of, stored, or treated in violation of those provisions of law.

(5) The department may issue a permit requiring prompt abatement of an imminent hazard.

(6) The department may remove or dispose of any hazardous substance which has become an imminent hazard, or take any other emergency action, when the owner or operator of a hazardous waste facility or a generator or transporter of a hazardous substance does not take appropriate action to abate or neutralize the hazard.

(7) Where a hazardous substance is discharged into waters of the state and abatement action is taken pursuant to this section, the department may require that the affected body of water be restored to meet, but not exceed, either the standards established by department rule for that particular body of water or ambient water quality prior to the discharge, whichever is higher. However, under no circumstances would the subject water have to be restored to a more pure state than ambient water quality prior to the discharge.

History.—s. 8, ch. 80-302; s. 38, ch. 84-338.

403.7264 Amnesty days for purging small quantities of hazardous wastes.—Amnesty days are authorized by the state for the purpose of purging small quantities of hazardous waste, free of charge, from the possession of homeowners, farmers, schools, state agencies, and small businesses. These entities have no appropriate economically feasible mechanism for disposing of their hazardous wastes at the present time. In order to raise public awareness on this issue, provide an educational process, accommodate those entities which have a need to dispose of small quantities of hazardous waste, and preserve the waters of the state, amnesty days shall be carried out in the following manner:

(1) The Department of Environmental Regulation shall administer and supervise amnesty days and shall contract with a department-approved, bonded waste handling company for implementation. The waste collected from the entities named in this section shall be transported out of the state for proper disposal at a federally approved facility.

(2) The department shall establish maximum amounts of hazardous waste to be accepted from any one entity during amnesty days. Amnesty days shall continue, at no cost to participants, until funds appropriated by the Legislature for this purpose have been exhausted.

(3) The state shall have 6 amnesty days. The schedule for these amnesty days is as follows:

(a) In counties specified in s. 403.7225(10)(a), amnesty days shall be held between May 1, 1984, and June 30, 1984, and between October 1, 1984, and November 30, 1984.

(b) In counties specified in s. 403.7225(10)(b), amnesty days shall be held between May 1, 1985, and June 30, 1985, and between October 1, 1985, and November 30, 1985.

(c) In counties specified in s. 403.7225(10)(c), amnesty days shall be held between May 1, 1986, and June 30, 1986, and between October 1, 1986, and November 30, 1986.

(4) Amnesty days shall be funded on a continuing basis, as needed, from the Water Quality Assurance Trust Fund. The department is authorized to use up to 5 percent of the funds appropriated for amnesty days for administrative costs and up to 5 percent of such funds for public education related to amnesty days.

History.—s. 34, ch. 83-310; s. 37, ch. 84-338.

403.727 Violations; defenses, penalties, and remedies.—

(1) It is unlawful for any hazardous waste generator, transporter, or facility owner or operator to:

(a) Fail to comply with the provisions of this act or departmental rules or orders;

(b) Operate without a valid permit;

(c) Fail to comply with a permit;

(d) Cause, authorize, create, suffer, or allow an imminent hazard to occur or continue;

(e) Knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to the provisions of this act;

(f) Fail to notify the department pursuant to s. 403.72(2); or

(g) Refuse lawful inspection.

(2) In addition to the "imminent hazard" provision, ss. 403.121 and 403.131 are available to the department to abate violations of this act.

(3) Violations of the provisions of this act are punishable as follows:

(a) Any person who violates the provisions of this act, the rules or orders of the department, or the conditions of a permit is liable to the state for any damages specified in s. 403.141 and for a civil penalty of not more than $50,000 for each day of continued violation, except as otherwise provided herein. The department may revoke any permit issued to the violator. In any action by the department against a small hazardous waste generator for the improper disposal of hazardous wastes, a rebuttable presumption of improper disposal shall be created if the generator was notified pursuant to s. 403.7234; the generator shall then have the burden of proving that the disposal was proper. If the generator was not so notified, the burden of proving improper disposal shall be placed upon the department.

(b) Any person who knowingly:

1. Transports any hazardous waste listed pursuant to this act to a facility which does not have a permit under s. 403.722;

2. Disposes of, treats, or stores hazardous waste at any place but a hazardous waste facility which has a current and valid permit pursuant to s. 403.722; or

3. Makes any false statement or representation in any hazardous waste application, label, manifest, record, report, permit, or other document required by this act

is, upon conviction, guilty of a felony of the third degree, punishable for the first such conviction by a fine of not more than $50,000 for each day of violation or imprisonment not to exceed 5 years, or both, and for any subsequent conviction by a fine of not more than $100,000 per day of violation or imprisonment of not more than 10 years, or both.

(4) In addition to any other liability under this chapter, and subject only to the defenses set forth in subsections (5), (6), and (7):

(a) The owner and operator of a facility;

(b) Any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substance was disposed of;

(c) Any person who, by contract, agreement, or otherwise, arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person or by any other party or entity at any facility owned or operated by another party or entity and containing such hazardous substances; and

(d) Any person who accepts or has accepted any hazardous substances for transport to disposal or treatment facilities or sites selected by such person,

is liable for all costs of removal or remedial action incurred by the department under this section and damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from the release or threatened release of a hazardous substance as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-510.

(5) The following defenses are available to a person alleged to be in violation of this act, who shall plead and prove that the alleged violation was solely the result of any of the following or combination of the following:

(a) An act of war.

(b) An act of government, either state, federal, or local, unless the person claiming the defense is a governmental body, in which case this defense is available only by acts of other governmental bodies.

(c) An act of God, which means only an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency.

(d) An act or omission of a third party other than an employee or agent of the defendant or other than one whose act or omission occurs in connection with a contractual relationship existing, directly or indirectly, with the defendant, except when the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail, if the defendant establishes by a preponderance of the evidence that:

1. The defendant exercised due care with respect to the hazardous waste concerned, taking into consideration the characteristics of such hazardous waste, in light of all relevant facts and circumstances; and

2. The defendant took precautions against foreseeable acts or omissions of any such third party and against the consequences that could foreseeably result from such acts or omissions.

(6) A generator or transporter of hazardous wastes who has complied with this act and with the applicable rules promulgated under this act and who has contracted for the disposal of hazardous wastes with a licensed hazardous waste disposal or processing facility is relieved from liability for those wastes upon receipt of a certificate of disposal from the disposal or processing facility.

(7) A generator of hazardous waste who has complied with this act and with the applicable rules under this act and who has contracted for the transportation of hazardous waste to a licensed hazardous waste facility is relieved of liability to the extent that such liability is covered by the insurance or bond of the transporter obtained pursuant to this act.

History.—s. 8, ch. 80-302; s. 10, ch. 82-27; s. 35, ch. 83-310; s. 38, ch. 84-338.

403.74 Management of hazardous materials by governmental agencies.—

(1) For the purposes of this section, "hazardous materials" are those substances which are:

(a) Listed as constituents of waste streams F001, F002, F003, F004, and F005 in 40 C.F.R. s. 261.31, or

(b) Listed in 40 C.F.R. s. 261.33, including those substances which are "pesticides" as defined by s. 487.021(45).

(2) Every local, state, or other governmental

agency and every institution of the State University System that disposes of hazardous materials shall:

(a) Notify the Department of Environmental Regulation of the type and approximate annual quantity of each hazardous material that is generated.

(b) Notify the department of the management practices used for disposal of its hazardous materials.

(3) Each such agency shall develop written plans for the management of the disposal of hazardous material.

(4) Each such agency shall develop plans for spill prevention control and countermeasures for hazardous materials incidents.

(5) Hazardous materials which are used by governmental agencies in annual quantities of less than 1 kilogram, except for those hazardous materials which are listed because of reactivity, are exempt from this section.

History.—s. 36, ch. 83-310; s. 39, ch. 84-338.

[1]Note.—Reference to s. 487.021(45) was substituted by the editors for reference to s. 487.021(41); subsection 487.021(41) was redesignated as subsection 487.021(45) pursuant to s. 15, ch. 84-338.

Note.—Former s. 501.118.

403.75 Definitions relating to used oil.—As used in ss. 403.75-403.759 and s. 526.01, as amended by chapter 84-338, Laws of Florida, the term:

(1) "Department" means the Department of Environmental Regulation.

(2) "Person" means any individual, private or public corporation, partnership, cooperative, association, estate, political subdivision, or governmental agency or instrumentality.

(3) "Reclaiming" means the use of cleaning methods on used oil primarily to remove insoluble contaminants, making the oil suitable for further use; the methods may include settling, heating, dehydration, filtration, or centrifuging.

(4) "Recycling" means to prepare used oil for reuse as a petroleum product by rerefining, reclaiming, or other means or to use used oil in a manner that substitutes for a petroleum product made from new oil.

(5) "Rerefining" means the use of refining processes on used oil to produce high-quality base stocks for lubricants or other petroleum products. Rerefining may include distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay, or other chemicals.

(6) "Used oil" means any oil which has been refined from crude oil and, as a result of use, storage, or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and is economically recyclable.

History.—s. 37, ch. 84-338.

403.751 Prohibited actions; authorized uses of used oil.—

(1)(a) No person may collect, transport, store, recycle, use, or dispose of used oil in any manner which endangers the public health or welfare.

(b) No person may discharge used oil into sewers, drainage systems, surface or ground waters, watercourses, or marine waters.

(2) Nothing in ss. 403.75-403.759 or in s. 526.01, as amended by chapter 84-338, Laws of Florida, prohibits the use of used oil for road maintenance purposes, as a fuel, for weed abatement on the user's property, or for agricultural dust control, unless such use violates another law or rule or endangers public health. However, used oil shall not be used for road oiling, dust control, and weed abatement in areas where sole-source aquifers have been designated.

History.—s. 38, ch. 84-338.

403.753 Public educational program about collection and recycling of used oil.—The department shall conduct a public education program to inform the public of the needs for and benefits of collecting and recycling used oil and shall:

(1) Encourage persons who annually sell at retail, in containers for use off the premises, more than 500 gallons of oil to provide the purchasers with information on the locations of collection facilities and information on proper disposal practices.

(2) Establish, maintain, and publicize a used oil information center that disperses materials or information explaining local, state, and federal laws and rules governing used oil and informing the public of places and methods for proper disposal of used oil.

(3) Encourage the voluntary establishment of used oil collection and recycling programs and provide technical assistance to persons who organize such programs.

(4) Encourage the procurement of rerefined automotive and industrial oils for all state and local uses, whenever such rerefined oils are available at prices that are competitive with those of new oil produced for the same purpose.

History.—s. 39, ch. 84-338.

403.754 Registration of persons transporting, collecting, or recycling used oil; fees; reports and records.—

(1) Beginning July 1, 1985, the following persons shall register annually with the department pursuant to rules of the department on forms prescribed by it:

(a) Any person who transports over public highways more than 500 gallons of used oil annually.

(b) Any person who maintains a collection facility that receives more than 6,000 gallons of used oil annually.

(c) Any facility that recycles more than 10,000 gallons of used oil annually.

(2) An electric utility the operations of which generate used oil and which used oil is then reclaimed, recycled, or rerefined by the electric utility for use in its operations is not required to register or report pursuant to this section.

(3) The department may prescribe a fee for the registration required by this section in an amount which is sufficient to cover the cost of processing applications but which does not exceed $25.

(4) The department shall require each registered person to submit, no later than July 1 of each year, a report which specifies the type and quantity of used oil transported, collected, and recycled during the preceding calendar year, commencing in calendar year 1985.

(5) Each registered person who transports or recycles used oil shall maintain records which identify:

(a) The source of the materials transported or recycled;

(b) The quantity of materials received;

(c) The date of receipt; and

(d) The destination or end use of the materials.

(6) The department shall perform technical studies to sample used oil at facilities of representative used oil transporters and at representative recycling facilities to determine the incidence of contamination of used oil with hazardous, toxic, or other harmful substances.

History.—s. 40, ch. 84-338.

403.756 Report to Legislature concerning oil recycling.—The department shall submit an annual report to the Legislature which summarizes information on used oil collection and recycling, analyzes the effectiveness of this act, and makes recommendations for any necessary changes.

History.—s. 41, ch. 84-338.

403.757 Coordination with other state agencies.—The department shall coordinate its activities and functions under ss. 403.75-403.759 and s. 526.01, as amended by chapter 84-338, Laws of Florida, with the Governor's Energy Office and other state agencies to avoid duplication in reporting and information gathering.

History.—s. 42, ch. 84-338.

403.758 Enforcement and penalty.—

(1) Except as provided in subsection (2), the department may enforce ss. 403.75-403.759 and s. 526.01, as amended by chapter 84-338, Laws of Florida, pursuant to ss. 403.121 and 403.131.

(2) Any person who fails to register with the department as required by s. 403.754 and s. 526.01, as amended by chapter 84-338, Laws of Florida, is subject to a fine of $300.

History.—s. 43, ch. 84-338.

403.759 Disposition of fees, fines, and penalties.—The proceeds from the registration fees, fines, and penalties imposed by ss. 403.75-403.759 and s. 526.01, as amended by chapter 84-338, Laws of Florida, shall be deposited into the Department of Environmental Regulation Trust Fund for use by the department in implementing the provisions of ss. 403.75-403.759 and s. 526.01, as amended by chapter 84-338, Laws of Florida.

History.—s. 44, ch. 84-338.

PART V

ENVIRONMENTAL REGULATION

403.803 Definitions.
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403.8163 Sites for disposal of spoil from maintenance dredge operations; selection.
403.8171 Ratification of Rule 17-4.022, Florida Administrative Code, with additions and deletions to the vegetation and soil indices and with limitations on the determination of landward extent of waters.

403.803 Definitions.—When used in this act, the term, phrase, or word:

(1) "Branch office" means a geographical area, the boundaries of which may be established as a part of a district.

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

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

(4) "Commission" means the Environmental Regulation Commission.

(5) "Department" means the Department of Environmental Regulation.

(6) "District" or "environmental district" means one of the geographical areas, the boundaries of which are established pursuant to this act.

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

(8) "Environmental district center" means the facilities and personnel which are centralized in each district for the purposes of carrying out the provisions of this act.

(9) "Headquarters" means the physical location of the offices of the secretary and the division directors of the department.

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

(11) "Manager" means the head of an environmental district or branch office who shall supervise all environmental functions of the department within such environmental district or branch office.

(12) "Secretary" means the secretary of the Department of Environmental Regulation.

(13) "Standard" means any rule of the Department of Environmental Regulation relating to air and water quality, noise, and solid-waste management. The term "standard" does not include rules of the department which relate exclusively to the internal management of the department, the procedural processing of applications, the administration of rulemaking or adjudicatory proceedings, the publication of notices, the conduct of hearings, or other procedural matters.

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

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

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

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

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

History.—s. 3, ch. 73-22; s. 62, ch. 83-310; s. 40, ch. 84-338.

403.804 Environmental Regulation Commission; powers and duties.—

(1)(a) The commission shall exercise the exclusive standard-setting authority of the department, except as provided in subsection (2) and ss. 120.54(9) and 373.114. The commission may adopt procedural rules governing the conduct of its meetings and hearings.

(b) The amendment to this subsection by s. 4, chapter 80-66, Laws of Florida, shall not affect any appeals pending before the commission or any procedural rules previously adopted by the Secretary of the Department of Environmental Regulation.

(2) The commission shall direct the department to have a study conducted of the economic and environmental impact which sets forth the benefits and costs to the public of any proposed standard that would be stricter or more stringent than one which has been set by federal agencies pursuant to federal law or regulation. The commission shall also direct the department to prepare such a study on any standard existing on July 1, 1975, which sets a stricter or more stringent standard than one which has been set by federal agencies pursuant to federal law or regulation. All such studies shall be submitted to the Governor and Cabinet no later than March 1, 1976. Such studies as are provided for in this paragraph shall be submitted to the commission, which shall initially adopt the standards. Final action shall be by the Governor and Cabinet, who shall accept, reject, modify, or remand for further proceedings the standard within 60 days from the submission. Such review shall be appellate in nature. Hearings shall be in accordance with the provisions of chapter 120.

(3) The commission shall establish priorities and have final state approval on applications for, and disbursements of, federal and state grants for the construction of wastewater or water treatment works. In establishing priorities for state grants under this act, an application shall not receive a lower priority solely because the proposed project includes reserve capacity for which the incremental costs will be paid by the applicant in accordance with s. 403.1826(6).

History.—s. 6, ch. 75-22; ss. 4, 5, ch. 80-66; s. 54, ch. 83-310; s. 41, ch. 84-338.
cf.—s. 403.805 Department adoption of federal standards.

403.809 Environmental districts; establishment; managers; functions.—

(1) The secretary shall establish environmental districts. The boundaries of the environmental districts shall coincide with the boundaries of the water management districts, and a water management district may be divided into more than one environmental district. The secretary has the authority to adjust the environmental district boundaries upon a determination that exceptional circumstances require such adjustment in order to more properly serve the needs of the public or the environment. The secretary may establish branch offices for the purpose of making services more accessible to the citizens of each district. In the Suwannee River Water Management District, a branch office may serve as the environmental district center. By July 1, 1984, the department shall collocate part of its permitting operations with each of the central offices of the water management districts, and the water management districts shall collocate part of their permitting operations with each of the district offices of the department.

(2) There shall be a manager for each environmental district who shall be appointed by, and serve at the pleasure of, the secretary. The district manager shall maintain his office in the environmental district center, which shall be collocated with an office of a water management district. Each branch office shall have a branch office manager. The water management districts are encouraged to collocate part of their permitting operations with the branch offices of the department to the maximum extent practicable.

(3)(a) Under the supervision of the Division of Environmental Permitting, all field services and inspections required in support of the decisions of the department relating to the issuance of permits, licenses, certificates, or exemptions shall be accomplished at the environmental district center level to the maximum extent practicable.

(b) The processing of all applications for permits, licenses, certificates, and exemptions shall be accomplished at the district center or the branch office, except for those applications specifically assigned to the Division of Environmental Permitting or to the water management districts under s. 403.812 and those applications assigned by interagency agreement as provided in this act. However, the secretary, as head of the department, may not delegate to district or subdistrict managers, water management districts, or any unit of local government the authority to act on the following types of permit applications:

1. Certification of National Pollution Discharge Elimination System permits pursuant to Pub. L. No. 92-500, s. 401.
2. Construction of major air pollution sources.
3. Certifications under the Florida Electrical Power Plant Siting Act or the Transmission Line Siting Act.

History.—ss. 4, 6, ch. 75-22; s. 67, ch. 83-310; s. 42, ch. 84-338.
cf.—ss. 403.501-403.517 Florida Electrical Power Plant Siting Act
ss. 403.52-403.536 Transmission Line Siting Act.

403.812 Delegation of functions to water management districts.—

(1) The department may delegate, to those water management districts that it finds to be financially and technically capable of implementing the delegation, its powers and duties pertaining to the administration of its "Regulation of Stormwater Rule." When the stormwater rule is delegated to a water management district, the department shall not require a permit for dredge and fill activities that are required for the connection of stormwater management facilities to waters and that are incidental to the construction of such facilities. For the purposes of dredge and fill regulation, waters do not include those contained within artificially constructed stormwater treatment and conveyance systems that are designed solely for the purpose of stormwater treatment and that are

regulated by the department or a water management district to which the responsibility for stormwater regulation has been delegated.

(2) In addition to any function delegated under subsection (1), when the secretary determines that a water management district has the financial and technical capability to carry out water quality and other functions of the department, those powers, duties, and functions, or parts thereof, may be contracted or delegated to such water management district. Any powers, duties, and functions so delegated shall be carried out in accordance with the rules, regulations, and standards of the department. Nothing contained in this act shall be construed to adversely affect or divest any water management district of the power to levy ad valorem taxes.

(3) A delegation pursuant to this section may be rescinded only if the secretary determines that such delegation is not being carried out in accordance with the rules of the department.

History.—s. 6, ch. 75-22; s. 68, ch. 83-310; s. 6, ch. 84-79.

403.813 Permits issued at district centers; exceptions.—

(1) The secretary is authorized to adopt procedural rules providing for a short-form application for, and issuance at the district center of, permits for certain activities. These activities shall include the following and any others established by rule:

(a) Projects not exceeding 10,000 cubic yards of material placed in or removed from the navigable waters of the state;

(b) Dockage or marina facilities not exceeding 30,000 square feet of submerged lands;

(c) New seawalls or similar structures not exceeding 500 linear feet of shoreline;

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

(e) The installation of subaqueous transmission and distribution lines laid on, or embedded in, the bottoms of waters of the state carrying water, electricity, communication cables, oil, and gas, except as exempted by paragraph (m) or paragraph (n) of subsection (2); and

(f) The performance, for 10 years from the issuance of the original permit, of maintenance dredging of permitted navigation channels, port harbors, turning basins, and harbor berths. The Trustees of the Internal Improvement Trust Fund may fix and recover from the permittee an amount equal to the difference between the fair market value and the actual cost of the maintenance dredging for material removed during such maintenance dredging. However, no charge shall be exacted by the state for material removed during such maintenance dredging by a public port authority. The removing party may subsequently sell such material. However, proceeds from such sale that exceed the costs of maintenance dredging shall be remitted to the state and deposited in the Internal Improvement Trust Fund.

(2) No permit under this chapter, chapter 373, or chapter 253, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, Laws of Florida, 1949, shall be required for activities associated with the following types of projects; however, nothing in this subsection relieves an applicant from any requirement to obtain permission to use or occupy lands owned by any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

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

(b) The installation and repair of mooring pilings and dolphins associated with private docking facilities and the installation of private docks, any of which docks:

1. Has 500 square feet or less of over-water surface area, or 1,000 square feet or less of over-water surface area for a dock which is not located in an area designated as Outstanding Florida Waters and which is used for recreational, noncommercial activities;
2. Is constructed on pilings so as not to involve filling or dredging other than that necessary to install the pilings; and
3. Shall not substantially impede the flow of water or create a navigational hazard.

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

(d) The replacement or repair of existing docks, except that no fill material is to be used and provided that the replacement or repaired dock is in the same location and of the same configuration and dimensions as the dock being replaced or repaired.

(e) The restoration of seawalls at their previous locations or upland of, or within 1 foot waterward of, their previous locations.

(f) The performance of maintenance dredging of existing manmade canals, channels, and intake and discharge structures where the spoil material is to be removed and deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material into the waters of the state, provided that no more dredging is to be performed than is necessary to restore the canals, channels, and intake and discharge structures to original design specifications and provided that control devices are utilized to prevent turbidity and prevent toxic or deleterious substances from discharging into adjacent waters during maintenance dredging. This exemption applies to all canals constructed prior to April 3, 1970, and to those canals constructed on or after April 3, 1970, pursuant to all necessary state permits. This exemption does not apply to the removal of a natural or manmade barrier separating a canal or canal system from adjacent waters. When no previous permit has been issued by the Board of Trustees of the Internal Improvement Trust Fund or the United [illegible] Army Corps of En-

gineers for construction or maintenance dredging of the existing manmade canal or intake or discharge structure, such maintenance dredging shall be limited to a depth of no more than 5 feet below mean low water. The Trustees of the Internal Improvement Trust Fund may fix and recover from the permittee an amount equal to the difference between the fair market value and the actual cost of the maintenance dredging for material removed during such maintenance dredging. However, no charge shall be exacted by the state for material removed during such maintenance dredging by a public port authority. The removing party may subsequently sell such material; however, proceeds from such sale that exceed the costs of maintenance dredging shall be remitted to the state and deposited in the Internal Improvement Trust Fund.

(g) The maintenance of existing insect control structures, dikes, and irrigation and drainage ditches, provided that spoil material is deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material into waters of the state. In the case of insect control structures, if the cost of using a self-contained upland spoil site is so excessive, as determined by the Department of Health and Rehabilitative Services, pursuant to s. 403.088(1), that it will inhibit proposed insect control, then existing spoil sites or dikes may be used, upon notification to the department. In the case of insect control where upland spoil sites are not used pursuant to this exemption, turbidity control devices shall be used to confine the spoil material discharge to that area previously disturbed when the receiving body of water is used as a potable water supply, is designated as shellfish harvesting waters, or functions as a habitat for commercially or recreationally important shellfish or finfish. In all cases, no more dredging is to be performed than is necessary to restore the dike or irrigation or drainage ditch to its original design specifications.

(h) The repair of existing pipes for the purpose of discharging storm water runoff.

(i) The construction of private docks and seawalls in artificially created waterways where such construction will not violate existing water quality standards, impede navigation, or affect flood control.

(j) The construction and maintenance of swales.

(k) The installation of aids to navigation and buoys associated with such aids, provided the devices are marked pursuant to s. 327.40.

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

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

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

(o) The construction of private seawalls in waters of the state where such construction is between and adjoins at both ends existing seawalls, follows a continuous and uniform seawall construction line with the existing seawalls, is no more than 150 feet in length, and does not violate existing water quality standards, impede navigation, or affect flood control. However, this shall not affect the permitting requirements of chapter 161.

(p) The restoration of existing insect control impoundment dikes which are less than 100 feet in length. Such impoundments shall be connected to tidally influenced waters for 6 months each year beginning September 1 and ending February 28 if feasible or operated in accordance with an impoundment management plan approved by the department. A dike restoration may involve no more dredging than is necessary to restore the dike to its original design specifications. For the purposes of this paragraph, restoration does not include maintenance of impoundment dikes of operating insect control impoundments.

(3) The provisions of subsection (2) are superseded by general permits established pursuant to s. 403.814 which include the same activities. Until such time as general permits are established, or should general permits be suspended or repealed, the exemptions under subsection (2) shall remain or shall be reestablished in full force and effect.

History.—s. 7, ch. 75-22; s. 143, ch. 77-104; s. 4, ch. 78-98; s. 1, ch. 78-146; s. 56, ch. 79-65; s. 1, ch. 80-44; s. 5, ch. 80-66; s. 2, ch. 82-80; s. 6, ch. 82-165; s. 65, ch. 83-218; s. 69, ch. 83-310; s. 43, ch. 84-338.

403.814 General permits; delegation.—

(1) The secretary is authorized to adopt rules establishing and providing for a program of general permits under chapters 253 and 403 for projects, or categories of projects, which have, either singly or cumulatively, a minimal adverse environmental effect. Such rules shall specify design or performance criteria which, if applied, would result in compliance with appropriate standards adopted by the commission. Except as provided for in subsection (2), any person complying with the requirements of a general permit may use the permit 30 days after giving notice to the department without any agency action by the department.

(2) The department may publish or by rule require the applicant to publish, or the applicant may elect to publish, in a newspaper of general circulation in the area affected, notice of application for a general permit. If published, such public notice of application shall be published within 14 days after the applicant notifies the department; and, within 21 days after publication of notice, any person whose substantial interests are affected may request a hearing in accordance with s. 120.57. The failure to request a hearing within 21 days after publication of notice constitutes a waiver of any right to a hearing under s. 120.57. If notice is published, no person shall begin work pursuant to a general permit until after the time for requesting a hearing has passed or until after a hearing is held and a decision is rendered.

(3) The department is authorized to delegate any

of its general permit authority to the district offices of the department or to water management districts.

(4) Notwithstanding the procedures set forth in subsections (1) and (2), the department may specify by rule alternative notice procedures for certain activities which are of a routine and repetitive nature and which are an integral part of agricultural activities or silvicultural activities or are activities of another state agency.

History.—s. 9, ch. 80-66; s. 12, ch. 82-27; s. 7, ch. 84-79.

403.815 Public notice; waiver of hearings.—The department may publish or by rule require the applicant to publish, or the applicant may elect to publish, in a newspaper of general circulation in the area affected, notice of application for a permit submitted under this chapter or chapter 253. The notice of application shall be published within 14 days after the application is filed with the department. Notwithstanding any provision of s. 120.60, the department may publish or by rule require the applicant to publish, or the applicant may elect to publish, in a newspaper of general circulation in the area affected, notice of proposed agency action on any permit application submitted under this chapter or chapter 253. The department shall require the applicant for [1]a permit to construct or expand a solid waste facility to publish such notice. The notice of proposed agency action shall be published at least 14 days prior to final agency action. The 90-day time period specified in s. 120.60(2) shall be tolled by the request of the department for publication of notice of proposed agency action and shall resume 14 days after receipt by the department of proof of publication. However, if a petition is filed for a proceeding pursuant to s. 120.57, the time periods and tolling provisions of s. 120.60 shall apply. The cost of publication of notice under this section shall be paid by the applicant. The secretary may, by rule, specify the format and size of such notice. Within 14 days after publication of notice of proposed agency action, any person whose substantial interests are affected may request a hearing in accordance with s. 120.57. The failure to request a hearing within 14 days after publication of notice of proposed agency action constitutes a waiver of any right to a hearing on the application under s. 120.57.

History.—s. 10, ch. 80-66; s. 13, ch. 82-27; s. 44, ch. 84-338.

[1]Note.—The words "a permit to" were substituted by the editors for the word "the."

403.816 Permits for maintenance dredging of deepwater ports.—

(1) The department shall establish a permit system under this chapter and chapter 253 which provides for the performance, for up to 25 years from the issuance of the original permit, of maintenance dredging of permitted navigation channels, port harbors, turning basins, and harbor berths. No charge shall be exacted by the state for material removed during such maintenance dredging by a public port authority except as provided in s. 403.813(1)(f).

(2) Disposal of spoil material resulting from maintenance dredging of deepwater navigation channels, port harbors, turning basins, or harbor berths shall be exempt from the requirements of s. 253.124 when spoil material is to be removed and deposited:

(a) On a self-contained, upland spoil site w will prevent the escape of the spoil material into waters of the state;

(b) In a spoil disposal area permitted unde 403.061(24), 403.087, and [1]253.124; or

(c) In a federally authorized ocean disposal beyond the territorial limits of the state.

(3) The provisions of s. 253.77 do not apply permit for maintenance dredging and spoil site proval when there is no change in the size or loca of the spoil disposal site and when the applicant vides documentation to the department that the propriate lease, easement, or consent of use for project site issued pursuant to chapter 253 is orded in the county where the project is located.

(4) The provisions of this section apply onl the port waters, spoil disposal sites, port hart navigation channels, turning basins, and har berths used for deepwater commercial navigatio the ports of Jacksonville, Tampa, Port Evergla Miami, Port Canaveral, Ft. Pierce, Palm Beach, Manatee, Port St. Joe, Panama City, St. Petersb and Pensacola.

History.—s. 3, ch. 81-228; s. 8, ch. 84-79.

[1]Note.—Section 253.124 was repealed by s. 15, ch. 84-79.

403.8163 Sites for disposal of spoil fr maintenance dredge operations; selection.— the intent of the Legislature that lands created spoil or used as dredge spoil sites be given prio consideration as sites for disposal of spoil in mai nance dredge operations.

History.—s. 48, ch. 84-338.

403.8171 Ratification of Rule 17-4.022, F ida Administrative Code, with additions an letions to the vegetation and soil indice with limitations on the determination of ward extent of waters.—Pursuant to s. 403. the Legislature ratifies the rule adopted on Janu 25, 1984, by the Environmental Regulation Comm sion with the following changes:

(1)(a) In Rule 17-4.022(2), Florida Administ tive Code, the following shall be removed: *Blechn serrulatum*; *Carex leptalea*; *Carex stipata*; *Ca aquatica*; *Conocarpus erectus*; *Crataegus viridis*; *modocea filiformis*; *Cyperus odoratus*; *Dichrom spp.*; *Dryopteris ludoviciana*; *Gleditsia aquati Gratiola ramosa*; *Halodule beaudettei*; *Hyperic fasciculatum*; *Illicium floridanum*; *Liriodend tulipifera* in all counties south of Taylor, Lafaye Suwannee, Columbia, Baker, and Duval; *Lycopus bellus*; *Myrica inodora*; *Osmunda spp.*; *Panicum pens*; *Panicum virgatum*; *Pluchea spp.*; *Polygala mosa*; *Populus deltoides*; *Rhexia*, all species exc *R. alifanus*, *R. lutea*, *R. mariana*, *R. petiolata*, anc *virginica*; *Sabatia bartramii*; *Sarracenia spp.*; S *izachyrium rhizomatum*; *Sesuvium maritimum*; *suvium portulacastrum*; *Spartina spp.*; *Thala testudinum*; and *Woodwardia spp.*

(b) In Rule 17-4.022(2), Florida Administrat Code, the following shall be added: *Muhlenber capillaris*; *Muhlenbergia schreberi*; *Osmunda rege Rhexia parviflora*; *Rhexia salicifolia*; and *Sparti* all species except *S. bakerii*.

(2)(a) In Rule 17-4.022(3), Florida Administ tive Code, the following shall be removed: *Acer sp*

Baccharis halimifolia; *Carya glabra* in all counties west of Dixie, Gilchrist, and Columbia; *Cliftonia monophylla*; *Cyrilla racemiflora*; *Liriodendron tulipifera* in all counties north and west of and including Taylor, Lafayette, Suwannee, Columbia, Baker, and Duval; *Melaleuca quinquenervia*; *Muhlenbergia spp.*; *Rhexia alifanus*; *Rhexia lutea*; *Rhexia mariana*; *Rhexia petiolata*; *Rhexia virginica*; *Sabal palmetto*; *Schinus terebinthifolius*; and *Ulmus spp.*

(b) In Rule 17-4.022(3), Florida Administrative Code, the following shall be added: *Acer rubrum*; *Acer saccharinum*; *Acer negundo*; *Blechnum serrulatum*; *Carex leptalea*; *Carex stipata*; *Carya aquatica*; *Conocarpus erectus*; *Crataegus viridis*; *Cyperus odoratus*; *Dichromena spp.*; *Dryopteris ludoviciana*; *Gleditsia aquatica*; *Gratiola ramosa*; *Hypericum fasciculatum*; *Illicium floridanum*; *Liriodendron tulipifera*; *Lycopus rubellus*; *Myrica inodora*; *Osmunda cinnamomea*; *Panicum repens*; *Panicum virgatum*; *Pluchea spp.*; *Polygala cymosa*; *Populus deltoides*; *Rhexia*, all species except *R. parviflora* and *R. salicifolia*; *Sabatia bartramii*; *Sarracenia spp.*; *Schizachyrium rhizomatum*; *Sesuvium maritimum*; *Sesuvium portulacastrum*; *Spartina bakerii*; *Ulmus*, all species except *U. rubra*; and *Woodwardia spp.*

(3) In Rule 17-4.022(1)(d), Florida Administrative Code, the following sentences shall be added: "If both parties agree to use more than one stratum, the following methods for a combination of strata shall be used in a manner to ensure that sufficient representative data will be generated. The methods described in subparagraphs (c)1., 2., and 3. shall be used for the appropriate strata. The percentages obtained shall be added and the sum divided by the number of strata examined. The number generated by this procedure shall be substituted for areal extent in paragraph (a) or paragraph (b) above. When a combination of strata is used, the following shall be added to Rule 17-4.022(2), Florida Administrative Code: *Blechnum serrulatum*, *Carex leptalea*, *Carex stipata*, *Crataegus viridis*, *Osmunda spp.*, *Pluchea spp.*, and *Woodwardia spp.* Concurrently the following shall be added to Rule 17-4.022(3), Florida Administrative Code: *Axonopus furcatus*, *Flaveria spp.*, *Metopium toxiferum*, *Myrica cerifera*, *Sabal minor*, and *Sympoleos tinctoria*."

(4) *Cliftonia monophylla*, *Cyrilla racemiflora*, *Melaleuca quinquenervia*, *Sabal palmetto*, and *Schinus terebinthifolius* shall not be considered submerged, transitional, or upland species. In areas vegetated by any of these five species, the department shall determine the landward extent of waters using the remaining plant species or other indicators of regular and periodic inundation as provided in Rule 17-4.022(1), Florida Administrative Code.

(5) In all areas of the state, the landward extent of waters shall be demarcated by Rule 17-4.022, Florida Administrative Code; however, in no case shall the landward extent of such waters extend above the elevation of the 1-in-10-year recurring flood event or the area of land with standing or flowing water for more than 30 consecutive days per year calculated on an average annual basis, whichever is more landward. The extent of the flood line shall be developed by appropriate engineering techniques, and a description of the surveyed line shall be prepared and certified by a professional land surveyor registered in this state. The burden for determining the surveyed flood line shall be with the party wishing to use this alternative. Notwithstanding the above, for waters which are saline or brackish, or for rivers the major sources of flow of which are from springs, the landward extent of waters shall be demarcated solely by Rule 17-4.022, Florida Administrative Code. The provisions of this subsection shall not operate to reduce the landward extent of the jurisdiction of the department as such jurisdiction existed prior to January 24, 1984.

History.—s. 9, ch. 84-79.

PART VI

DRINKING WATER

403.853 Drinking water standards.
403.8635 State drinking water sample laboratory certification program.

403.853 Drinking water standards.—

(1) The department shall adopt and enforce:

(a)1. State primary drinking water regulations that shall be no less stringent at any given time than the complete interim or revised national primary drinking water regulations in effect at such time; and

2. State secondary drinking water regulations patterned after the national secondary drinking water regulations.

(b) Primary and secondary drinking water regulations for noncommunity water systems, which shall be no more stringent than the corresponding national primary or secondary drinking water regulations in effect at such time.

(2) Subject to the exceptions authorized pursuant to s. 403.854, state primary drinking water regulations apply to each public water system in the state, except that such regulations do not apply to any public water system which meets all of the following criteria; namely, that the system:

(a) Consists of distribution and storage facilities only and does not have any collection or treatment facilities;

(b) Obtains all of its water from, but is not owned or operated by, a public water system to which such regulations apply;

(c) Does not sell water to any person; and

(d) Is not a carrier which conveys passengers in interstate commerce.

(3) The department shall adopt and implement adequate rules specifying procedures for the enforcement of state primary and secondary drinking water regulations, including monitoring and inspection procedures, that comply with regulations established by the administrator pursuant to the federal act.

(4) The department shall keep such records and make such reports, with respect to its activities under subsections (1) and (3), as may be required by regulations established by the administrator pursuant to the federal act. Such records and reports shall be available for public inspection.

(5) No state primary drinking water regulation may require the addition of any substance for preventive health care purposes unrelated to the contamination of drinking water.

(6) Upon the request of the owner or operator of a noncommunity water system serving businesses, other than restaurants or other public food service establishments, and using ground water as a source of supply, the department, or a local county health unit designated by the department, shall perform a sanitary survey of the facility. Upon receipt of satisfactory survey results according to department criteria, the department shall reduce the requirements of such owner or operator from monitoring and reporting on a quarterly basis to performing these functions on an annual basis. Any revised monitoring and reporting schedule approved by the department under this subsection shall apply until such time as a violation of applicable state or federal primary drinking water standards is determined by the system owner or operator, by the department, or by an agency designated by the department, after a random or routine sanitary survey. Certified operators are not required for noncommunity water systems of the type and size covered by this subsection. Any reports required of such system shall be limited to the minimum as required by federal law. When not contrary to the provisions of federal law, the department may, upon request and by rule, waive additional provisions of state drinking water regulations for such systems.

(7) Unless otherwise required by federal act, the department may require testing of public water supply systems only for those contaminants for which maximum contaminant levels have been set by the administrator or the department or for which the United States Environmental Protection Agency or the department has established a correlation between pollutant concentration and human health effects. Testing for contaminants for which these correlations have been established shall be required for community water supply systems every 3 years, except when concentration levels or unusual conditions warrant more frequent monitoring.

History.—s. 4, ch. 77-337; s. 1, ch. 79-358; s. 45, ch. 84-338.

403.8635 State drinking water sample laboratory certification program.—

(1) In addition to certifying laboratories pursuant to s. 403.863, the Department of Health and Rehabilitative Services is authorized to establish a periodic certification and approval program for laboratories that perform analyses of drinking water samples, which program will assure the acceptable quality, reliability, and validity of all testing results.

(2) The Department of Health and Rehabilitative Services has the responsibility for the operation and implementation of laboratory certification pursuant to this section, except that, upon completion of the evaluation and review of an application for laboratory certification, the evaluation shall be forwarded, along with recommendations, to the Department of Environmental Regulation for review and comment prior to final approval or disapproval.

(3) The Department of Health and Rehabilitative Services is authorized to charge and collect fees for the evaluation and certification of laboratories pursuant to this part. The fee schedule shall be based on the number of analytical functions for which certification is sought. Such fees shall be sufficient to meet the costs incurred by the Department of Health and Rehabilitative Services in the administration and operation of this program. All fees shall be deposited in a trust fund administered by the Department of Health and Rehabilitative Services to be used for the sole purpose of this section.

History.—s. 49, ch. 84-338.

without permit.—[Amended by s. 1, ch. 84-347, and transferred to s. 590.50.]

581.211 Penalties for violations.—Any person who violates any provision or requirement of this chapter, of the rules made hereunder, or of any notice given pursuant hereto; who forges, counterfeits, removes, destroys, disguises, or wrongfully or improperly uses any tag, certificate, permit, or written agreement provided for in this chapter or in the rules made pursuant hereto; or who interferes with or obstructs any director or authorized representative of the department in the performance of his duties shall be deemed guilty of a misdemeanor of the first degree, except that any person who imports from other states, territories, or countries, without a special permit from the Division of Plant Industry, plants or propagative plant parts of the subfamily Aurantioideae (after Swingle and Reese which includes all species of citrus) is guilty of a felony of the third degree, and any person who has in his possession such unauthorized imported plants or propagative plant parts shall be deemed guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 11, ch. 12291, 1927; CGL 7854; s. 21, ch. 59-261; s. 600, ch. 71-136; s. 3, ch. 76-95; s. 4, ch. 78-72; s. 10, ch. 79-158; s. 6, ch. 80-41; s. 6, ch. 84-355.
Note.—Former s. 581.09.

581.212 Handling of moneys received.—All moneys received by the department under the provisions of this chapter, other than appropriated funds, shall be deposited in the State Treasury to the credit of the Plant Industry Trust Fund and shall be used by the department to defray its expenses in carrying out the duties imposed on it by this chapter.

History.—s. 2, ch. 65-539; s. 3, ch. 84-60; s. 7, ch. 84-355.

CHAPTER 582

SOIL AND WATER CONSERVATION

582.18 Election of supervisors of each district.

582.18 Election of supervisors of each district.—

(1) The election of supervisors for each soil and water conservation district shall be held every 2 years. The elections shall be held at the time of the general election provided for by s. 100.041. The office of the supervisor of a soil and water conservation district is a nonpartisan office, and candidates for such office are prohibited from campaigning or qualifying for election based on party affiliation.

(a) Each candidate for supervisor for such district shall be nominated by nominating petition subscribed by 25 or more qualified electors of such district. Candidates shall obtain signatures on petition forms prescribed by the Department of State and furnished by the appropriate qualifying officer. In multicounty districts, the appropriate qualifying officer is the Secretary of State; in single-county districts, the appropriate qualifying officer is the supervisor of elections. Such forms may be obtained at any time after the first Tuesday after the first Monday in January preceding the election, but prior to the 92nd day prior to the date of the first primary. Each petition shall be submitted, prior to noon of the 92nd day preceding the first primary election, to the supervisor of elections of the county for which such petition was circulated. The supervisor of elections shall check the signatures on the petition to verify their status as electors in the district. Prior to the first date for qualifying, the supervisor of elections shall determine whether the required single-county signatures have been obtained; and he shall so notify the candidate. In the case of a multicounty candidate, the supervisor of elections shall check the signatures on petitions and shall, prior to the first date for qualifying for office, certify to the Department of State the number shown as registered electors of the district. The Department of State shall determine if the required number of signatures has been obtained for multicounty candidates and shall so notify the candidate. If the required number of signatures has been obtained for the name of the candidate to be placed on the ballot, the candidate shall, during the time prescribed for qualifying for office in s. 99.061, submit a copy of the notice to, and file his qualification papers with, the qualifying officer and take the oath prescribed in s. 99.021.

(b) Each nominee who collects or expends campaign contributions shall conduct his campaign for supervisor of a soil and water conservation district in accordance with the provisions of chapter 106. Candidates who neither receive contributions nor make expenditures, other than expenditures for verification of signatures on petitions, are exempt from the provisions of chapter 106 requiring establishment of bank accounts and appointment of a campaign treasurer, but shall file periodic reports as required by s. 106.07.

(c) The names of all nominees on behalf of whom such nominating petitions have been filed shall appear upon ballots in accordance with the general election laws. All qualified electors residing within the district shall be eligible to vote in such election. The candidates who receive the largest number of the votes cast from each group of candidates, as provided in s. 100.071, in such election shall be the elected supervisors from such group for such district. In the case of a newly created district participating in a regular election for the first time, three groups of candidates shall be elected for terms of 4 years, and two groups shall be elected for initial terms of 2 years. Each candidate elected shall assume office on the first Tuesday after the first Monday in January following the election.

(2) After the issuance of a certificate of organization of a soil and water conservation district by the Department of State, or in the event of a vacancy resulting from death, resignation, removal, or otherwise, each vacancy shall be filled by appointment by the remaining supervisors of the district until the next regular election.

History.—s. 9, ch. 18144, 1937; s. 4, ch. 19473, 1939; CGL 1940 Supp. 4151(4721); s. 2, ch. 29091, 1953; s. 3, ch. 67-207; ss. 10, 14, 35, ch. 69-106; s. 1, ch. 72-114; s. 2, ch. 74-53; s. 2, ch. 78-261; s. 42, ch. 84-302.

FLORIDA ADMINISTRATIVE CODE

FLORIDA COASTAL MANAGEMENT PROGRAM

REGULATIONS

RULES OF THE DEPARTMENT OF NATURAL RESOURCES

CHAPTER 16-1 ADMINISTRATIVE PROCEDURES

PART I GENERAL PROVISIONS

16-1.01	Agency Description.
16-1.02	Reserved.
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16-1.05	Delegations of Authority by the Governor and Cabinet.
	Reserved.
	Reserved.
16-1.08	Reserved.
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16-1.17	Reserved.
16-1.18	Reserved.
16-1.19	Reserved.
16-1.20	Official Reporter.

PART I GENERAL PROVISIONS

16-1.01 Agency Description.

(1) The Department of Natural Resources is a state agency of the executive branch of the State of Florida authorized by Section 20.25, Florida Statutes. The Department of Natural Resources also carries out the staff functions for the Board of Trustees of the Internal Improvement Trust Fund pursuant to Chapter 253, Florida Statutes.

(2) The Governor and Cabinet are the agency head for the Department of Natural Resources and sit as the Board of Trustees of the Internal Improvement Trust Fund. The Governor and Cabinet, in each of these capacities, may exercise all of those powers delegated to agency heads pursuant to Section 20.25, Florida Statutes.

Specific Authority 370.21(1) FS. Law Implemented 20.25 FS. History—New 11-3-80.

16-1.02 Reserved.

16-1.03 Reserved.

16-1.04 Reserved.

16-1.05 Delegations of Authority by the Governor and Cabinet.

(1) The Governor and Cabinet, as head of the Department or as the Board of Trustees of the Internal Improvement Trust Fund, has delegated authority to act in the following areas to the Executive Director or his designee:

(a) To approve the transfer of appropriations pursuant to 216.292, Florida Statutes.

(b) To administer personnel rules for career service employees and persons paid from OPS and to administer personnel actions for employees exempt from the career service system.

(c) To add, delete, transfer authorized positions within each budget entity in accordance with 216.262 and 216.141, Florida Statutes.

(d) To administer travel and per diem expenses of public officers, employees and authorized persons on official business, pursuant to 112.061, Florida Statutes.

(e) To negotiate, execute and enter into contracts and agreements, except as provided in subparagraph (h), required for operation of the Department or to carry out programs approved by the Legislature or Governor and Cabinet; except, however, this delegation shall exclude awards of commodity contracts by the Department of General Services.

(f) To expend appropriated funds and make purchases including capital outlay to carry out day-to-day operations of the Department. However, all purchases over $25,000 which are not made from a state contract established by the Department of General Services shall be reported at least quarterly.

(g) To execute contracts and orders approved by or on behalf of the Governor and Cabinet.

(h) To contract for consultant and professional services up to $25,000. However, selection of consultant and professional services, other than sole source, shall be by procedures set forth in the Consultants Competitive Negotiations Act or other competitive selection process established by rule.

(i) To enter into leases of real property for departmental operations.

(j) To designate appropriate officials or employees to act as custodian of the records of the Department, to accept service of process on behalf of the Department or Executive Director in accordance with law.

(k) To bring suit in the name of the Department and in consultation with the Attorney General, or to defend suit in the name of the Department.

(l) To settle claims, actions, causes of action and legal proceedings brought against the Department or its employee acting within the scope of his/her employment. Such settlement shall be limited to $25,000.

(m) To notify state attorneys, sheriffs or other law enforcement agencies of activity in violation of state law or department rules when such violation is beyond the capacity of the department to halt or prosecute.

(n) To accept donations and gifts of property or grants of money on behalf of the Department in compliance with the law, provided such gifts are unencumbered and have no impact on any other agency of the state.

(o) To respond in behalf of the Department to petitions filed pursuant to 120.54 and 120.57(1) and (2), Florida Statutes, and to issue declaratory statements pursuant to 120.565, Florida Statutes.

(p) To approve memberships in professional and other organizations in which state funds appropriated to the Department will be used in payments or dues pursuant to 216.345, Florida Statutes.

(q) To initiate all rule-making.

(r) To perform other such functions as may be necessary to supervise, direct, conduct and administer the day-to-day duties of the Department as authorized by law or by rules and policies adopted by the Governor and Cabinet.

(s) To convene complaint review bonds, select members of such boards, serve notice and otherwise exercise authority related to duties in 112.532, Florida Statutes, in Departments which have law enforcement officers assigned.

(2) When a matter which is the subject of a delegation approved in Subsection (1) becomes controversial or when extraordinary events arise concerning a delegated action, that matter shall be brought before the Governor and Cabinet for their decision. Final action on all department actions which result in a Recommended Order being issued pursuant to 120.57, Florida Statutes, shall be taken by the Governor and Cabinet.

(3) In addition to the delegations listed in Subsection (1), the Governor and Cabinet have and may from time to time in the future approve additional delegations to the Executive Director or other staff when adopting other rules of the department. A person interested in a particular program should review the specific rules of that program.

Specific Authority 370.021(2) FS. Law Implemented 20.05, 120.53(4) FS. History—New 11-3-80, Amended 9-14-81.

16-1.06 Reserved.

16-1.07 Reserved.

16-1.08 Reserved.

16-1.09 Reserved.

16-1.10 Reserved.

16-1.11 Reserved.

16-1.12 Reserved.

16-1.13 Reserved.

16-1.14 Reserved.

16-1.15 Reserved.

16-1.16 Reserved.

16-1.17 Reserved.

16-1.18 Reserved.

16-1.19 Reserved.

16-1.20 Official Reporter.

The reporter published by the Judicial and Administrative Research Associates, Inc., shall be the official reporter of the department for orders issued following proceedings pursuant to 120.57, Florida Statutes. Orders issued other than those arising from proceedings pursuant to 120.57, Florida Statutes, shall be filed in a central file in the Executive Office of the department.

Specific Authority 370.021(1) FS. Law Implemented 20.25 FS. and 120.53(4) FS. History—New 11-3-80.

RULES OF THE DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MARINE RESOURCES

CHAPTER 16B-24 RULES AND PROCEDURES FOR APPLICATION FOR COASTAL CONSTRUCTION PERMITS

16B-24.01	Scope.
16B-24.02	Definitions.
16B-24.03	General Prohibitions.
16B-24.04	Exemptions (reserved).
16B-24.05	Procedure to Obtain a Coastal Construction Permit; Application.
16B-24.06	Consultation.
16B-24.07	Processing Procedure.
16B-24.08	Coastal Construction Permit Conditions.
16B-24.09	Time Limits on Coastal Permits.

16B-24.01 Scope. The scope of this rule is to implement Section 161.041 and 161.051, Florida Statutes, in the establishment of departmental policies and procedures for applying for any coastal construction permit and the conditions placed on such permits, pursuant to the general authority contained in Section 370.021(1), Florida Statutes.
General Authority 161.041, 370.021, 161.051 FS. Law Implemented 161.041, 370.021(1), 161.051 FS. History—New 7-13-75.

16B-24.02 Definitions. When used in this rule, the following words shall have indicated meaning unless the context clearly indicates otherwise:

(1) "Department" means the State of Florida Department of Natural Resources.

(2) "Division" means the Division of Marine Resources of the Department.

(3) "Bureau" means the Bureau of Beaches and Shores of the Division.

(4) "Beach and shore preservation", "erosion control, beach preservation and hurricane protection", "beach erosion control" and "erosion control" includes, but is not limited to erosion control control, hurricane protection, coastal flood control, shoreline and offshore rehabilitation and regulation of work and activities likely to affect the physical condition of the beach or shore.

(5) "Coastal construction" includes any work or activity which is likely to have a material physical effect on existing coastal conditions or natural shore processes.

(6) "Emergency" means any unusual incident resulting from natural or unnatural causes which endangers the health, safety, or resources of the residents of the State including damages or erosion to any shoreline resulting from a hurricane storm or other such violent disturbances.

(7) "Erosion control structures" means any groin, jetty, mole, breakwater, seawall, revetment, artificial nourishment or other deposition of beach material or other structure if of a solid or highly impermeable design, when same is located, or is proposed to be located upon sovereignty lands of Florida, below the mean high-water line of any tidal water of the state.

(8) "Person" mean any person, firm, corporation, county, municipality, township, special district or any public agency.

(9) "Coastal construction permit" is the legal authorization to engage in or conduct any construction, operation, modification or expansion of any erosion control structure.

(10) "Applicant" means any person who has applied or is in the process of applying, for a coastal construction permit.

(11) "Permit condition" means a statement of stipulation issued with a permit with which compliance is necessary for continued validity of the permit.
General Authority 161.041, 370.021, 161.021 FS. Law Implemented 161.041, 370.021(1), 161.021 FS. History—New 7-3-75.

16B-24.03 General Prohibitions. No erosion control structure shall be installed, constructed, operated, maintained, expanded or modified without a valid permit issued by the Department unless the Division determines the activity does not fall in the requirements of Section 161.041, Florida Statutes.
General Authority 161.041, 370.021 FS. Law Implemented 161.041, 370.021(1), FS. History—New 7-13-75.

16B-24.04 Exemptions (Reserved).

16B-24.05 Procedure to Obtain a Coastal Construction Permit; Application.

(1) Any person desiring to obtain a coastal construction permit from the Department shall submit an application to the Bureau of Beaches and Shores, Department of Natural Resources, Tallahassee, Florida 32304, which shall contain the following specific information:

(a) Name, address a[illegible]one number of applicant or his duly au[illegible]ed agent.

(b) Statements describing the proposed erosion control structure(s), the problem, its causes and the expected effect of the proposed erosion structure(s) on the problem and on adjacent and neighboring property.

(2) The application shall be accompanied by a location map for use in public notices. This map shall be on either letter size or legal size paper showing the location of each proposed erosion control structure(s) to approximate scale and the shoreline for at least 1,000 feet beyond the proposed erosion control structure(s). The following information shall be shown on the location map.

(a) Name of applicant.

(b) Section, township, and range in which the subject property is located.

(c) Location by town and county.

(d) Name of water body.

(e) Brief work description or title of project.

(f) General identifying landmarks.

(g) Legend or tables to identify graphic objects.

(h) Date.

(i) Scale and north arrow.

(3) The applicant shall provide the Department with evidence of his ownership and legal description of the property seaward or channelward of which the erosion control structure(s) is or proposed to be located. If the applicant is not the property owner, the applicant shall provide the Department with a duly executed statement from the owner of record consenting to the proposed erosion control structure(s).

(4) Except for coastal construction permit applications from duly constituted governmental units, all permit applications shall be accompanied by a $100.00 fee made payable to the Department of Natural Resources. This application fee is charged to offset the cost of processing of the application for the permit and is nonreturnable.

(5) An estimate of the construction starting date and completion date.

(6) A set of construction plans and specifications for the erosion control structure(s), certified to, by a professional engineer registered in the State of Florida, and containing but not limited to the following:

(a) Plan view of structure(s) with mean high and mean low water line extending at least 100 feet on each side of proposed structure(s).

(b) Elevation view of structure(s) with mean sea level, mean high water and mean low water indicated.

(c) Profile of beach at proposed structure(s) from dune crest to at least 100 feet beyond the seaward of channelward extremity of the structure(s). Elevations should be referenced to National Geodetic Vertical Datum.

(d) Details of construction, including materials to be used.

(7) The applicant shall provide to the Department, a list of the names and addresses from the latest county tax roll, of owners of all riparian property within 1,000 feet of the proposed construction.

(8) Separate applications shall be made for unrelated projects involving noncontiguous parcels of upland property. Joint applications may be made in cases of related construction involving contiguous parcels of upland property.

(9) The department may require such additional information as is reasonably necessary for proper evaluation of an application.

(10) The Department may waive any of the above requirements if in the opinion of the Department such information is not necessary for a proper evaluation of the proposed work.

General Authority 161.041, 370.02 FS. Law Implemented 161.041, 370.02(2) FS. History—New 7-13-75.

16B-24.06 Consultation. The applicant, or his agent, may consult with the Department Staff concerning the operation, construction, expansion, or modification of any erosion control structure(s), however, any representation by the Department Staff shall not relieve any person of any requirement of the Beach and Shore Preservation Act or Department Rules.

General Authority 161.041, 370.021 FS. Law Implemented 161.041, 370.021 FS. History—New 7-13-75.

16B-24.07 Processing Procedure.

(1) Applications will be checked for completeness. If the required information has not been submitted the Department shall notify the applicant that sufficient information for processing is lacking and shall allow a reasonable time for submission of the necessary information.

(2) An office review of the proposed construction will be made, and indicated by the nature of the project, a field investigation will be conducted.

(3) If the proposed project is acceptable to the Bureau, public notice will be mailed to owners of record of the riparian property within one thousand feet (1,000) of the proposed construction, and to such other persons or agencies as are known to be interested in the proposed erosion control

structure. Thirty (30) calendar days shall be allowed for response to the public notice.

(4) Upon expiration of the public notice and after due consideration of comments received in response to that notice, the applicant and all persons who have filed objection to the proposed erosion control structures will be notified by mail of the recommendation which will be made to the Executive Board of the Department (Governor and Cabinet) and the date, time and place when the recommendation will be heard. The applicant and all interested parties may appear and/or be represented at that time and make their positions known to the Executive Board of the Department.

(5) If the proposed project is not acceptable to the Bureau, the applicant will be so notified and given an opportunity to modify his plans to make them acceptable.

(6) If, for some reason, the applicant cannot, or does not elect to modify his plans to such an extent that they are acceptable to the Bureau, then upon request of the applicant, the Bureau will proceed to carry out the procedures as described in 3 and 4 above, in the same manner as for the approved project.

General Authority 161.041, 370.021(1) FS. Law Implemented 161.041, 370.021(1) FS. History—New 7-13-75.

16B-24.08 Coastal Construction Permit Conditions.

(1) The formal permit will be issued by the Department Staff upon approval by the Executive Board of the Department (Governor and Cabinet).

(2) By accepting the permit, the applicant agrees to:

(a) Construct, operate or modify the erosion control structure in accordance with the plans and specifications filed with the Department as a part of the application for the permit.

(b) Comply with any permit conditions imposed by the Department.

(c) Adjust, alter or remove any structure or other physical evidence of the work or activity permitted, as directed by the Department, if in the opinion of the Department, the structure, work or activity in question results in damage to surrounding property or otherwise proves to be undesirable or becomes unnecessary. Adjustment, alteration, or removal required under this provision, shall be accomplished by the permittee at not cost to the State of Florida.

(d) Obstruct or impair the use of the beach by the public in the area seaward of the mean high water only to the extent determined by the Department to be unavoidable.

(e) Hold and save the State of Florida, the Department, its officers and employees harmless from any damage to persons or property which might result from the work, activity, or structure permitted.

(f) Provide the Department with an acceptable surety bond in an amount specified by the Department to insure the adjustment, alteration or removal should the Department determine that such adjustment, alteration or removal is necessary prusuant to the provisions of Section 161.061, Florida Statutes. Said surety bond is to remain in effect for such a period of time as specified by the Department. The Department may waive the requirement for surety bond.

(g) Furnish, to the Department, upon completion of the permitted construction, certification by a professional engineer, registered in the State of Florida, that the construction has been completed and that it is acceptable and satisfactory in accordance with the plans and specifications approved by the Department.

General Authority 161.041, 161.051, 161.061, 370.021 FS. Law Implemented 161.041, 161.051, 161.061, 370.021(1) FS. History—New 7-13-75.

16B-24.09 Time Limits on Coastal Permits.

(1) The Department may place a reasonable time limit on coastal construction permits after taking into consideration the complexity of the proposed work.

(2) The Department will give due consideration to reasonable requests in writing for an extension of time limits, specified in the permit.

General Authority 161.041, 370.021 FS. Law Implemented 161.041, 370.021(1) FS. History—New 7-13-75.

RULES OF THE DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MARINE RESOURCES

CHAPTER 16B-25 RULES AND PROCEDURES FOR COASTAL CONSTRUCTION AND EXCAVATION

16B-25.01	Scope.
16B-25.02	Definitions.
.03	General Prohibitions.
.04	Exemptions.
.05	Procedure to Obtain Variance; Application.
16B-25.06	Consultation.
16B-25.07	Processing Procedure.
16B-25.08	Variance Conditions.
16B-25.09	Time Limits on Authorized Variances.

16B-25.01 Scope. The scope of this rule is to implement Sections 161.052 and 161.053, Florida Statutes, in setting forth the requirements and procedures relating to coastal construction and other activities seaward of a setback line, procedures for processing requests for variances and the conditions placed on such variances pursuant to the general authority contained in Section 370.021(1), Florida Statutes.
General Authority 370.021, 161.052, 161.053 FS. Law Implemented 370.021(1), 161.052, 161.053 FS. History—New 7-13-75.

16B-25.02 Definitions. When used in this Rule, the following words shall have the indicated meaning unless the context indicates otherwise:

(1) "Department" means the State of Florida Department of Natural Resources.

(2) "Person" means any person, firm, corporation, county, municipality, township, special district or any public agency.

(3) "Applicant" means any person who has applied or is in the process of applying, for a variance under the provisions of Sections 161.052 and 161.053, Florida Statutes.

(4) "Setback Line" (SBL) means the line seaward of which construction or excavation is prohibited under the provisions of either Section 161.052, Florida Statutes, or Section 161.053, Florida Statutes.

(5) "Variance" means the authorization by the Department to perform certain specified work or activity in a specified location seaward of the setback line.

(6) "Variance condition" means a statement or stipulation issued with a variance with which compliance is necessary for continued validity of the variance.
General Authority 161.052, 161.053, 370.021 FS. Law Implemented, 161.052, 161.053, 370.021(1) FS. History—New 7-13-75.

16B-25.03 General Prohibitions.

(1) No person shall make any excavation or place any structure seaward of the setback line except as provided in Section 161.052(2) or 161.053(2), Florida Statutes.

(2) In addition to 16B-25.03(1) above, in those counties in which a setback line has been established, under the provisions of Section 161.053, Florida Statutes, no person shall remove any beach material, or otherwise alter existing ground elevations, drive any vehicle on, over, or across any sand dune; or damage or cause to be damaged such sand dune or the vegetation growing thereon except as provided in Section 161.053(2), Florida Statutes.
General Authority 161.052, 161.053, 370.021 FS. Law Implemented 161.052, 161.053, 370.021(1) FS. History—New 7-13-75.

16B-25.04 Exemptions.

(1) The following types of construction work or activity are not deemed to constitute "material alteration", as specified in Section 161.053(5), Florida Statutes, and therefore no permit, waiver, or variance from the Department is required under Section 161.052(2) or 161.053(2), Florida Statutes:

(a) Modification, maintenance or repair to any existing structure within the limits of the existing foundation which does not require, involve or include any addition to, repair, or modification of the existing foundation of that structure. Specifically excluded from this exemption are seawalls and any additions or enclosures added, constructed, or installed below the first dwelling floor or lowest deck of the existing structure.

(b) Minor, temporary, excavation, such as for the installation of utilities, provided that the ground surface is returned to its approximate pre-excavation elevation and that the area of excavation disturbance is re-vegetated with a suitable type of vegetation. Specifically excluded from this exemption are excavation for, or installation of, any outfall lines discharging fluids onto, over, under or across the beach and/or dunes.
General Authority 161.052, 161.053, 370.021 FS. Law Implemented 161.052, 161.053, 370.021(1) FS. History—New 7-13-75.

16B-25.05 Procedure to Obtain Variance; Application.

(1) Any person desiring to obtain a variance from the Department shall submit an application to the Bureau of Beaches and Shores, Florida Department of Natural Resources, Tallahassee, Florida 32304, which shall contain the following information:

(a) Name, address, and telephone number of the applicant or his duly authorized agent.

(b) The applicant shall provide the Department with evidence of his ownership and legal description of the property for which the variance is requested. If the applicant is not the property owner, the applicant shall provide the Department with a duly executed statement from the owner of record consenting to the work, activity, or construction for which the variance has been requested.

(c) A statement that the proposed work or activity does not violate any local setback ordinances.

(d) Statements describing the proposed work or activity and specific reasons why the applicant feels that the variance should be granted.

(e) The application shall be accompanied by a recent topographic survey of the property in question, certified by a land surveyor or engineer registered in the State of Florida and showing the following information:

1. The approximate location and the elevation of the mean high water line on the subject property.

2. The location of the setback line for the full width of the subject property.

3. Plot plan of existing structures and the proposed construction or activity showing the significant distances from the proposed construction or activity to the setback line.

4. If the variance is requested under the provisions of Section 161.052(2)(b), Florida Statutes, or Section 161.053(2)(b), Florida Statutes, the survey shall show the existing structures that are considered to have established the construction line.

5. Variances requested under the provisions of Section 161.053, Florida Statutes, shall specify the distance and direction from the property in question to the nearest setback line permanent reference monument and the number of that monument.

(2) Variance requests which involve proposed construction shall be accompanied by construction plans which provide at least, but are not limited to the following information:

(a) Cross sections of all sub-grade construction or excavation with elevations referenced to National Geodetic Vertical Datum.

(b) Elevations of the lowest floor and the first dwelling floor.

(c) Details and justification for any proposed waste water discharge onto, over, under or across the beach and/or dunes, including but not limited to storm water runoff, swimming pool drainage or air conditioner cooling water discharge.

(3) For those counties in which a setback line has been established, under the provisions of Section 161.053, Florida Statutes, there is on file with the Department storm tide data and some data on shoreline stability. For most projects, these data will be sufficient to satisfy the requirements of Section 161.053(2)(a), Florida Statutes, for such data and such data need not be filed by the applicant. Should the applicant have additional data which he wishes to file, it will be evaluated. On the more complex projects for which variances are requested, additional storm tide and shoreline stability data may be required.

(4) The Department may require such additional information as is necessary for proper evaluation of an application.

(5) The Department may waive any of the above requirements if in the opinion of the Department such information is not necessary for a proper evaluation of the proposed work or activity.
General Authority 161.052, 161.053, 370.021 FS. Law Implemented 161.052, 161.053, 370.021(1) FS. History—New 7-13-75.

16B-25.06 Consultation. The applicant, or his engineer any consult with the Department Staff concerning any construction, expansion, modification, or activity seaward of the SBL, however, any representation by the Department Staff shall not relieve any person of any requirement of the Beach and Shore Preservation Act or Department Rules.
General Authority 161.052, 161.053, 370.021 FS. Law Implemented 161.052, 161.053, 370.021(1) FS. History—New 7-13-75.

16B-25.07 Processing Procedure.

(1) Application will be checked for completeness. If the required information has not been submitted, the Department shall notify the applicant that sufficient information for processing is lacking and shall allow a reasonable time for submission of the necessary information.

(2) An office review of the proposed work or activity will be made, and if indicated by the nature of the project, a field investigation will be conducted.

(3) If the proposed project is acceptable to the Bureau, the applicant will be notified by mail of the recommendation which will be made to the Executive Board of the Department (Governor and Cabinet) and the date, time and place when the recommendation will be heard. The applicant and any interested persons may appear and/or be represented at that time and make their position known to the Executive Board of the Department.

(4) If the proposed project is not acceptable to the Bureau, the applicant will be so notified and given an opportunity to modify his plans to make them acceptable.

(5) If, for some reason, the applicant cannot, or does not elect to modify his plans, to such an extent that they are acceptable, the Bureau then, upon request of the applicant, proceed to carry out the procedures as ed in 3 above.

General Authority 161.052, 161.053, 370.021 FS. Law Implemented 161.052, 161.053, 370.021(1) FS. History—New 7-13-75.

16B-25.08 Variance Conditions.

(1) The formal variance will be issued by the Department Staff, upon its approval by the Executive Board of the Department (Governor and Cabinet).

(2) By accepting the variance, the applicant agrees to:

(a) Carry out the work or activity for which the variance was granted; in accordance with the plans and specifications filed with the Bureau as a part of his application and approved by the Executive Board of the Department.

(b) Comply with any conditions imposed upon the variance by the Department.

(c) Conduct the work or activity authorized under the variance in such a way as to minimize the adverse impact upon the beach-dune system.

(d) Hold and save the State of Florida, the Department, its officers and employees harmless from any damage to persons or property which might result from the work, activity or structures authorized under the variance.

(e) Furnish to the Department, upon completion of the authorized work, activity or construction, certification by a professional engineer, registered in the State of Florida, that the construction has been completed and that it is acceptable and satisfactory in accordance with the plans and specifications approved by the Department.

General Authority 161.041, 161.052, 161.053, 370.021, 161.051 FS. Law Implemented 161.041, 161.052, 161.053, 370.021(1), 161.051 FS. History—New 7-13-75.

16B-25.09 Time Limits on Authorized Variances.

(1) The Department may place a reasonable time limit on variances after taking into consideration the complexity of the proposed work or the nature of the activity authorized. Unless otherwise specified, the time limit on variances shall be six (6) months for initiation of construction with completion within eighteen (18) months.

(2) The Department will give due consideration to reasonable requests in writing for an extension of the time limit.

General Authority 161.052, 161.053, 370.021 FS. Law Implemented 161.052, 161.053, 370.021(1) FS. History—New 7-13-75.

RULES OF THE DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MARINE RESOURCES

CHAPTER 16B-26 SETBACK LINE

16B-26.01	Description of the Walton County Coastal Construction Setback Line.
16B-26.02	Description of the Escambia County Coastal Construction Setback Line.
16B-26.03	Description of the Okaloosa County Coastal Construction Control Line (Range 31 through Range 50).
16B-26.04	Description of the Duval County Coastal Construction Setback Line.
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16B-26.06	Description of the Charlotte County Coastal Construction Setback Line.
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CHAPTER 16B-26 SETBACK LINE

16B-26.01 Description of the Walton County Coastal Construction Control Line.

(1) There is hereby established, pursuant to Section 161.053, Florida Statutes, the Walton County Coastal Construction Control Line. The legal description of said line is attached hereto.

(2) This rule amendment shall take effect 20 days after filing with the Florida Department of State or on the date that it is duly recorded in the public records in the office of the Clerk of the Circuit Court, in and for Walton County, Florida, together with each affected municipality, whichever is later.

(3) After this rule amendment becomes effective, a permit to alter, excavate or construct on property seaward of the established control line is required from the Department.

Specific Authority 370.021(1) FS. Law Implemented 161.053 FS. History—New 5-13-75, Amended 12-29-82.

METES AND BOUNDS DESCRIPTION FOR THE COASTAL CONSTRUCTION CONTROL LINE WALTON COUNTY, FLORIDA

Description of coastal construction control line established in compliance with Section 161.053, Florida Statutes, said control line lying along the Gulf of Mexico coast from Okaloosa County and Walton County Line easterly to the Walton County and Bay County Line.

Said coastal construction control line is related to a series of "Permanent Reference Monuments" (P. R. M.) designated and hereinafter referred to as National Geodetic Triangulation Stations, Gillis, Mule, Thompson, High and Point Washington East Base as established by National Geodetic Survey and Department of Transportation Geodetic Stations, 60-76-A01 through 60-76-A40, 60-70-E01 and 60-70-E03 and 46-70-D13 through 46-70-D10 as established by the Department of Transportation, State of Florida, said monuments are coordinated on the Florida State Plane Coordinate System, North Zone.
Commence at "P. R. M." 60-76-A03;
Thence N 61 deg. 35 min. 49 sec. W a distance of 195.024 feet to the point of beginning;
Thence N 81 deg. 32 min. 51 sec. W to the point of intersection with the Walton and Okaloosa County Line; said point being the westerly terminus of the coastal construction control line for Walton County; Thence return along the same course to the point of beginning;
Thence S 81 deg. 32 min. 51 sec. E a distance of 1139.43 feet to a point; Thence S 81 deg. 25 min. 09 sec. E a distance of 954.02 feet to a point; Thence S 81 deg. 13 min. 32 sec. E a distance of 1187.85 feet to a point, said point being N 66 deg. 21 min. 29 sec. W, 94.288 feet from "P. R. M." 60-70-E01;
Thence S 81 deg. 17 min. 18 sec. E a distance of 913.75 feet to a point; Thence S 80 deg. 15 min. 00 sec. E a distance of 1156.37 feet to a point; Thence S 79 deg. 21 min. 18 sec. E a distance of 930.79 feet to a point, said point being S 74 deg. 01 min. 16 sec. E, 348.339 feet from "P. R. M." 60-76-A04;
Thence S 79 deg. 39 min. 50 sec. E a distance of 2155.38 feet to a point; Thence S 78 deg. 47 min. 27 sec. E a distance of 944.76 feet to a point, said point being N 85 deg. 24 min. 48 sec. E, 301.591 feet from "P. R. M." 60-70-E03;
Thence S 79 deg. 44 min. 44 sec. E a distance of 986.57 feet to a point; Thence S 79 deg. 34 min. 35 sec. E a distance of 1053.17 feet to a point, said point being S 74 deg. 13 min. 20 sec. E, 341.600 feet from "P. R. M." 60-76-A05;
Thence S 79 deg. 02 min. 09 sec. E a distance of 1015.54 feet to a point; Thence S 79 deg. 21 min. 27 sec. E a distance of 1038.57 feet to a point; Thence S 79 deg. 18 min. 04 sec. E a distance of 1010.81 feet to a point; Thence S 79 deg. 15 min. 21 sec. E a distance of 983.51 feet to a point; Thence S 78 deg. 58 min. 36 sec. E a distance of 1095.04 feet to a point, said point being N 76 deg. 10 min. 17 sec. E, 317.292 feet from "P. R. M." 60-76-A06;
Thence S 78 deg. 43 min. 45 sec. E a distance of 1153.02 feet to a point; Thence S 78 deg. 18 min. 46 sec. E a distance of 1128.69 feet to a point; Thence S 78 deg. 02 min. 22 sec. E a distance of 958.15 feet to a point; Thence S 78 deg. 13 min. 16 sec. E a distance of 946.70 feet to a point; Thence S 76 deg. 12 min. 55 sec. E a distance of 970.38 feet to a point, said point being N 01 deg. 29 min. 41 sec. W, 102.978 feet from "P. R. M." 60-76-A07;
Thence S 78 deg. 08 min. 51 sec. E a distance of 1085.57 feet to a point; Thence S 77 deg. 15 min. 39 sec. E a distance of 1079.30 feet to a point; Thence S 76 deg. 42 min. 45 sec. E a distance of 970.12 feet to a point; Thence S 76 deg. 43 min. 43 sec. E a distance of 1008.43 feet to a point; Thence S 78 deg. 21 min. 27 sec. E a distance of 906.77 feet to a point, said point being N 61 deg. 11 min. 58 sec. W, 427.802 feet from "P. R. M." 60-76-A08;
Thence S 76 deg. 34 min. 38 sec. E a distance of 1244.61 feet to a point; Thence S 76 deg. 20 min. 17 sec. E a distance of 879.37 feet to a point; Thence S 76 deg. 03 min. 08 sec. E a distance of 1069.78 feet to a point, said point being N 63 deg. 21 min. 45 sec. W, 491.759 feet from "P. R. M." 60-76-A09;
Thence S 76 deg. 23 min. 12 sec. E a distance of 780.59 feet to a point; Thence N 68 deg. 46 min. 33 sec. E a distance of 225.82 feet to a point; Thence S 74 deg. 01 min. 37 sec. E a distance of 213.49 feet to a point; Thence S 43 deg. 14 min. 39 sec. E a distance of 209.09 feet to a point; Thence S 74 deg. 20 min. 56 sec. E a distance of 660.57 feet to a point; Thence S 74 deg. 19 min. 11 sec. E a distance of 1049.85 feet to a point; Thence S 74 deg. 30 min. 02 sec. E a distance of 1007.60 feet to a point, said point being N 62 deg. 38 min. 07 sec. W, 550.245 feet from "P. R. M." 60-76-A10;
Thence S 72 deg. 33 min. 06 sec. E a distance of 1011.03 feet to a point; Thence S 75 deg. 00 min. 24 sec. E a distance of 1039.72 feet to a point; Thence S 74 deg. 49 min. 42 sec. E a distance of 1003.54 feet to a point; Thence S 74 deg. 37 min. 31 sec. E a distance of 1024.42 feet to a point; Thence S 74 deg. 32 min. 14 sec. E a distance of 988.61 feet to a point, said point being N 74 deg. 35 min. 50 sec. E, 171.185 feet from "P. R. M." 60-76-A11;
Thence S 73 deg. 19 min. 22 sec. E a distance of 1049.91 feet to a point; Thence S 73 deg. 13 min. 40 sec. E a distance of 1012.48 feet to a point; Thence S 74 deg. 23 min. 05 sec. E a

distance of 1042.05 feet to a point; Thence S 74 deg. 32 min. 56 sec. E a distance of 560.22 feet to a point; Thence N 27 deg. 05 min. 30 sec E a distance of 252.52 feet to a point; Thence S 64 deg. 20 min. 46 sec. E a distance of 281.50 feet to a point; Thence S 10 deg. 27 min. 35 sec. E a distance of 223.09 feet to a point; Thence S 70 deg. 33 min. 15 sec. E a distance of 76.84 feet to a point; Thence S 71 deg. 24 min. 28 sec. E a distance of 1018.17 feet to a point, said point being S 41 deg. 20 min. 45 sec. W, 170.212 feet from "P. R. M." 60-76-A12;
Thence S 71 deg. 42 min. 25 sec. E a distance of 1025.70 feet to a point; Thence S 74 deg. 06 min. 16 sec. E a distance of 1023.61 feet to a point; Thence S 72 deg. 52 min. 57 sec. E a distance of 1014.25 feet to a point; Thence S 72 deg. 48 min. 02 sec. E a distance of 623.21 feet to a point; Thence N 16 deg. 13 min. 42 sec. E a distance of 66.20 feet to a point; Thence S 72 deg. 03 min. 08 sec. E a distance of 607.04 feet to a point; Thence S 71 deg. 55 min. 15 sec. E a distance of 314.79 feet to a point; Thence S 17 deg. 15 min. 18 sec. W a distance of 69.11 feet to a point; Thence S 70 deg. 20 min. 24 sec. E a distance of 816.77 feet to a point, said point being S 58 deg. 04 min. 59 sec. E, 480.298 feet from "P. R. M." 60-76-A13.
Thence S 70 deg. 06 min. 32 sec. E a distance of 1129.60 feet to a point; Thence S 70 deg. 05 min. 20 sec. E a distance of 1065.69 feet to a point; Thence S 70 deg. 48 min. 41 sec. E a distance of 1103.03 feet to a point, said point being S 35 deg. 47 min. 14 sec. E, 395.229 feet from "P. R. M." 60-76-A14;
Thence S 70 deg. 19 min. 01 sec. E a distance of 1014.65 feet to a point; Thence S 71 deg. 28 min. 59 sec. E a distance of 1052.74 feet to a point; Thence S 71 deg. 04 min. 22 sec. E a distance of 959.48 feet to a point; Thence S 70 deg. 15 min. 37 sec. E a distance of 1032.54 feet to a point, said point being N 53 deg. 14 min. 44 sec. W, 219.552 feet from "P. R. M." 60-76-A15;
Thence S 70 deg. 21 min. 20 sec. E a distance of 727.96 feet to a point; Thence N 04 deg. 33 min. 49 sec. E a distance of 328.48 feet to a point; Thence S 69 deg. 59 min. 00 sec. E a distance of 643.40 feet to a point; Thence S 21 deg. 37 min. 22 sec. E a distance of 236.67 feet to a point; Thence S 67 deg. 52 min. 10 sec. E a distance of 287.13 feet to a point; Thence S 68 deg. 00 min. 56 sec. E a distance of 1008.52 feet to a point; Thence S 71 deg. 19 min. 02 sec. E a distance of 1040.07 feet to a point; Thence S 71 deg. 59 min. 24 sec. E a distance of 1037.03 feet to a point; Thence S 71 deg. 53 min. 56 sec. E a distance of 1031.51 feet to a point; Thence S 72 deg. 27 min. 15 sec. E a distance of 1030.91 feet to a point; Thence S 72 deg. 13 min. 56 sec. E a distance of 1035.28 feet to a point; Thence S 72 deg. 23 min. 35 sec. E a distance of 938.89 feet to a point, said point being S 70 deg. 08 min. 46 sec. W, 365.170 feet from "P. R. M." 60-76-A16;
Thence S 70 deg. 50 min. 57 sec. E a distance of 201.54 feet to a point; Thence N 77 deg. 06 min. 22 sec. E a distance of 522.94 feet to a point; Thence S 84 deg. 03 min. 23 sec. E a distance of 578.86 feet to a point; Thence S 22 deg. 53 min. 37 sec. E a distance of 187.65 feet to a point; Thence S 63 deg. 37 min. 34 sec. E a distance of 988.10 feet to a point; Thence S 07 deg. 47 min. 19 sec. W a distance of 129.13 feet to a point; Thence S 69 deg. 40 min. 34 sec. E a distance of 931.22 feet to a point; Thence S 70 deg. 05 min. 47 sec. E a distance of 1051.68 feet to a point, said point being N 47 deg. 22 min. 25 sec. W, 154.106 feet from "P. R. M." 60-76-A17;
Thence S 72 deg. 34 min. 00 sec. E a distance of 1090.39 feet to a point; Thence N 88 deg. 04 min. 41 sec. E a distance of 651.20 feet to a point; Thence S 68 deg. 45 min. 42 sec. E a distance of 476.40 feet to a point; Thence S 68 deg. 34 min. 36 sec. E a distance of 883.22 feet to a point; Thence S 68 deg. 27 min. 49 sec. E a distance of 630.00 feet to a point; Thence S 14 deg. 41 min. 12 sec. W a distance of 214.96 feet to a point; Thence S 85 deg. 59 min. 28 sec. E a distance of 432.11 feet to a point, said point being N 67 deg. 45 min. 47 sec. E, 269.721 feet from "P. R. M." 60-80-A18-2;
Thence S 86 deg. 21 min. 02 sec. E a distance of 956.63 feet to a point; Thence S 86 deg. 36 min. 15 sec. E a distance of 463.57 feet to a point; Thence S 39 deg. 25 min. 07 sec. E a distance of 1008.30 feet to a point; Thence S 69 deg. 16 min. 38 sec. E a distance of 817.79 feet to a point; Thence S 69 deg. 12 min. 14 sec. E a distance of 1006.15 feet to a point; Thence S 69 deg. 59 min. 17 sec. E a distance of 1072.47 feet to a point, said point being N 67 deg. 59 min. 29 sec. W, 260.439 feet from "P. R. M." 60-76-A19;
Thence S 69 deg. 52 min. 12 sec. E a distance of 1004.00 feet to a point; Thence S 69 deg. 54 min. 09 sec. E a distance of 991.19 feet to a point; Thence S 70 deg. 22 min. 09 sec. E a distance of 1009.03 feet to a point; Thence S 70 deg. 01 min. 25 sec. E a distance of 1022.39 feet to a point; Thence S 69 deg. 27 min. 14 sec. E a distance of 1041.63 feet to a point; Thence S 69 deg. [illegible] min. 13 sec. E a

distance of 999.39 feet to a point, said point being S 86 deg. 49 min. 48 sec. W, 238.364 feet from "P. R. M." 60-76-A20;
Thence S 69 deg. 24 min. 07 sec. E a distance of 1010.60 feet to a point; Thence S 69 deg. 18 min. 34 sec. E a distance of 1124.12 feet to a point, said point being N 85 deg. 13 min. 55 sec. W, 509.521 feet from "P. R. M." 60-76-A21;
Thence S 69 deg. 20 min. 18 sec. E a distance of 946.63 feet to a point; Thence S 69 deg. 33 min. 39 sec. E a distance of 1033.97 feet to a point, said point being S 21 deg. 52 min. 47 sec. W, 329.219 feet from "P. R. M." 60-76-A22;
Thence S 69 deg. 41 min. 00 sec. E a distance of 1020.22 feet to a point; Thence S 69 deg. 48 min. 01 sec. E a distance of 1001.87 feet to a point; Thence S 69 deg. 47 min. 03 sec. E a distance of 1029.67 feet to a point; Thence S 69 deg. 45 min. 13 sec. E a distance of 1016.96 feet to a point, said point being S 73 deg. 48 min. 12 sec. W, 541.082 feet from "P. R. M." 60-76-A23;
Thence S 70 deg. 37 min. 21 sec. E a distance of 998.98 feet to a point; Thence S 69 deg. 08 min. 33 sec. E a distance of 999.23 feet to a point; Thence S 68 deg. 54 min. 07 sec. E a distance of 1017.83 feet to a point, said point being S 16 deg. 52 min. 51 sec. E, 499.649 feet from "P. R. M." 60-76-A24;
Thence S 70 deg. 27 min. 05 sec. E a distance of 825.64 feet to a point; Thence N 82 deg. 08 min. 31 sec. E a distance of 514.33 feet to a point; Thence S 54 deg. 57 min. 50 sec. E a distance of 934.31 feet to a point; Thence S 66 deg. 48 min. 11 sec. E a distance of 926.24 feet to a point, said point being S 78 deg. 18 min. 51 sec. E, 390.339 feet from "P. R. M." 60-76-A25;
Thence S 68 deg. 09 min. 01 sec. E a distance of 938.26 feet to a point; Thence S 68 deg. 41 min. 07 sec. E a distance of 1059.14 feet to a point; Thence N 86 deg. 41 min. 06 sec. E a distance of 851.01 feet to a point; Thence S 50 deg. 22 min. 40 sec. E a distance of 326.76 feet to a point; Thence S 50 deg. 35 min. 49 sec. E a distance of 956.89 feet to a point, said point being N 15 deg. 06 min. 03 sec. E, 128.885 feet from "P. R. M." 60-80-A26-2;
Thence S 65 Deg. 06 min. 03 sec. E a distance of 1078.13 feet to a point; Thence S 66 deg. 55 min. 27 sec. E a distance of 1015.08 feet to a point; Thence S 70 deg. 31 min. 29 sec. E a distance of 1097.68 feet to a point; Thence N 83 deg. 55 min. 23 sec. E a distance of 630.31 feet to a point; Thence S 59 deg. 33 min. 24 sec. E a distance of 373.68 feet to a point; Thence S 59 deg. 55 min. 14 sec. E a distance of 913.95 feet to a point; Thence S 54 deg. 14 min. 00 sec. E a distance of 966.19 feet to a point; Thence S 64 deg. 22 min. 42 sec. E a distance of 259.04 feet to a point, said point being S 74 deg. 51 min. 58 sec. E, 646.558 feet from "P. R. M." 60-80-A27-2;
Thence S 64 deg. 43 min. 36 sec. E a distance of 1018.52 feet to a point; Thence S 65 deg. 24 min. 00 sec. E a distance of 1030.80 feet to a point; Thence S 65 deg. 03 min. 48 sec. E a distance of 996.76 feet to a point; Thence S 65 deg. 46 min. 46 sec. E a distance of 964.19 feet to a point, said point being S 01 deg. 03 min. 48 sec. E, 262.343 feet from "P. R. M." 60-76-A28;
Thence S 66 deg. 14 min. 56 sec. E a distance of 1085.16 feet to a point; Thence S 67 deg. 04 min. 06 sec. E a distance of 990.10 feet to a point; Thence S 68 deg. 10 min. 59 sec. E a distance of 1013.09 feet to a point, said point being S 73 deg. 39 min. 51 sec. W, 335.787 feet from "P. R. M." 60-76-A29;
Thence, S 66 deg. 54 min. 58 sec. E a distance of 873.85 feet to a point; Thence S 66 deg. 29 min. 23 sec. E a distance of 1165.88 feet to a point, said point being S 20 deg. 19 min. 38 sec. W, 830.194 feet from "P. R. M." 60-76-A30;
Thence S 67 deg. 23 min. 50 sec. E a distance of 1015.62 feet to a point; Thence S 65 deg. 46 min. 48 sec. E a distance of 1025.96 feet to a point; Thence S 66 deg. 09 min. 28 sec. E a distance of 993.65 feet to a point; Thence S 67 deg. 29 min. 33 sec. E a distance of 1020.62 feet to a point, said point being S 17 deg. 49 min. 16 sec. E, 976.382 feet from "P. R. M." 60-76-A31;
Thence S 66 deg. 16 min. 23 sec. E a distance of 1049.18 feet to a point; Thence S 65 deg. 26 min. 21 sec. E a distance of 997.09 feet to a point; Thence S 66 deg. 23 min. 50 sec. E a distance of 1002.22 feet to a point; Thence S 65 deg. 45 min. 54 sec. E a distance of 836.34 feet to a point, said point being S 00 deg. 38 min. 08 sec. W, 907.194 feet from "P. R. M." 60-76-A32;
Thence S 65 deg. 24 min. 30 sec. E a distance of 1153.61 feet to a point, said point being N 62 deg. 35 min. 07 sec. W, 265.581 feet from "P. R. M." 60-76-A37;
Thence S 66 deg. 54 min. 19 sec. E a distance of 978.47 feet to a point; Thence S 66 deg. 26 min. 46 sec. E a distance of 1062.32 feet to a point; Thence S 65 deg. 33 min. 52 sec. E a distance of 1031.46 feet to a point; Thence S 65 deg. 51 min. 54 sec. E a distance of 1022.62 feet to a point, said point being N 64 deg. 37 min. 03 sec. W, 355.883 feet from "P. R. M." 60-76-A38;

Thence S 65 deg. 51 min. 54 sec. E to the point of intersection with the Walton and Bay County Line, said point being the easterly terminus of the coastal construction control line for Walton County.

16B-26.02 Description of the Escambia County Coastal Construction Setback Line. There is hereby established pursuant to Section 161.053, Florida Statutes, a coastal construction setback line in Escambia County, Florida. The legal description of said line is attached hereto.

After this rule has been recorded in the office of the Clerk of the Circuit Court in and for Escambia County, Florida, no person, firm, corporation or governmental agency shall construct any structure whatsoever seaward thereof, or perform any actions as described in Section 161.053, Florida Statutes, without obtaining a permit as described in said Section of the Statute, and all provisions of said Section shall apply to this rule.

Specific Authority 120, 161.053 FS. Law Implemented 161.053 FS. History—New 8-12-75.

Description of Coastal Construction Setback lines established in compliance with Section 161.053, Florida Statutes, said Setback line lying along the Gulf of Mexico from Escambia County and Florida, Alabama State Line easterly to the Escambia County and Santa Rosa County line.

Said Coastal Construction Setback line is related to a series of "Permanent Reference Monuments" (P.R.M.) designated and hereinafter referred to as "R-1" through "R-214" as established by the Department of Natural Resources, State of Florida in 1973, said monuments are co-ordinated on the Florida State Plane co-ordinate system, North Zone and a table of said co-ordinates are attached hereto and made a part hereof, said "P.R.M." R-1 is located near the Escambia County and Florida, Alabama State line.

Commence at "P.R.M." R-1 thence run N 12°42' 00" W a distance of 28.00 feet to a point on the Escambia County Setback line; thence run S 79°10' 17" W to a point of intersection with the Escambia County and Florida, Alabama State Line for a Point of Beginning; thence returning

along the previous course, run N 79° 10' 17" E to a point lying N 12°42' 00" W a distance of 28.00 feet from "P.R.M."R-1;
thence run N 79° 10' 17" E a distance of 1069.43 feet to a point, said point being S 12°42' 00" E, 53.00 feet from "P.R.M."R-2;
thence run N 78°09' 38" E a distance of 1019.94 feet to a point, said point being S 12°42' 00" E, 155.00 feet from "P.R.M."R-3;
thence run N 79° 40' 27" E a distance of 1154.17 feet to a point, said point being S 12°42' 00" E, 172.00 feet from "P.R.M."R-4;
thence run N 78° 17' 05" E a distance of 999.03 feet to a point, said point being S 17° 42' 00" E, 154.00 feet from "P.R.M."R-5;
thence run N 79°02' 51" E a distance of 1096.87 feet to a point, said point being S 17° 42' 00" E, 100.00 feet from "P.R.M."R-6;
thence run N 81° 52' 02" E a distance of 1125.36 feet to a point, said point being S 12°42' 00" E, 177.00 feet from "P.R.M."R-7;
thence run N 80°53' 22" E a distance of 923.20 feet to a point, said point being S 12°42' 00" E, 157 feet from "P.R.M."R-8;
thence run N 79° 19' 52" E a distance of 1157.37 feet to a point, said point being S 12° 42' 00" E, 238.00 feet from "P.R.M."R-9;
thence run N 79°24' 20" E a distance of 959.15 feet to a point, said point being S 12° 42' 00", E, 203.00 feet from "P.R.M."R-10;
run N 75°39' 23" E a distance of 1079.94 feet to a point, said point being S 12°42' 00" E, 00 feet from "P.R.M."R-11;
thence run N 76°06' 55" E a distance of 1120.03 feet to a point, said point being S 12° 42' 00" E, 130.00 feet from "P.R.M."R-12;
thence run N 77°17' 02" E a distance of 1107.01 feet to a point, said point being S 12°42' 00" E, 23.00 feet from "P.R.M."R-13;
thence run N 81°13' 57" E a distance of 997.48 feet to a point, said point being S 12° 42' 00" E, 210.00 feet from "P.R.M."R-14;
thence run N 82°17' 47" E a distance of 831.55 feet to a point, said point being S 12° 42' 00" E, 183.00 feet from "P.R.M."R-15;
thence run N 78°28' 21" E a distance of 923.55 feet to a point, said point being S 12° 42' 00" E, 93.00 feet from "P.R.M."R-16;
thence run N 78°39' 40" E a distance of 1173.28 feet to a point, said point being S 12° 42' 00" E, 261.00 feet from "P.R.M."R-17;
thence run N 80°09' 29" E a distance of 858.90 feet to a point, said point being S 12° 42' 00" E, 265.00 feet from "P.R.M."R-18;
thence run N 75°47' 53" E a distance of 1015.98 feet to a point, said point being S 12° 42' 00" E, 155.00 feet from "P.R.M."R-19;
thence run N 79°51' 44" E a distance of 1043.36 feet to a point, said point being S 12° 42' 00" E, 60.00 feet from "P.R.M."R-20;
thence run N 81°33' 44" E a distance of 991.08 feet to a point, said point being S 12° 42' 00" E, 156.00 feet from "P.R.M."R-21;
thence run N 83° 18' 01" E a distance of 1106.31 feet to a point, said point being S 12° 42' 00" E, 130.00 feet from "P.R.M."R-22;
thence run N 82°05' 52" E a distance of 893.03 feet to a point, said point being S 12° 42' 00" E, 110.00 feet from "P.R.M."R-23;
thence run N 83°05' 16" E a distance of 949.49 feet to a point, said point being S 12° 42' 00" E, 141.00 feet from "P.R.M."R-24;
thence run N 81°17' 48" E a distance of 1152.54 feet to a point, said point being S 12° 42' 00" E, 175.00 feet from "P.R.M."R-25;
thence run N 81°50' 03" E a distance of 877.32 feet to a point, said point being S 12° 42' 00" E, 58.00 feet from "P.R.M."R-26;
thence run N 85°34' 49" E a distance of 1015.97 feet to a point, said point being S 12° 42' 00" E, 213.00 feet from "P.R.M."R-27;
thence run N 81° 54' 11" E a distance of 1122.44 feet to a point, said point being S 12° 42' 00" E, 184.00 feet from "P.R.M."R-28;
thence run N 82°38' 54' E a distance of 1055.22 feet to a point, said point being S 12° 42' 00" E, 19[illegible] feet from "P.R.M."R-29;
thenc[illegible] N 81°15' 33" E a distance of 1092.23 feet to a point, said point being S 12° 42' 00" E, 190.00 feet from "P.R.M."R-30;

thence run N 81° 04' 17" E a distance of 111.48 feet to a point, said point being S 12° 42' 00" E, 173.00 feet from "P.R.M."R-31;
thence run N 79°00' 33" E a distance of 968.26 feet to a point, said point being S 12° 42' 00" E, 169.00 feet from "P.R.M."R-32;
thence run N 77°59' 58" E a distance of 990.02 feet to a point, said point being S 12° 42' 00" E, 33.00 feet from "P.R.M."R-33;
thence run N 77°54' 38" E a distance of 1278.92 feet to a point, said point being S 17° 42' 00" E, 38.00 feet from "P.R.M."R-34;
thence run N 77°48' 22" E a distance of 1166.55 feet to a point, said point being N 17° 42' 00" W, 103.00 feet from "P.R.M."R-35;
thence run N 76°55' 40" E a distance of 1024.80 feet to a point, said point being N 17° 42' 00" W, 67.00 feet from "P.R.M."R-36;
thence run N 76°34' 10" E a distance of 944.04 feet to a point, said point being N 22° 42' 00" W, 74.00 feet from "P.R.M."R-37;
thence [illegible] N 76°47' 29" E a distance of 1034.31 feet to a point, said point being N 22° 42' 00" W, 27.0[illegible] feet from "P.R.M."R-38;
thence [illegible]n N 73° 41' 27" E a distance of 979.17 feet to a point, said point being M 22° 42' 00" W, 35.[illegible] feet from "P.R.M."R-39;
thenc[illegible]n N 73° 38' 56" E a distance of 1122.63 feet to a point, said point being N 22° 42' 00" W, 26[illegible] feet from "P.R.M."R-40;
then[illegible] run N 74°35' 31" E a distance of 1133.71 feet to a point, said point being N 22° 42' 00' W, 7[illegible] feet from "P.R.M."R-41;
ther[illegible]e run N 74°24' 08" E a distance of 944.57 feet to a point, said point being N 22° 42' 00" W, [illegible].00 feet from "P.R.M."R-42;
t[illegible]ce run N 76°25' 16" E a distance of 1139.83 feet to a point, said point being N 22° 42' 00" W, [illegible].00 feet from "P.R.M."R-43;
[illegible]ence run N 77°40' 50" E a distance of 896.35 feet to a point, said point being N 22° 42' 00" W, 80.00 feet from "P.R.M."R-44;
thence run N 77°29' 27" E a distance of 1048.04 feet to a point, said point being S 22° 42' 00" E, 13.00 feet from "P.R.M."R-45;
thence run N 76°55' 15" E a distance of 1008.35 feet to a point, said point being N 17° 42' 00" W, 13.00 feet from "P.R.M."R-46;
thence run N 75°53' 43" E a distance of 1001.73 feet to a point, said point being N 17° 42' 00" W, 6.00 feet from "P.R.M."R-47;
thence run N 77°00' 04" E a distance of 994.92 feet to a point, said point being S 17° 42' 00" E, 125.00 feet from "P.R.M."R-48;
thence run N 76°54' 56" E a distance of 1082.33 feet to a point, said point being N 17° 42' 00" W, 64.00 feet from "P.R.M."R-49;
thence run N 77°01' 43" E a distance of 1024.71 feet to a point, said point being N 17° 42' 00" W, 28.00 feet from "P.R.M."R-50;
thence run N 77°08' 01" E a distance of 1102.43 feet to a point, said point being S 17° 42' 00" E, 117.00 feet from "P.R.M."R-51;
thence run N 79° 20' 10" E a distance of 1017.66 feet to a point, said point being N 17° 42' 00" W, 72.00 feet from "P.R.M."R-52;
thence run N 79°35' 13" E a distance of 1000.73 feet to a point, said point being N 17° 42' 00" W, 38.00 feet from "P.R.M."R-53;
thence run N 79°30' 27" E a distance of 1137.33 feet to a point, said point being N 17° 42' 00" W, 10.00 feet from "P.R.M."R-54;
thence run N 79°36' 42" E a distance of 1032.50 feet to a point, said point being N 17° 42' 00" W, 44.00 feet from "P.R.M."R-55;
thence run N 79° 58' 49" E a distance of 924.02 feet to a point, said point also being "P.R.M."R-56;
thence run N 79°40' 58" E a distance of 1025.44 feet to a point, said point being S 17° 42' 00" E, 90.00 feet from "P.R.M."R-57;
thence run N 81°18' 03" E a distance of 957.95 feet to a point, said point being N 17° 42' 00" W, 43.00 feet from "P.R.M."R-58;
thence run N 80°04' 37" E a distance of 916.50 feet to a point, said point being N 17° 42' 00" W, 26.00 feet from "P.R.M."R-59;
thence run N 78° 48' 04" E a distance of 976.70 feet to a point, said poi[illegible]g N 17° 42' 00" W, 65.00 feet from "P.R.M."R-60;

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thence run N 78° 39' 16" E a distance of 995.01 feet to a point, said point being N 17° 42' 00" W, 142.00 feet from "P.R.M."R-61;
thence run N 81°06' 28" E a distance of 1045.24 feet to a point, said point being N 17° 42' 00" W, 85.00 feet from "P.R.M."R-62;
thence run N 83°27' 41" E a distance of 967.42 feet to a point, said point being N 17° 42' 00" W, 54.00 feet from "P.R.M."R-63;
thence run N 83° 20' 11" E a distance of 1114.84 feet to a point, said point being S 12° 42' 00" 186.00 feet from "P.R.M."R-64;
thence run N 83° 22' 00" E a distance of 549.60 feet to a point on the Setback line;
thence run N 21°55' 00" E a distance of 313.90 feet to a point, said point being N 77° 42' 00" W, 107.00 feet from "P.R.M."R-65;
thence run N 21°40' 28" E a distance of 1050.49 feet to a point, said point being N 77° 42' 00" W, 124.00 feet from "P.R.M."R-66;
thence run N 21°59' 08" E a distance of 1095.05 feet to a point, said point being S 87° 18' 00" W, 61.00 feet from "P.R.M."R-67;
thence leaving Perdido Key and run N 85°37' 23" E across Pensacola Bay a distance of 4254.61 feet to a point in Ft. Pickens State Park, said point being S 7°18' 00" W, 275.00 feet from "P.R.M."R-68;
thence run S 56° 55' 57" E a distance of 537.98 feet to a point, said point being S 7° 18' 00" W, 15.00 feet from "P.R.M."R-69;
thence run S 56°49' 14" E a distance of 905.02 feet to a point, said point being N 7° 18' 00" E, 0 feet from "P.R.M."R-70;
thence run S 61°34' 51" E a distance of 1265.71 feet to a point, said point being S 7° 18' 00" W, 662.00 feet from "P.R.M."R-71;
thence run S 61° 59' 04" E a distance of 819.32 feet to a point, said point being S 7° 18' 00" W, 806.00 feet from "P.R.M."R-72;
thence run S 63° 37' 39" E a distance of 764.82 feet to a point, said point being S 7° 18' 00" W, 395.00 feet from "P.R.M."R-73;
thence run S 60°11' 21" E a distance of 949.00 feet to a point, said point being S 2° 18' 00" W, 52.00 feet from "P.R.M."R-74;
thence run S 74°32' 06" E a distance of 929.78 feet to a point, said point being S 2° 18' 00" W, 206.00 feet from "P.R.M."R-75
thence run S 74°54' 43" E a distance of 981.35 feet to a point, said point being S 2° 18' 00" W, 82.00 feet from "P.R.M."R-76;
thence run S 82° 06' 29" E a distance of 1070.12 feet to a point, said point being S 2° 18' 00" W, 83.00 feet from "P.R.M."R-77;
thence run S 67° 47' 59" E a distance of 1004.29 feet to a point, said point being S 2° 18' 00" W, 199.00 feet from "P.R.M."R-78;
thence run S 73° 01' 15" E a distance of 855.79 feet to a point, said point being N 2° 18' 00" E, 67.00 feet from "P.R.M."R-79;
thence run S 77° 27' 30" E a distance of 946.83 feet to a point, said point being N 7° 42' 00" W, 70.00 feet from "P.R.M."R-80;
thence run N 89°31' 04" E a distance of 991.01 feet to a point, said point being N 7° 42' 00" W, 50.00 feet from "P.R.M."R-81;
thence run N 86°02' 40" E a distance of 1063.40 feet to a point, said point being S 7° 42' 00" E, 30.00 feet from "P.R.M."R-82;
thence run N 87° 03' 51" E a distance of 923.90 feet to a point, said point being N 7° 42' 00" W, 6.00 feet from "P.R.M."R-83;
thence run N 88°37' 08" E a distance of 966.47 feet to a point, said point being S 7° 42' 00" E, 26.00 feet from "P.R.M."R-84;
thence run N 88°53' 49" E a distance of 976.93 feet to a point, said point being N 7° 42' 00" W, 90.00 feet from "P.R.M."R-85;
thence run N 85°36' 04" E a distance of 952.67 feet to a point, said point being S 7° 42' 00" E, 4.00 feet from "P.R.M."R-86;
thence run N 82°56' 23" E a distance of 1141.74 feet to a point, said point being S 7° 42' 00" E, 12.00 feet from "P.R.M."R-87;
thence run N 86°45' 29" E a distance of 968.91 feet to a point, said point being N 7° 42' 00" W, 16.00 feet from "P.R.M."R-88;
thence run N 87°13' 43" E a distance of 1040.50 feet to a point, said point being N 7° 42' 00" W, 37.00 feet from "P.R.M."R-89;

thence run N 88°06' 16" E a distance of 1035.83 feet to a point, said point bei[illegible] 42' 00" W, 18.00 feet from "P.R.M."R-90;
thence run N 84° 01' 28" E a distance of 962.83 feet to a point, said point being N 7° 42' 00" W. 59.00 feet from "P.R.M."R-91;
thence run N 85°59' 20" E a distance of 1005.75 feet to a point, said point being N 7° 42' 00" W, 8.00 feet from "P.R.M."R-92;
thence run N 85°35' 23" E a distance of 1021.13 feet to a point, said point being S 7° 42' 00" E. 22.00 feet from "P.R.M."R-93;
thence run N 83°53' 23" E a distance of 1044.70 feet to a point, said point being S 12° 42' 00" E, 33.00 feet from "P.R.M."R-94;
thence run N 83°49' 26" E a distance of 977.07 feet to a point, said point being N 12° 42' 00" W, 35.00 feet from "P.R.M."R-95;
thence run N 84°28' 39" E a distance of 995.12 feet to a point, said point being N 12° 42' 00" W, 70.00 feet from "P.R.M."R-96;
thence run N 84°08' 36" E a distance of 949.31 feet to a point, said point being N 12° 42' 00" W, 53.00 feet from "P.R.M."R-97;
thence run N 85° 44' 54" E a distance of 1075.62 feet to a point, said point being N 12° 42' 00" W, 70.00 feet from "P.R.M."R-98;
thence run N 84°16' 10" E a distance of 986.21 feet to a point, said point being N 12° 42' 00" W, 18.00 feet from "P.R.M."R-99;
thence run N 81°52' 09" E a distance of 1003.27 feet to a point, said point being N 12° 42' 00" W, 75.00 feet from "P.R.M."R-100;
thence run N 82°58' 46" E a distance of 928.52 feet to a point, said point being N 12° 42' 00" W, 87.00 feet from "P.R.M."R-101;
thence run N 79°28' 27" E a distance of 1115.77 feet to a point, said point being N 12° 42' 00" W, 10.00 feet from "P.R.M."R-102;
thence run N 80°26' 46" E a distance of 926.14 feet to a point, said point being S 12° 42' 00" E, 66.00 feet from "P.R.M."R-103;
thence run N 83°18' 22" E a distance of 985.39 feet to a point, said point being N 12° 42' 00" W, 30.00 feet from "P.R.M."R-104;
thence run N 82°58' 49" E a distance of 979.59 feet to a point, said point being N 7° 42' 00" W, 77.00 feet from "P.R.M."R-105;
thence run N 81°56' 41" E a distance of 1078.04 feet to a point, said point being N 7° 42' 00" W, 37.00 feet from "P.R.M."R-106;
thence run N 82°36' 43" E a distance of 955.59 feet to a point, said point being S 12° 42' 00" E, 132.00 feet from "P.R.M."R-107;
thence run N 80°16' 37" E a distance of 914.88 feet to a point, said point being S 12° 42' 00" E, 66.00 feet from "P.R.M."R-108;
thence run N 80°34' 46" E a distance of 905.45 feet to a point, said point being N 12°42' 00" W, 78.00 feet from "P.R.M."R-109;
thence run N 82°13' 47" E a distance of 979.68 feet to a point, said point being S 12° 42' 00" E, 84.00 feet from "P.R.M."R-110;
thence run N 83°43' 22" E a distance of 1042.03 feet to a point, said point being S 12° 42' 00" E, 85.00 feet from "P.R.M."R-111;
thence run N 84°38' 35" E a distance of 868.61 feet to a point, said point being S 12° 42' 00" E, 13.00 feet from "P.R.M."R-112;
thence run N 86°18' 22" E a distance of 816.37 feet to a point, said point being N 12° 42' 00" W, 85.00 feet from "P.R.M."R-113;
thence run N 83°02' 18" E a distance of 1062.03 feet to a point, said point being N 12° 42' 00" W, 34.00 feet from "P.R.M."R-114;
thence run N 82°19' 19" E a distance of 961.80 feet to a point, said point being N 12° 42' 00" W, 27.00 feet from "P.R.M."R-115;
thence run N 81°25' 02" E a distance of 957.53 feet to a point, said point being S 12° 42' 00" E, 171.00 feet from "P.R.M."R-116;
thence run N 79°18' 34" E a distance of 1004.48 feet to a point, said point being N 12° 42' 00" W, 56.00 feet from "P.R.M."R-117;
thence run N 79°17' 50" E a distance of 915.42 feet to a point, said point being N 12° 42' 00" W, 31.00 feet from "P.R.M."R-118;
thence run N 79°29' 38" E a distance of 935.13 feet to a point, said point being S 12° 42' 00" E,

120.00 feet from "P.R.M."R-119;
thence run N 78°42' 06" E a distance of 1044.27 feet to a point, said point being S 12° 42' 00" E, 210.00 feet from "P.R.M."R-120;
thence run N 77°54' 31" E a distance of 1002.71 feet to a point, said point also being "P.R.M."R-121;
thence run N 78° 16' 11" E a distance of 958.64 feet to a point, said point being N 12° 42' 00" W, 12.00 feet from "P.R.M."R-122;
thence run N 79°27' 43" E a distance of 1080.38 feet to a point, said point being S 12° 42' 00" E, 114.00 feet from "P.R.M."R-123;
thence run N 79°44' 46" E a distance of 877.31 feet to a point, said point being N 12° 42' 00" W, 7.00 feet from "P.R.M."R-124;
thence run N 79°44' 44" E a distance of 955.23 feet to a point, said point being N 12° 42' 00" W, 26.00 feet from "P.R.M."R-125;
thence run N 79°36' 49' E a distance of 1041.66 feet to a point, said point being S 12° 42' 00" E, 65.00 feet from "P.R.M."R-126;
thence run N 79° 23' 05" E a distance of 1069.52 feet to a point, said point being S 12° 42' 00" E, 3.00 feet from "P.R.M."R-127;
thence run N 82°23' 59" E a distance of 850.86 feet to a point, said point being S 12° 42' 00" E, 67.00 feet from "P.R.M."R-128;
thence run N 80°07' 23" E a distance of 919.84 feet to a point, said point being S 19° 42' 00" E, 56.00 feet from "P.R.M."R-129;
thence run N 79°06' 10" E a distance of 1012.96 feet to a point, said point being S 12° 42' 00" E, 62.00 feet from "P.R.M."R-130;
thence run N 79°45' 17" E a distance of 1030.41 feet to a point, said point being N 12°42' 00" W, 39.00 feet from "P.R.M."R-131;
thence run N 76°31' 35" E a distance of 944.28 feet to a point, said point being N 12° 42' 00" W, 56.00 feet from "P.R.M."R-132;
thence run N 79°17' 28" E a distance of 975.96 feet to a point, said point being N 12° 42' 00" W, 27.00 feet from "P.R.M."R-133;
thence run N 79°13' 02" E a distance of 970.21 feet to a point, said point being S 12°42' 00" E, 67.00 feet from "P.R.M."R-134;
thence run N 79° 01' 39" E a distance of 936.60 feet to a point, said point being S 12° 42' 00" E, 82.00 feet from "P.R.M."R-135;
thence run N 79° 04' 55" E a distance of 1111.16 feet to a point, said point being N 12° 42' 00" W, 50.00 feet from "P.R.M."R-136;
thence run N 78°05' 54" E a distance of 965.63 feet to a point, said point being N 12° 42' 00" W, 58.00 feet from "P.R.M."R-137;
thence run N 78°11' 57" E a distance of 1008.57 feet to a point, said point being S 12° 42' 00" E, 207.00 feet from "P.R.M."R-138;
thence run N 78° 00' 20" E a distance of 949.09 feet to a point, said point being S 12° 42' 00" E, 124.00 feet from "P.R.M."R-139;
thence run N 77°28' 54' E a distance of 970.88 feet to a point, said point being S 12° 42' 00" E, 75.00 feet from "P.R.M."R-140;
thence run N 77°00' 36" E a distance of 1112.91 feet to a point, said point being S 12° 42' 00" E, 37.00 feet from "P.R.M."R-141;
thence run N 77°29' 59" E a distance of 982.23 feet to a point, said point being S 12° 42' 00" E, 22.00 feet from "P.R.M."R-142;
thence run N 79°22' 24" E a distance of 1035.27 feet to a point, said point also being "P.R.M."R-143;
thence run N 79°30' 25" E a distance of 1029.66 feet to a point, said point being S 12° 42' 00" E, 22.00 feet from "P.R.M."R-144;
thence run N 79°18' 47" E a distance of 974.07 feet to a point, said point being S 12° 42' 00" E, 35.00 feet from "P.R.M."R-145;
thence run N 79°42' 37" E a distance of 1023.18 feet to a point, said point being S 12° 42' 00" E, 45.00 feet from "P.R.M."R-146;
thence run N 79°32' 39" E a distance of 984.18 feet to a point, said point being S 12° 42' 00" E, 42.00 feet from "P.R.M."R-147;
thenc[illegible] 79°12' 15" E a distance of 1040.73 feet to a point, said point being S 12° 42' 00" E, 24[illegible] from "P.R.M."R-148;

thence run N 79°48' 24" E a distance of 995.17 feet to a point, said point being S 12° 42' 00" E, 50.00 feet from "P.R.M."R-149;
thence run N 79°12' 42" E a distance of 980.64 feet to a point, said point being S 12° 42' 00" E, 46.00 feet from "P.R.M."R-150;
thence run N 80°08' 02" E a distance of 1098.84 feet to a point, said point being S 12° 42' 00" E, 25.00 feet from "P.R.M."R-151;
thence run N 80°08' 24" E a distance of 957.88 feet to a point, said point being N 12° 42' 00" W, 8.00 feet from "P.R.M."R-152;
thence run N 80°27' 50" E a distance of 1005.89 feet to a point, said point being S 12° 42' 00" E, 23.00 feet from "P.R.M."R-153;
thence run N 81°17' 58" E a distance of 1004.48 feet to a point, said point being S 12° 42' 00" E, 42.00 feet from "P.R.M."R-154;
thence run N 78°29' 31" E a distance of 992.66 feet to a point, said point being S 12° 42' 00" E, 25.00 feet from "P.R.M."R-155;
thence run N 78°34' 24' E a distance of 1053.82 feet to a point, said point being N 12° 42' 00" W, 23.00 feet from "P.R.M."R-156;
thence run N 78°44' 24" E a distance of 981.33 feet to a point, said point being S 12° 42' 00" E. 4.00 feet from "P.R.M."R-157;
thence run N 78°19' 07" E a distance of 1008.28 feet to a point, said point being S 12°42' 00" E, 21.00 feet from "P.R.M."R-158;
thence run N 79°02' 54" E a distance of 975.40 feet to a point, said point being N 12° 42' 00" W, 28.00 feet from "P.R.M."R-159;
thence run N 79°51' 55" E a distance of 1043.22 feet to a point, said point being S 12° 42' 00" E, 36.00 feet from "P.R.M."R-160;
thence run N 80°00' 58" E a distance of 1024.06 feet to a point, said point being S 12° 42' 00" E, 53.00 feet from "P.R.M."R-161;
thence run N 78°32' 56" E a distance of 981.18 feet to a point, said point also being "P.R.M." R-162;
thence run N 80°49' 59" E a distance of 1042.80 feet to a point, said point being N 12° 42' 00" W, 42.00 feet from "P.R.M."R-163;
thence run N 81°12' 10" E a distance of 864.32 feet to a point, said point being S 12° 42' 00" E, 42.00 feet from "P.R.M."R-164;
thence run N 81°05' 32" E a distance of 1066.92 feet to a point, said point being S 12° 42' 00" E, 63.00 feet from "P.R.M."R-165;
thence run N 80°22' 10" E a distance of 1037.13 feet to a point, said point being S 12° 42' 00" E, 10.00 feet from "P.R.M."R-166;
thence run N 79°35' 42" E a distance of 957.11 feet to a point, said point being N 12° 42' 00" W, 27.00 feet from "P.R.M."R-167;
thence run N 82°59' 50" E a distance of 957.48 feet to a point, said point being S 12° 42' 00" E, 41.00 feet from "P.R.M."R-168;
thence run N 80°39' 52" E a distance of 1062.30 feet to a point, said point being S 12° 42' 00" E, 42.00 feet from "P.R.M."R-169;
thence run N 80°30' 33" E a distance of 1032.42 feet to a point, said point being S 12° 42' 00" E, 41.00 feet from "P.R.M."R-170;
thence run N 81°25' 41" E a distance of 1017.67 feet to a point, said point also being "P.R.M." R-171;
thence run N 79°39' 15" E a distance of 1030.73 feet to a point, said point also being "P.R.M."R-172;
thence run N 80°38' 11" E a distance of 905.36 feet to a point, said point being S 12° 42' 00" E, 25.00 feet from "P.R.M."R-173;
thence run N 78°26' 17" E a distance of 985.44 feet to a point, said point also being "P.R.M."R-174;
thence run N 78°22' 26" E a distance of 942.23 feet to a point, said point being S 12° 42' 00" E, 10.00 feet from "P.R.M."R-175;
thence run N 78°22' 28" E a distance of 1069.20 feet to a point, said point being N 12° 42' 00" W, 1.00 feet from "P.R.M."R-176;
thence run N 79°39' 08" E a distance of 1047.10 feet to a point, said point being S 12° 42' 00" E, 33.00 feet from "P.R.M."R-177;
thence run N 78° 57' 47" E a distance of 982.79 feet to a point, said poi[illegible] N 12° 42' 00" W,

45.00 feet from "P.R.M."R-178;
thence run N 79°04' 15" E a distance of 927.34 feet to a point, said point being S 12° 42' 00" E, 25.00 feet from "P.R.M."R-179;
thence run N 80°38' 18" E a distance of 995.22 feet to a point, said point being S 12° 42' 00" E, 58.00 feet from "P.R.M."R-180;
thence run N 80° 07' 07" E a distance of 1034.81 feet to a point, said point being S 12° 42' 00" E, 41.00 feet from "P.R.M."R-181;
thence run N 80°21' 21" E a distance of 985.85 feet to a point, said point being S 12° 42' 00" E, 26.00 feet from "P.R.M."R-182;
thence run N 80°46' 17" E a distance of 1034.50 feet to a point, said point being S 12° 42' 00" E, 23.00 feet from "P.R.M."R-183;
thence run N 80°35' 01" E a distance of 1013.78 feet to a point, said point being S 12° 42' 00" E, 57.00 feet from "P.R.M."R-184;
thence run N 80°05' 24" E a distance of 999.72 feet to a point, said point being S 12° 42' 00" E, 5.00 feet from "P.R.M."R-185;
thence run N 79°38' 25" E a distance of 1089.63 feet to a point, said point also being "P.R.M."R-186;
thence run N 78°14' 36" E a distance of 963.89 feet to a point, said point being S 12° 42' 00" E, 17.00 feet from "P.R.M."R-187;
thence run N 78°38' 26" E a distance of 971.56 feet to a point, said point being S 12° 42' 00" E, 46.00 feet from "P.R.M."R-188;
thence run N 78° of 12' 32" E a distance of 991.27 feet to a point, said point being S 12° 42' 00" E, 24.00 feet from "P.R.M."R-189;
thence run N 78°25' 44" E a distance of 985.78 feet to a point, said point being S 12° 42' 00" E, 22.00 feet from "P.R.M."R-190;
thence run N 80°13' 35" E a distance of 963.27 feet to a point, said point being S 12° 42' 00" E, 34.00 feet from "P.R.M."R-191;
thence run N 81°16' 05" E a distance of 1080.36 feet to a point, said point being S 12° 42' 00" E, 74.00 feet from "P.R.M."R-192;
thence run N 79°40' 38" E a distance of 1156.61 feet to a point, said point being N 12° 42' 00" W, 56.00 feet from "P.R.M."R-193;
thence run N 80° 29' 07" E a distance of 863.66 feet to a point, said point being S 12° 42' 00" E, 57.00 feet from "P.R.M."R-194;
thence run N 80°09' 46" E a distance of 954.24 feet to a point, said point being S 12° 42' 00" E, 15.00 feet from "P.R.M."R-195;
thence run N 80°42' 47" E a distance of 1052.38 feet to a point, said point being S 12° 42' 00" E, 52.00 feet from "P.R.M."R-196;
thence run N 82° 03' 02" a distance of 1051.97 feet to a point, said point being S 12° 42' 00" E, 90.00 feet from "P.R.M."R-197;
thence run N 80°56' 46" E a distance of 964.43 feet to a point, said point being N 12° 42' 00" W, 42.00 feet from "P.R.M."R-198;
thence run N 80°53' 55" E a distance of 1049.67 feet to a point, said point being S 12° 42' 00" E, 106.00 feet from "P.R.M."R-199;
thence run N 79° 49' 42" E a distance of 910.35 feet to a point, said point being S 12° 42' 00" E, 24.00 feet from "P.R.M."R-200;
thence run N 81°07' 53" E a distance of 1040.40 feet to a point, said point being N 12° 42' 00" W, 33.00 feet from "P.R.M."R-201;
thence run N 81°40' 42" E a distance of 1014.56 feet to a point, said point being N 12° 42' 00" W, 6.00 feet from "P.R.M."R-202;
thence run N 80° 24' 03" E a distance of 1006.81 feet to a point, said point being S 12° 42' 00" E 61.00 feet from "P.R.M." R-203;
thence run N 81° 17' 40" E a distance of 995.23 feet to a point, said point being N 12° 42' 00" W, 70.00 feet from "P.R.M."R-204;
thence run N 81° 19' 22" E a distance of 993.80 feet to a point, said point being N 12° 42' 00" W, 15.00 feet from "P.R.M."R-205;
thence run N 82°27' 10" E a distance of 1080.64 feet to a point, said point being N 12° 42' 00" W, 10.00 feet from "P.R.M."R-206;
thence run N 83°01' 30" E a distance of 1035.03 feet to a point, said point being N 12° 42' 00" W, 53.00 feet from "P.R.M."R-207;

thence run N 81°42' 42" E a distance of 1075.43 feet to a point, said point being N 12° 42' 00" W, 84.00 feet from "P.R.M."R-208;
thence run N 82°25' 40" E a distance of 996.79 feet to a point, said point being N 12° 42' 00" W, 67.00 feet from "P.R.M."R-209;
thence run N 82°29' 21" E a distance of 1064.84 feet to a point, said point being N 12° 42' 00" W, 35.00 feet from "P.R.M."R-210;
thence run N 82°07' 28" E a distance of 1039.69 feet to a point, said point being S 12° 42' 00" E, 59.00 feet from "P.R.M."R-211;
thence run N 81°47' 42" E a distance of 1047.38 feet to a point, said point being S 12° 42' 00" E, 72.00 feet from "P.R.M."R-212;
thence run N 81°32' 10" E a distance of 995.65 feet to a point, said point being S 12° 42' 00" E, 254.00 feet from "P.R.M."R-213;
thence run N 83°34' 06' E a distance of 984.35 feet to a point, said point being S 12° 42' 00" E, 67.00 feet from "P.R.M."R-214;
thence run N 83°34' 06" E to a point of intersection with the Escambia County - Santa Rosa County Line and westerly boundary of Eglin Air Force Base, said point being the easterly terminus of the aforementioned Coastal Construction Setback Line.

STATION	NORTHING	EASTING
R-1	478,311.142	1,047,380.781
R-2	478,591.075	1,048,413.366
R-3	478,899.840	1,049,389.187
R-4	479,123.306	1,050,520.923
R-5	479,305.077	1,051,490.138
R-6	479,462.036	1,052,583.449
R-7	479,698.643	1,053,688.983
R-8	479,825.311	1,054,604.931
R-9	480,118.597	1,055,724.486
R-10	480,260.797	1,056,674.976
R-11	480,429.809	1,057,743.457
R-12	480,725.897	1,058,824.610
R-13	480,865.188	1,059,927.991
R-14	481,196.608	1,060,852.941
R-15	481,281.738	1,061,682.925
R-16	481,378.500	1,062,607.634
R-17	481,773.070	1,063,721.076
R-18	481,923.783	1,064,566.459
R-19	482,065.734	1,065,575.568
R-20	482,156.708	1,066,623.529
R-21	482,395.785	1,067,582.780
R-22	482,499.487	1,068,687.251
R-23	482,602.752	1,069,576.200
R-24	482,747.261	1,070,511.974
R-25	482,954.830	1,071,643.764
R-26	482,965.306	1,072,537.907
R-27	483,194.806	1,073,516.785
R-28	483,324.611	1,074,634.408
R-29	483,469.393	1,075,678.754
R-30	483,631.474	1,076,759.183
R-31	483,787.398	1,077,860.934
R-32	483,968.096	1,078,812.311
R-33	484,041.270	1,079,810.595
R-34	484,313.131	1,081,056.856
R-35	484,425.207	1,082,239.957
R-36	484,691.289	1,083,227.252
R-37	484,906.120	1,084,153.662
R-38	485,185.818	1,085,142.474
R-39	485,453.407	1,086,085.332
R-40	485,777.756	1,087,159.084
R-41	486,096.498	1,088,244.711

STATION	NORTHING	EASTING
R-42	486,329.258	1,089,163.367
R-43	486,618.090	1,090,262.465
R-44	486,741.991	1,091,166.349
R-45	487,054.786	1,092,153.620
R-46	487,258.596	1,093,144.779
R-47	487,509.378	1,094,114.177
R-48	487,857.965	1,095,043.774
R-49	487,922.938	1,096,155.468
R-50	488,187.247	1,097,143.085
R-51	488,570.867	1,098,173.749
R-52	488,579.130	1,099,231.299
R-53	488,792.393	1,100,205.209
R-54	489,026.181	1,101,315.008
	489,179.970	1,102,340.916
	489,382.652	1,103,237.462
	489,652.044	1,104,218.960
R-58	489,670.227	1,105,206.323
R-59	489,844.360	1,106,103.947
R-60	489,996.898	1,107,073.912
R-61	490,119.288	1,108,072.891
R-62	490,335.162	1,109,088.243
R-63	490,474.856	1,110,039.943
R-64	490,837.115	1,111,089.939
R-65	490,987.570	1,111,898.461
R-66	491,960.166	1,112,303.052
R-67	493,004.872	1,112,652.791
R-68	493,599.478	1,116,869.004
R-69	493,048.047	1,117,286.813
R-70	492,497.216	1,118,037.164
R-71	492,592.145	1,119,239.667
R-72	492,350.134	1,119,981.280
R-73	491,602.730	1,120,614.279
R-74	490,791.103	1,121,389.600
R-75	490,697.054	1,122,291.899
R-76	490,317.708	1,123,234.440
R-77	490,171.774	1,124,294.465
R-78	489,908.216	1,125,228.961
R-79	489,392.520	1,126,036.769
R-80	489,184.492	1,126,973.074
R-81	489,212.650	1,127,961.368
R-82	489,365.284	1,129,011.515
R-83	489,376.929	1,129,939.028
R-84	489,431.935	1,130,900.933
R-85	489,335.787	1,131,893.227
R-86	489,502.008	1,132,830.501
R-87	489,650.268	1,133,962.508
R-88	489,677.316	1,134,933.621
R-89	489,706.813	1,135,975.716
R-90	489,759.905	1,137,008.430
R-91	489,819.508	1,137,971.521
R-92	489,940.401	1,138,967.975
R-93	490,048.652	1,139,982.067
R-94	490,170.243	1,141,016.529
R-95	490,209.023	1,142,002.880
R-96	490,270.645	1,143,001.072
R-97	490,384.097	1,143,941.690
R-98	490,447.254	1,145,018.086
R-99	490,596.457	1,145,987.933

STATION	NORTHING	EASTING
R-100	490,682.747	1,146,993.645
R-101	490,784.531	1,147,917.846
R-102	491,063.475	1,148,997.914
R-103	491,291.330	1,149,894.502
R-104	491,312.540	1,150,894.279
R-105	491,385.218	1,151,870.247
R-106	491,575.920	1,152,932.293
R-107	491,864.235	1,153,845.971
R-108	491,954.360	1,154,762.221
R-109	491,962.089	1,155,687.119
R-110	492,252.580	1,156,622.185
R-111	492,367.491	1,157,657.749
R-112	492,378.345	1,158,538.396
R-113	492,335.336	1,159,374.611
R-114	492,513.814	1,160,417.603
R-115	492,649.147	1,161,369.246
R-116	492,985.202	1,162,272.528
R-117	492,950.090	1,163,309.478
R-118	493,144.485	1,164,203.475
R-119	493,462.300	1,165,089.729
R-120	493,754.690	1,166,093.977
R-121	493,759.865	1,167,120.612
R-122	493,943.052	1,168,061.866
R-123	494,263.559	1,169,096.324
R-124	494,301.688	1,169,986.221
R-125	494,453.200	1,170,930.368
R-126	494,729.771	1,171,934.956
R-127	494,915.085	1,172,988.809
R-128	495,041.278	1,173,829.119
R-129	495,186.422	1,174,731.176
R-130	495,385.681	1,175,731.113
R-131	495,470.421	1,176,767.298
R-132	495,673.854	1,177,689.331
R-133	495,883.494	1,178,641.919
R-134	496,156.705	1,179,574.337
R-135	496,349.607	1,180,490.520
R-136	496,431.298	1,181,610.589
R-137	496.622.638	1,182,557.216
R-138	497,087.418	1,183,486.212
R-139	497,203.686	1,184,432.827
R-140	497,366.326	1,185,391.394
R-141	497,579.415	1,186,484.179
R-142	497,777.381	1,187,446.428
R-143	497,946.832	1,188,468.776
R-144	498,155.813	1,189,476.382
R-145	498,349.129	1,190,430.696
R-146	498,541.650	1,191,435.223
R-147	498,717,328	1,192,403.718
R-148	498,894.710	1,193,429.989
R-149	499,096.189	1,194,403.735
R-150	499,275.845	1,195,367.922
R-151	499,443.641	1,196,455.133
R-152	499,575.477	1,197,406.117
R-153	499,772.362	1,198,391.297
R-154	499,942.846	1,199,380.043
R-155	500,124.302	1,200,356.481
R-156	500,286.253	1,201,399.962
R-157	500,504.209	1,202,356.464

STATION	NORTHING	EASTING
R-158	500,724.937	1,203,340.124
R-159	500,862.442	1,204,308.531
R-160	501,108.446	1,205,321.406
R-161	501,302.572	1,206,326.225
R-162	501,445.665	1,207,299.531
R-163	501,570.822	1,208,338.242
R-164	501,784.955	1,209,173.932
R-165	501,970.646	1,210,223.367
R-166	502,092.449	1,211,257.538
R-167	502,229.211	1,212,207.043
R-168	502,412.281	1,213,142.432
R-169	502,585.579	1,214,190.442
R-170	502,754.841	1,215,208.953
R-171	502,866.527	1,216,224.271
R-[illegible]2	503,051.634	1,217,238.247
73	503,223.324	1,218,126.052
R-174	503,396.445	1,219,096.997
R-175	503,596.085	1,220,017.702
R-176	503,800.814	1,221,067.382
R-177	504,022.063	1,222,089.973
R-178	504,134.117	1,223,071.732
R-179	504,378.222	1,223,966.861
R-180	504,572.304	1,224,941.570
R-181	504,733.303	1,225,964.764
R-182	504,883.829	1,226,939.982
R-183	505,046.808	1,227,961.752
R-184	505,245.837	1,228,954.395
R-185	505,367.161	1,229,950.631
R-186	505,558.229	1,231,023.596
R-187	505,771.210	1,231,963.531
R-188	505,990.862	1,232,909.680
R-189	506,171.961	1,233,884.866
R-190	506,367.743	1,234,851.052
R-191	506,542.968	1,235,797.702
R-192	506,746.001	1,236,856.742
R-193	506,826.440	1,238,023.209
R-194	507,079.438	1,238,850.141
R-195	507,201.496	1,239,799.585
R-196	507,407.423	1,240,830.041
R-197	507,589.980	1,241,863.552
R-198	507,612.975	1,242,844.991
R-199	507,923.392	1,243,848.914
R-200	508,004.167	1,244,762.988
R-201	508,108.961	1,245,803.485
R-202	508,282.139	1,246,801.423
R-203	508,515.390	1,247,779.404
R-204	508,538.229	1,248,791.972
R-205	508,741.816	1,249,762.307
R-206	508,888.627	1,250,832.484
R-207	508,972.370	1,251,869.304
R-208	509,097.157	1,252,940.318
R-209	509,245.094	1,253,924.675
R-210	509,415.498	1,254,973.340
R-211	509,649.656	1,255,982.554
R-212	509,811.817	1,257,016.360
R-213	510,135.908	1,257,961.153
R-214	510,063.749	1,258,980.422

16B-26.03 Description of the Okaloosa County Coastal Construction Control Line (Range 31 through Range 50).

(1) There is hereby established pursuant to Section 161.053, Florida Statutes, a coastal construction control line (Range 31 through Range 50) in Okaloosa County, Florida. The legal description of said line is attached hereto.

(2) This rule shall take effect 20 days after filing with the Department of State or on the date that it is duly recorded in the public records in the office of the Clerk of the Circuit Court in and for Okaloosa County, Florida, whichever is later.

(3) After this rule becomes effective no person, firm, corporation, or governmental agency shall construct any structure whatsoever seaward thereof, or perform any actions as described in Section 161.053, Florida Statutes, without obtaining a permit as described in said section, and all provisions of said section shall apply to this rule.

Specific Authority 161.053, 370.021 FS. Law Implemented 161.053, 370.021(1) FS. History—New 10-25-76. Amended 1-25-79.

EXHIBIT "B"

METES AND BOUNDS DESCRIPTION
FOR THE
COASTAL CONSTRUCTION CONTROL LINE
OKALOOSA COUNTY, FLORIDA

Description of the Coastal Construction Control Line (CCCL) is established in compliance with Section 161.053 of the Florida Statutes. Said Control Line lying along the Gulf of Mexico Coast from Okaloosa County Department of Natural Resources (D.N.R.) Monument R-31 East to the Okaloosa and Walton County Line.

Said Coastal Construction Control Line is related to a series of "Permanent Reference Monuments" (P.R.M.) designated and hereinafter referred to as "R-31" through "R-50" for monuments established by the Department of Natural Resources, State of Florida or referred to by station name for monuments established by the National Geodetic Survey (N.G.S.).

Commence at "P.R.M." R-31; thence S 7 deg. 30 min. E (GN) a distance of 40.00 feet to the point of beginning;

Thence S 1 deg. 0 min. 43.34 sec. E (GN) a distance of 25.0991 feet to a point on the CCCL:

Thence S 83 deg. 26 min. 43.34 sec. E (GN) a distance of 877.38 feet to a point; Said point being Due South a distance of 75.00 feet from "P.R.M." R-32;

Thence S 86 deg. 29 min. 38.00 sec. E (GN) a distance of 968.621 feet to a point; Said point being Due South a distance of 60.00 feet from "P.R.M." R-33;

Thence S 85 deg. 49 min. 42.93 sec. E (GN) a distance of 1060.894 feet to a point; Said point being Due South a distance of 60.00 feet from "P.R.M." R-34;

Thence S 85 deg. 00 min. 10.24 sec. E (GN) a distance of 993.086 feet to a point; Said point being Due South a distance of 75.00 feet from "P.R.M." R-35;

Thence S 86 deg. 25 min. 28.61 sec. E (GN) a distance of 942.292 feet to a point; Said point being Due South a distance of 80.00 feet from "P.R.M."R-36;

Thence S 87 deg. 16 min. 14.02 sec. E (GN) a distance of 1100.945 feet to a point; Said point being S 5 deg. W a distance of 70.00 feet from "P.R.M." R-37;

Thence S 85 deg. 47 min. 53.53 sec. E (GN) a distance of 1021.343 feet to a point; Said point being S 5 deg. W a distance of 56.00 feet from "P.R.M." R-38;

Thence S 84 deg. 04 min. 21.65 sec. E (GN) a distance of 971.346 feet to a point; Said point being S 5 deg. W a distance of 86.00 feet from "P.R.M." R-39;

Thence S 83 deg. 33 min. 48.07 sec. E (GN) a distance of 968.425 feet to a point; Said point being N 5 deg. E a distance of 23.00 feet from "P.R.M." R-40;

Thence S 82 deg. 59 min. 49.80 sec. E (GN) a distance of 1134.549 feet to a point; Said point being S 5 deg. W a distance of 190.00 feet from "P.R.M."R-41;

Thence S 82 deg. 51 min. 13.86 sec. E (GN) a distance of 991.962 feet to a point; Said point being S 5 deg. W a distance of 55.00 feet from "P.R.M." R-42;

Thence S 82 deg. 13 min. 58.30 sec. E (GN) a distance of 1013.672 feet to a point; Said point being S 5 deg. W a distance of 53.00 feet from "P.R.M." R-43;

Thence S 83 deg. 26 min. 00.29 sec. E (GN) a distance of 976.558 feet to a point; Said point being

S 5 deg. W a distance of 130.00 feet from "P.R.M." R-44;
Thence S 83 deg. 42 min. 47.14 sec. E (GN) a distance of 1020.236 feet to a point; Said point being S 5 deg. W a distance of 64.00 feet from "P.R.M." R-45;
Thence S 82 deg. 58 min. 24.91 sec. E (GN) a distance of 1105.768 feet to a point; Said point being S 5 deg. W a distance of 65.00 feet from "P.R.M." R-46;
Thence S 82 deg. 54 min. 08.65 sec. E (GN) a distance of 972.084 feet to a point; Said point being N 5 deg. E a distance of 35.00 feet from "P.R.M." R-47;
Thence S 80 deg. 55 min. 40.77 sec. E (GN) a distance of 1051.345 feet to a point; Said point being S 5 deg. W a distance of 96.00 feet from "P.R.M." R-48;
Thence S 81 deg. 47 min. 28.16 sec. E (GN) a distance of 961.033 feet to a point; Said point being S 5 deg. W a distance of 57.00 feet from "P.R.M." R-49;
Thence S 83 deg. 00 min. 25.12 sec. E (GN) a distance of 1003.275 feet to a point; Said point being S 5 deg. W a distance of 47.00 feet from "P.R.M." R-50;
Thence S 85 deg. 30 min. 00 sec. E to a point of intersection with the Okaloosa and Walton County Line; Said point being the Easterly Terminus of the aforementioned Coastal Construction Control Line for Okaloosa County.

16B-26.04 Description of the Duval County Coastal Construction Setback Line. There is hereby established pursuant to Section 161.053, Florida Statutes, a coastal construction setback line in Duval County, Florida. The legal description of said line is attached hereto.

After this rule has been recorded in the office of the Clerk of the Circuit Court in and for Duval County, Florida, no person, firm, corporation or governmental agency shall construct any structure whatsoever seaward thereof, or perform any actions as described in Section 161.053, Florida Statutes, without obtaining a permit as described in said section of the Statute, and all provisions of said Section shall apply to this rule.

Specific Authority 120, 161.053 FS. Law Implemented 161.053 FS. History—New 2-24-76.

Description of Coastal Construction Setback lines established in compliance with Section 161.053 Florida Statutes, said Setback line lying along the Atlantic Ocean Coast from the Duval County line and Nassau County line southerly to the Duval County and St. Johns County line.

Said Coastal Construction Setback line is related to a series of "Permanent Reference Monuments"(P.R.M.) designated and hereinafter referred to as "R-1" through "R-80" as established by the Department of Natural Resources, State of Florida in 1973, said monuments are co-ordinated on the Florida State Plane co-ordinate system, East Zone and a table of said co-ordinates are attached hereto and made a part hereof, said "P.R.M." R-1 is located near the Duval County and Nassau County line.

Commence at "P.R.M." R-1 thence run S 16°44' 00" W a distance of 77.0 feet to the point of beginning;
thence S 77°32' 39" E a distance of 931.53 feet to a point, said point being S 26° 44' 00" W, 49.00 feet from "P.R.M." R-2;
thence S 32°46' 51" E a distance of 699.42 feet to a point, said point being S 76°44' 00" W, 92.00 feet from "P.R.M." R-3
thence S 19°51' 01" E a distance of 937.23 feet to a point, said point being S 76° 44' 00" W, 107.00 feet from "P.R.M." R-4;
thence S 13°55' 04" E a distance of 1077.32 feet to a point, said point being S 81° 44' 00" W, 118.00 feet from "P.R.M." R-5;
thence S 01° 30' 52" W a distance of 808.69 feet to a point, said point being N 73° 16' 00" W, 79.00 feet from "P.R.M." R-6;
thence S 06° 07' 04" W a distance of 968.24 feet to a point, said point being N 73° 16' 00" W, 112.00 feet from "P.R.M." R-7;
thence S 11° 07' 41" W a distance of 1021.19 feet to a point, said point being N 88° 16' 00" W, 53.00 feet from "P.R.M." R-8;
thence S 09° 50' 44" W a distance of 1031.02 feet to a point, said point being N 88° 16' 00" W, 52.00 feet from "P.R.M." R-9;
thence S 03° 56' 38" W a distance of 1021.90 feet to a point, said point being N 88° 166' 00" W, [illegible]00 feet from "P.R.M." R-10;
th[illegible] 03° 40' 41" W a distance of 1026.68 feet to a point, said point being S 88° 16' 00" E, "W[illegible] feet from "P.R.M." R-11;

thence S 00° 52' 24" W a distance of 1081.13 feet to a point, said point being N 88° 16' 00" W, 24.00 feet from "P.R.M." R-12;
thence S 03° 23' 21" E a distance of 1045.69 feet to a point, said point being N 88° 16' 00" W, 143.00 feet from "P.R.M." R-13;
thence S 03° 24' 28" E a distance of 962.48 feet to a point, said point being N 88° 16' 00" W, 72.00 feet from "P.R.M." R-14;
thence S 02° 15' 25" E a distance of 900.91 feet to a point, said point being N 88° 16' 00" W, 68.00 feet from "P.R.M."R-15;
thence S 04° 20' 08" E a distance of 1129.18 feet to a point, said point being N 88° 16' 00"W, 152.00 feet from "P.R.M." R-16;
thence S 03° 01' 20" E a distance of 877.99 feet to a point, said point being N 88° 16' 00" W, 96.00 feet from "P.R.M." R-17;
thence S 08° 58' 38" E a distance of 973.75 feet to a point, said point being N 88° 16' 00" W, 131.00 feet from "P.R.M." R-18;
thence S 09° 13' 56" E a distance of 887.22 feet to a point, said point being N 88° 16' 00"W, 67.00 feet from "P.R.M." R-19;
thence S 10° 21' 10" E a distance of 974.26 feet to a point, said point being S 81° 44' 00" W, 153.00 from "P.R.M." R-20;
thence S 10° 53' 38" E a distance of 1003.11 feet to a point, said point being N 76° 44' 00" E, 142.00 feet from "P.R.M." R-21;
thence S 19° 02' 40" E a distance of 910.00 feet to a point, said point being S 76° 44' 00" W, 30.00 feet from "P.R.M." R-22;
thence S 16° 55' 22" E a distance of 940.35 feet to a point, said point being N 88° 16' 00" W, 190.00 feet from "P.R.M." R-23;
thence S 09° 13' 20" E a distance of 543.67 feet to a point, said point being N 27° 16' 00" W, 250.00 feet from "P.R.M." R-24;
thence S 47° 03' 48" W a distance of 1071.67 feet to a point, said point being N 43° 16' 00" W, 151.00 feet from "P.R.M." R-25;
thence S 02° 28' 18" E across Fort George Inlet a distance of 3525.13 feet to a point, said point being S 21° 44' 00" W, 447.00 feet from "P.R.M." R-26;
thence S 25° 05' 38" E a distance of 799.36 feet to a point, said point being S 61° 44' 00" W, 328.00 feet from "P.R.M." R-27;
thence S 30° 22' 37" E a distance of 875.59 feet to a point, said point being S 71° 44' 00" W, 519.00 feet from "P.R.M." R-28;
thence S 57° 56' 58" E a distance of 526.00 feet to a point on the set back line;
thence S 09° 18' 34" E distance of 970.00 feet to a point, said point being S 86° 44' 00" W, 162.00 feet from "P.R.M." R-29;
thence S 08° 32' 07" E distance of 871.28 feet to a point, said point being N 63° 16' 00" W, 194.00 feet from "P.R.M." R-30;
thence S 14° 08' 17" E across another portion of Fort George Inlet a distance of 8583.58 feet to a point, said point being N 83° 16' 00" W, 98.00 feet from "P.R.M." R-31;
thence S 05° 56' 35" W a distance of 1092.84 feet to a point, said point being N 78° 16' 00" W, 32.00 feet from "P.R.M." R-32;
thence S 02° 19' 13" W a distance of 841.78 feet to a point, said point being N 83° 16' 00" W, 68.00 feet from "P.R.M." R-33;
thence S 02° 25' 28" W a distance of 958.57 feet to a point, said point being N 83° 16' 00" W, 43.00 feet from "P.R.M." R-34;
thence S 01° 39' 03" W a distance of 1071.89 feet to a point, said point being N 83° 16' 00" W, 67.00 feet from "P.R.M." R-35;
thence S 01° 51' 04" W a distance of 918.97 feet to a point, said point being N 83° 16' 00" W, 36.00 feet from "P.R.M." R-36;
thence S 01° 03' 49" W a distance of 755.14 feet to a point, said point being N 83° 16' 00" W, 76.00 feet from "P.R.M." R-37;
thence S 00° 10' 07" W a distance of 1267.00 feet to a point, said point being N 88° 16' 00" W, 88.00 feet from "P.R.M." R-38;
thence S 02° 52' 58" E a distance of 852.15 feet to a point, said point being N 88° 16' 00" W, 64.00 feet from "P.R.M." R-39;
thence S 01° 59' 54" E a distance of 976.90 feet to a point, said point bein[illegible] 16' 00" W, 11.00 feet from "P.R.M." R-40;

thence S 01° 52' 50" E a distance of 884.32 feet to a point, said point being N 88° 16' 00" W, 85.00 feet from "P.R.M." R-41;
thence S 08° 32' 55" E a distance of 1058.77 feet to a point, said point being N 88° 16' 00" W, 17.00 feet from "P.R.M." R-42;
thence S 03° 18' 23" E a distance of 815.61 feet to a point, said point being N 88° 16' 00" W, 34.00 feet from "P.R.M." R-43;
thence S 05° 43' 59" E a distance of 971.41 feet to a point, said point being S 88° 16' 00" E, 100.00 feet from "P.R.M." R-44;
thence S 04° 51' 16" E a distance of 921.94 feet to a point, said point being N 88° 16' 00" W, 12.00 feet from "P.R.M." R-45;
thence S 04° 59' 41" E a distance of 968.72 feet to a point, said point being N 86° 44' 00" E, 7.00 feet from "P.R.M." R-46;
thence S 06° 16' 54" E a distance of 990.18 feet to a point, said point being S 86° 44' 00" W, 25.00 feet from "P.R.M." R-47;
thence S 05° 39' 54" E a distance of 1031.13 feet to a point, said point being S 81° 44' 00" W, 40.00 feet from "P.R.M." R-48;
thence S 05° 05' 29" E a distance of 920.49 feet to a point, said point being N 88° 16' 00" W, 25.00 feet from "P.R.M." R-49;
thence S 04° 41' 39" E a distance of 926.39 feet to a point, said point being S 84° 44' 00" W, 29.00 feet from "P.R.M." R-50;
thence S 04° 26' 53" E a distance of 942.22 feet to a point, said point being S 86° 44' 00" W, 28.00 feet from "P.R.M." R-51;
ence S 04° 52' 59" E a distance of 1057.16 feet to a point, said point being S 86° 44' 00" W, 33.00 feet from "P.R.M." R-52;
thence S 02° 48' 47" E a distance of 934.64 feet to a point, said point being S 86° 44' 00" W, 55.00 feet from "P.R.M." R-53;
thence S 06° 37' 34" E a distance of 915.07 feet to a point, said point being S 86° 44' 00" W, 16.00 feet from "P.R.M." R-54;
thence S 06° 28' 47" E a distance of 918.80 feet to a point, said point being S 86° 44' 00" W, 51.00 feet from "P.R.M." R-55;
thence S 06° 42' 58" E a distance of 945.78 feet to a point, said point being S 81° 44' 00" W, 56.00 feet from "P.R.M." R-56;
thence S 09° 22' 42" E a distance of 892.96 feet to a point, said point being S 81° 44' 00" W, 33.00 feet from "P.R.M." R-57;
thence S 07° 41' 46" E a distance of 992.51 feet to a point, said point being S 86° 44' 00" W, 33.00 feet from "P.R.M." R-58;
thence S 08° 23' 18" E a distance of 938.49 feet to a point, said point being N 86° 44' 00" E, 89.00 feet from "P.R.M." R-59;
thence S 08° 27' 43" E a distance of 909.44 feet to a point, said point being S 81° 44' 00" W, 47.00 feet from "P.R.M." R-60;
thence S 08° 11' 52" E a distance of 1079.11 feet to a point, said point being S 81° 44' 00" W, 29.00 feet from "P.R.M." R-61;
thence S 08° 32' 21" E a distance of 892.22 feet to a point, said point being S 81° 44' 00" W, 27.00 feet from "P.R.M." R-62;
thence S 08° 20' 08" E a distance of 994.62 feet to a point, said point being S 81° 44' 00" W, 39.00 feet from "P.R.M." R-63;
thence S 08° 34' 35" E a distance of 895.37 feet to a point, said point being S 81° 44' 00" W, 25.00 feet from "P.R.M." R-64;
thence S 09° 29' 22" E a distance of 981.70 feet to a point, said point being S 81° 44' 00" W, 46.00 feet from "P.R.M." R-65;
thence S 09° 29' 53" E a distance of 991.65 feet to a point, said point being N 81° 44' 00" E, 149.00 feet from "P.R.M." R-66;
thence S 09° 32' 23" E a distance of 976.50 feet to a point, said point being S 76° 44' 00" W, 39.00 feet from "P.R.M." R-67;
thence S 09°37' 35" E a distance of 970.22 feet to a point, said point being S 81°44' 00" W, 21.00 feet from "P.R.M." R-68;
thence S 09° 41' 54" E a distance of 1046.25 feet to a point, said point being S 81° 44' 00" W, 27.00 feet from "P.R.M." R-69;
thence S 09° 51' 24" E a distance of 1025.03 feet to a point, said point being S 81° 44' 00" W, 48.00

feet from "P.R.M." R-70;
thence S 11° 06' 59" E a distance of 970.51 feet to a point, said point being N 81° 44' 00" E, 166.00 feet from "P.R.M." R-71;
thence S 11° 05' 37" E a distance of 925.26 feet to a point, said point being S 81° 44' 00" W, 48.00 feet from "P.R.M." R-72;
thence S 11° 36' 51" E a distance of 1011.65 feet to a point, said point being N 81° 44' 00" E, 29.00 feet from "P.R.M." R-73;
thence S 12° 08' 23" E a distance of 894.90 feet to a point, said point being S 76° 44' 00" W, 12.00 feet from "P.R.M." R-74;
thence S 11° 01' 22" E a distance of 999.63 feet to a point, said point being S 81° 44' 00" W, 35.00 feet from "P.R.M." R-75;
thence S 10° 59' 33" E a distance of 1029.34 feet to a point, said point being S 76° 44' 00" W, 48.00 feet from "P.R.M." R-76;
thence S 10° 45' 09" E a distance of 924.87 feet to a point, said point being N 86° 44' 00" E, 26.00 feet from "P.R.M." R-77;
thence S 09° 37' 24" E a distance of 867.62 feet to a point, said point being S 86° 44' 00" W, 48.00 feet from "P.R.M." R-78;
thence S 11° 03' 28" E a distance of 1018.31 feet to a point, said point being S 81° 44' 00" W, 24.00 feet from "P.R.M." R-79;
thence S 11° 02' 57" E a distance of 1142.94 feet to a point, said point being S 76° 44' 00" W, 48.00 feet from "P.R.M." R-80; said point being the southerly terminus of said Coastal Construction Setback line, said point also being St. Johns Co. "P.R.M." R-1 at the approximate location of the Duval County, St. Johns County line.

DUVAL COUNTY
COASTAL SETBACK MONUMENTS
COORDINATE LIST

STATION	NORTHING	EASTING
R-1	2,235,650.747	368,670.225
R-2	2,235,419.850	369,579.703
R-3	2,234,809.164	370,025.891
R-4	2,233,931.062	370,358.741
R-5	2,232,877.781	370,630.498
R-6	2,232,029.664	370,568.005
R-7	2,231,057.435	370,496.420
R-8	2,230,086.090	370,245.049
R-9	2,229.070.286	370,067.753
R-10	2,228,049.263	370,048.443
R-11	2,227,028.210	369,866.635
R-12	2,225,946.086	369,887.139
R-13	2,224,898.626	370,067.901
R-14	2,223,939.991	370,054.144
R-15	2,223,039.898	370,085.627
R-16	2,221,911.409	370,254.953
R-17	2,221,036.334	370,245.270
R-18	2,220,073.454	370,432.201
R-19	2,219,199.660	370,510.572
R-20	2,218,265.284	370,770.097
R-21	2,217,225.669	370,670.056
R-22	2,216,404.953	371,134.401
R-23	2,215,492.687	371,568.836
R-24	2,214,739.568	371,580.588
R-25	2,214,121.825	370,784.977
R-26	2,211,125.155	370,999.029
R-27	2,210,141.352	371,461.406
R-28	2,209,393.310	372,108.142
R-29	2,208,003.511	372,379.773
R-30	2,207,045.384	372,520.615
R-31	2,198,797.579	374,541.314
R-32	2,197,715.600	374,362.169

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STATION	NORTHING	EASTING
R-33	2,196,873.049	374,364.289
R-34	2,195,918.268	374,298.913
R-35	2,194,844.007	374,291.869
R-36	2,193,929.149	374,281.397
R-37	2,193,169.450	374,257.102
R-38	2,191,908.708	374,265.859
R-39	2,191,058.360	374,284.727
R-40	2,190,083.658	374,265.817
R-41	2,189,197.575	374,368.804
R-42	2,188,152.625	374,458.220
R-43	2,187,337.857	374,522.254
R-44	2,186,375.856	374,485.256
R-45	2,185,453.340	374,675.323
R-46	2,184,488.260	374,740.678
R-47	2,183,505.847	374,880.968
R-48	2,182,484.075	374,997.380
R-49	2,181,560.708	375,064.474
R-50	2,180,640.844	375,144.175
R-51	2,179,700.398	375,216.327
R-52	2,178,647.364	375,311.309
R-53	2,177,715.098	375,379.145
R-54	2,176,803.920	375,445.797
R-55	2,175,892.978	375,584.481
R-56	2,174,958.837	375,699.543
R-57	2,174,074.507	375,822.294
R-58	2,173,088.070	375,955.500
R-59	2,172,152.663	375,970.609
R-60	2,171,264.952	376,289.800
R-61	2,170,194.280	376,375.857
R-62	2,169,311.664	376,506.359
R-63	2,168,329.276	376,662.427
R-64	2,167,411.903	376,782.099
R-65	2,166,476.652	376,964.780
R-66	2,165,470.560	376,935.393
R-67	2,164,537.938	377,282.640
R-68	2,163,575.450	377,427.705
R-69	2,162,545.018	377,609.895
R-70	2,161,538.134	377,806.144
R-71	2,160,555.065	377,781.484
R-72	2,159,677.863	378,171.291
R-73	2,158,675.855	378,298.757
R-74	2,157,807.886	378,527.332
R-75	2,156,828.979	378,741.415
R-76	2,155,824.503	378,949.774
R-77	2,154,903.371	379,049.650
R-78	2,154,052.174	379,268.570
R-79	2,153,053.482	379,439.709
R-80	2,151,939.292	379,681.726

16B-26.05 Description of the Nassau County Coastal Construction Control Line.

(1) There is hereby established, pursuant to Section 161.053, Florida Statutes, the Nassau County Coastal Construction Control Line. The legal description of said line is attached hereto.

(2) This rule amendment shall take effect 20 days after filing with the Florida Department of State or on the date that it is duly recorded in the public records in the office of the Clerk of the Circuit Court, in and for Nassau County, Florida, together with each affected municipality, whichever is later.

(3) After this rule amendment becomes effective, a permit to alter, excavate or construct on property seaward of the established control line is required from the Department.

Specific Authority 370.021(1) FS. Law Implemented 161.053 FS. History—New 4-15-76, Amended 4-6-83.

METES AND BOUNDS DESCRIPTION FOR THE COASTAL CONSTRUCTION CONTROL LINE NASSAU COUNTY, FLORIDA

Description of the coastal construction control line is established in compliance with Section 161.053, Florida Statutes, said control line lying along the Atlantic Coast from the mean high water line of the southern bank of Cumberland Sound southerly to the mean high water line of the northern bank of Nassau Sound.

Said coastal construction control line is related to a series of "Permanent Reference Monuments" (P. R. M.) designated and hereinafter referred to as "74-81-A01 through 74-81-A29" for monuments established by the Department of Natural Resources, State of Florida or referred to by station name for monuments established by the National Geodetic Survey (N. G. S.) or by the U. S. Corps of Engineers (U. S. C. E.).

Commence at P. R. M. 74-81-A02; Thence S 62 deg. 59 min. 38 sec. E a distance of 901.314 feet to the point of beginning; Thence N 10 deg. 00 min. 00 sec. E. to the point of intersection with the mean high water line of the southern bank of Cumberland Sound; said point being the northerly terminus of the coastal construction control line in Nassau County; Thence return along the same course to the point of beginning.

Thence S 73 deg. 48 min. 45 sec. E a distance of 1000.42 feet to a point; Thence S 73 deg. 36 min. 17 sec. E a distance of 903.20 feet to a point; Thence N 85 deg. 48 min. 53 sec. E a distance of 1067.21 feet to a point; Thence N 80 deg. 42 min. 29 sec. E a distance of 969.22 feet to a point, said point being S 66 deg. 57 min. 20 sec. E a distance of 452.293 feet from P. R. M. 74-81-A03.

Thence S 87 deg. 06 min. 54 sec. E a distance of 835.05 feet to a point; Thence S 66 deg. 25 min. 28 sec. E a distance of 853.90 feet to a point; Thence S 42 deg. 50 min. 33 sec. E a distance of 823.26 feet to a point; Thence S 64 deg. 20 min. 04 sec. E a distance of 1294.83 feet to a point, said point being S 62 deg. 39 min. 02 sec. E a distance of 451.992 feet from P. R. M. 74-81-A04.

Thence S 43 deg. 24 min. 55 sec. E a distance of 268.45 feet to a point; Thence S 10 deg. 31 min. 35 sec. W a distance of 1021.74 feet to a point; Thence S 10 deg. 36 min. 24 sec. W a distance of 930.85 feet to a point; Thence S 02 deg. 49 min. 08 sec. W a distance of 1148.90 feet to a point, said point being S 77 deg. 40 min. 40 sec. E a distance of 533.381 feet from P. R. M. 74-81-A06.

Thence S 06 deg. 00 min. 55 sec. W a distance of 949.95 feet to a point; Thence S 01 deg. 18 min. 47 sec. W a distance of 1055.03 feet to a point, said point being N 03 deg. 12 min. 50 sec. W a distance of 404.207 feet from P. R. M. 74-81-A07.

Thence S 01 deg. 18 min. 44 sec. E a distance of 1095.40 feet to a point; Thence S 05 deg. 58 min. 43 sec. W a distance of 891.18 feet to a point; Thence S 05 deg. 52 min. 56 sec. W a distance of 981.15 feet to a point, said point being N 13 deg. 59 min. 25 sec. E a distance of 328.512 feet from P. R. M. 74-81-A08.

Thence S 07 deg. 17 min. 59 sec. W a distance of 807.06 feet to a point; Thence S 07 deg. 14 min. 19 sec. W a distance of 967.15 feet to a point; Thence S 06 deg. 53 min. 03 sec. W a distance of 887.69 feet to a point, said point being N 79 deg. 06 min. 40 sec. E a distance of 92.486 feet from P. R. M. 74-81-A09.

Thence S 08 deg. 14 min. 08 sec. W a distance of 1050.73 feet to a point; Thence S 08 deg. 20 min. 49 sec. W a distance of 1034.41 feet to a point, said point being S 06 deg. 36 min. 55 sec. E a distance of 406.092 feet from P. R. M. 74-81-A10.

Thence S 08 deg. 21 min. 35 sec. W a distance of 843.68 feet to a point; Thence S 06 deg. 18

min. 18 sec. W a distance of 948.13 feet to a point, said point being S 22 deg. 43 min. 27 sec. W a distance of 296.392 feet from P. R. M. 74-81-A11.

Thence S 09 deg. 18 min. 10 sec. W a distance of 906.75 feet to a point; Thence S 09 deg. 52 min. 34 sec. W a distance of 854.58 feet to a point, said point being N 02 deg. 04 min. 03 sec. E a distance of 447.708 feet from P. R. M. 74-81-A12.

Thence S 09 deg. 55 min. 07 sec. W a distance of 1100.59 feet to a point; Thence S 10 deg. 23 min. 03 sec. W a distance of 972.59 feet to a point; Thence S 09 deg. 27 min. 20 sec. W a distance of 1018.24 feet to a point, said point being N 11 deg. 45 min. 14 sec. E a distance of 367.116 feet from P. R. M. 74-81-A13.

Thence S 09 deg. 46 min. 56 sec. W a distance of 975.04 feet to a point; Thence S 10 deg. 22 min. 05 sec. W a distance of 896.35 feet to a point; Thence S 10 deg. 13 min. 37 sec. W a distance of 1068.69 feet to a point; Thence S 10 deg. 11 min. 39 sec. W a distance of 998.71 feet to a point, said point being S 04 deg. 51 min. 53 sec. E a distance of 481.970 feet from P. R. M. 74-81-A14.

Thence S 10 deg. 17 min. 31 sec. W a distance of 1014.66 feet to a point; Thence S 11 deg. 23 min. 07 sec. W a distance of 879.95 feet to a point; Thence S 09 deg. 22 min. 39 sec. W a distance of 955.22 feet to a point; Thence S 07 deg. 58 min. 02 sec. W a distance of 1042.15 feet to a point, said point being N 80 deg. 47 min. 19 sec. E a distance of 170.510 feet from P. R. M. 74-81-A15.

Thence S 08 deg. 34 min. 17 sec. W a distance of 1068.58 feet to a point; Thence S 10 deg. 49 min. 49 sec. W a distance of 969.93 feet to a point; Thence S 11 deg. 08 min. 14 sec. W a distance of 793.01 feet to a point, said point being S 25 deg. 24 min. 49 sec. E a distance of 319.300 feet from P. R. M. 74-81-A16.

Thence S 09 deg. 03 min. 02 sec. W a distance of 1167.69 feet to a point; Thence S 05 deg. 48 min. 15 sec. W a distance of 888.37 feet to a point, said point being N 80 deg. 30 min. 30 sec. E a distance of 135.812 feet from P. R. M. 74-81-A17.

Thence S 07 deg. 13 min. 36 sec. W a distance of 815.99 feet to a point; Thence S 07 deg. 55 min. 38 sec. W a distance of 981.07 feet to a point; Thence S 08 deg. 07 min. 17 sec. W a distance of 1021.13 feet to a point; Thence S 06 deg. 06 min. 18 sec. W a distance of 993.57 feet to a point, said point being N 40 deg. 18 min. 22 sec. E a distance of 436.772 feet from P. R. M. 74-81-A18.

Thence S 04 deg. 41 min. 10 sec. W a distance of 922.90 feet to a point; Thence S 03 deg. 41 min. 34 sec. W a distance of 1026.94 feet to a point; Thence S 02 deg. 35 min. 37 sec. W a distance of 886.47 feet to a point; Thence S 01 deg. 58 min. 12 sec. W a distance of 948.20 feet to a point; Thence S 01 deg. 54 min. 20 sec. W a distance of 1025.77 feet to a point, said point being S 85 deg. 13 min. 17 sec. E a distance of 95.000 feet from P. R. M. 74-81-A19.

Thence S 02 deg. 37 min. 28 sec. W a distance of 834.02 feet to a point; Thence S 02 deg. 05 min. 23 sec. W a distance of 901.65 feet to a point; Thence S 00 deg. 57 min. 45 sec. W a distance of 941.73 feet to a point; Thence S 02 deg. 49 min. 25 sec. W a distance of 1175.39 feet to a point, said point being S 80 deg. 19 min. 01 sec. E a distance of 144.937 feet from P. R. M. 74-81-A20.

Thence S 00 deg. 07 min. 55 sec. E a distance of 1012.78 feet to a point; Thence S 01 deg. 06 min. 52 sec. E a distance of 980.45 feet to a point; Thence S 02 deg. 42 min. 39 sec. E a distance of 962.08 feet to a point; Thence S 03 deg. 51 min. 36 sec. E a distance of 1023.38 feet to a point, said point being S 10 deg. 35 min. 56 sec. W a distance of 181.740 feet from P. R. M. 74-81-A21.

Thence S 03 deg. 14 min. 39 sec. E a distance of 941.54 feet to a point; Thence S 03 deg. 29 min. 07 sec. E a distance of 1027.09 feet to a point; Thence S 03 deg. 56 min. 45 sec. E a distance of 953.01 feet to a point; Thence S 05 deg. 13 min. 26 sec. E a distance of 948.28 feet to a point, said point being S 26 deg. 27 min. 21 sec. W a distance of 192.372 feet from P. R. M. 74-81-A22.

Thence S 06 deg. 36 min. 31 sec. E a distance of 938.87 feet to a point; Thence S 08 deg. 27 min. 03 sec. E a distance of 911.37 feet to a point; Thence S 08 deg. 58 min. 38 sec. E a distance of 935.68 feet to a point; Thence S 08 deg. 45 min. 27 sec. E a distance of 978.96 feet to point; Thence S 09 deg. 32 min. 09 sec. E a distance of 1038.84 feet to a point, said point being N 67 deg. 43 min. 44 sec. W a distance of 98.712 feet from P. R. M. 74-81-A23.

Thence S 10 deg. 59 min. 36 sec. E a distance of 972.92 feet to a point; Thence S 11 deg. 00 min. 37 sec. E a distance of 1030.15 feet to a point; Thence S 13 deg. 02 min. 19 sec. E a distance of 889.30 feet to a point, said point being N 45 deg. 12 min. 02 sec. W a distance of 234.871 feet from P. R. M. 74-81-A24.

Thence S 12 deg 48 min. 27 sec. E a distance of 993.02 feet to a point; Thence S 15 deg. 08 min. 15 sec. E a distance of 1044.80 feet to a point; Thence S 14 deg. 56 min. 45 sec. E a distance of 942.18 feet to a point; Thence S 12 deg. 01 min. 36 sec. E a distance of 735.68 feet to a point; Thence S 09 deg. 00 min. 11 sec. W a distance of 1045.09 feet to a point, said point being S 60 deg. 02 min. 58 sec. W a distance of 411.935 feet from P. R. M. 74-81-A26.

Thence S 19 deg 42 min. 54 sec. W a distance of 929.52 feet to a point; Thence S 27 deg. 16 min. 56 sec. W a distance of 955.63 feet to a point, said point being N 33 deg. 00 min. 38 sec. W a distance of 377.248 feet P. R. M. 74-81-A27.

Thence S 27 deg. 16 min. 56 sec. W to the point of intersection with the mean high water line of the northern bank of Nassau Sound; said point being the southerly terminus of the coastal construction control line in Nassau County.

16B-26.06 Description of the Charlotte County Coastal Construction Setback Line. There is hereby established pursuant to Section 161.053, Florida Statutes, a coastal construction setback line in Charlotte County, Florida. The legal description of said line is attached hereto and labeled exhibit "A".

After this rule has been recorded in the office of the Clerk of the Circuit Court in and for Charlotte County, Florida, no person, firm, corporation or governmental agency shall construct any structure whatsoever seaward thereof, or perform any actions as described in Section 161.053, Florida Statutes, without obtaining a permit as described in said section of the statute, and all provisions of said Section shall apply to this rule.

Specific Authority 120, 161.053 FS. Law Implemented 161.053 FS. History—New 2-14-77, Amended 4-28-78.

EXHIBIT "A" (Chapter 16B-26.06)

Description of Coastal Construction Setback lines established in compliance with Section 161.053 Florida Statutes, said Setback line lying along the Gulf of Mexico Coast from the Charlotte and Sarasota County line southerly to the Charlotte and Lee County line.

Said Coastal Construction Setback line is related to a series of "Permanent Reference Monuments" (P.R.M.) designated and hereinafter referred to as "R-2" through "R-68" as established by the Department of Natural Resources, State of Florida in 1973, said monuments are co-ordianted on the Florida State Plane co-ordinate system, West Zone and a table of said co-ordinates are attached hereto and made a part hereof, "P.R.M." R-2 is located near the Charlotte and Sarasota County line.

Commence at "P.R.M." R-2 and run N 65°02' 00" E, a distance of 80.00 feet to a point on the setback line; thence run N 25°54' 25" W to a point of intersection with the Charlotte, Sarasota County line for a point of beginning; thence returning along the previous course, run S 25°54' 25" E, to a point being N 65°02' 00" E, a distance of 80.00 feet from "P.R.M." R-2;

thence S 25°33' 37" E, a distance of 1000.29 feet to a point, said point being N 60° 02' 00" E, 73.00 feet from "P.R.M." R-3;

thence S 28°30' 28" E, a distance of 1030.15 feet to a point, said point being N 65°02' 00" E, 99.00 feet from "P.M.R." R-4;

thence S 27°28' 20" E, a distance of 987.50 feet to a point, said point being N 65°02' 00" E, 71.00 feet from "P.R.M." R-5;

thence S 27°50' 00" E, a distance of 987.94 feet to a point, said point being N 65° 02' 00" E, 81.00 feet from "P.R.M." R-6;

thence S 27°57' 17" E, a distance of 917.58 feet to a point, said point being N 65°02' 00" E, 74.00 feet from "P.R.M." R-7;

thence S 29°11' 29" E, a distance of 901.85 feet to a point, said point being N 65°02' 00" E, 43.00 feet from "P.R.M." R-8;
thence S 29°09' 26" E, a distance of 1010.70 feet to a point, said point being N 65°02' 00" E, 60.00 feet from "P.R.M." R-9;
thence S 29°53' 21" E, a distance of 1111.16 feet to a point, said point being N 65°02' 00" E, 68.00 feet from "P.R.M." R-10;
thence S 26°41' 56" E, a distance of 1065.42 feet to a point, said point being N 65°02' 00" E, 75.00 feet from "P.R.M." R-11;
thence S 27°47' 35" E, a distance of 996.44 feet to a point, said point being N 60° 02' 00" E, 48.00 feet from "P.R.M." R-12;
thence S 26°51' 46" E, a distance of 1024.38 feet to a point, said point being N 60°02' 00" E, 73.000 feet from "P.R.M." R-13;
thence S 29°32' 20" E, a distance of 1079.48 feet to a point, said point being N 60°02' 00" E, 70.00 feet from "P.R.M." R-14;
thence S 29°59' 49" E, a distance of 982.26 feet to a point, said point being N 60°02' 00" E, 80.00 feet from "P.R.M." R-15;
thence S 32°57' 34" E, a distance of 965.06 feet to a point, said point being N 55°02' 00" E, 77.00 feet from "P.R.M." R-16;
thence S 30°35' 36" E, a distance of 997.95 feet to a point, said point being N 55°02' 00" E, 73.00 feet from "P.R.M." R-17;
thence S 37°35' 11" E, a distance of 1001.24 feet to a point, said point being N 55°02' 00" E, 170.00 feet from "P.R.M." R-18;
thence S 34°21' 26" E, a distance of 970.51 feet to a point, said point being N 55° 02' 00" E, 217.00 feet from "P.R.M." R-19;
thence S 46°00' 43" E, a distance of 920.52 feet to a point, said point being N 55°02' 00" E, 419.00 feet from "P.R.M." R-20;
e S 59°18' 33" E, a distance of 1002.58 feet to a point, said point being N 50°02' 00" E, 3.00 feet from "P.R.M." R-21;
thence S 18°21' 51" E, a distance of 1450.12 feet to a point, said point being S 74°58' 00" E, 210.00 feet from "P.R.M." R-22;
thence S 42°43' 40" E, a distance of 666.80 feet to a point, said point being N 45°02' 00" E, 460.00 feet from "P.R.M." R-23;
thence S 28°18' 16" E, a distance of 1029.63 feet to a point, said point being N 40°02' 00" E, 150.00 feet from "P.R.M." R-24;
thence S 33°20' 44" E, a distance of 1105.13 feet to a point, said point being N 48°02' 00" E, 37.00 feet from "P.R.M." R-25;
thence S 35°54' 37" E, a distance of 996.10 feet to a point, said point being N 50°02' 00" E, 100.00 feet from "P.R.M." R-26;
thence S 29°27' 46" E, a distance of 935.21 feet to a point, said point being S 50°02' 00" W, 120.00 feet from "P.R.M." R-27;
thence S 36°49' 56" E, a distance of 1052.37 feet to a point, said point being S 45°02' 00" W, 28.00 feet from "P.R.M." R-28;
thence S 39°03' 00" E, a distance of 1007.47 feet to a point, said point being S 50°02' 00" W, 25.00 feet from "P.R.M." R-29;
thence S 33°22' 35" E, a distance of 1012.41 feet to a point, said point being S 55°02' 00" W, 70.00 feet from "P.R.M." R-30;
thence S 32°07' 16" E, a distance of 998.08 feet to a point, said point being N 55°02' 00" E, 15.00 feet from "P.R.M." R-31;
thence S 32 44' 21" E, a distance of 964.45 feet to a point, said point being N 55°02' 00" E, 89.00 feet from "P.R.M." R-32;
thence S 32°43' 52" E, a distance of 966.83 feet to a point, said point being N 55°02' 00" E, 73.00 feet from "P.R.M." R-33;
thence S 33°34' 28" E, a distance of 903.63 feet to a point, said point being N 55°02' 00" E, 54.00 feet from "P.R.M." R-34;
thence S 33°38' 34" E, a distance of 957.70 feet to a point, said point being N 55°02' 00" E, 22.00 feet from "P.R.M." R-35;
thence S 31°09' 17" E, a distance of 1012.00 feet to a point, said point being S 55°02' 00" W, 46.00 feet from "P.R.M." R-36;
thence S [illegible]' 16" E, a distance of 973.79 feet to a point, said point being N 55°02' 00" E, 40.00

feet from "P.R.M." R-37;
thence S 34°28' 30" E, a distance of 773.90 feet to a point, said point being N 55°02' 00" E, 89.00 feet from "P.R.M." R-38;
thence S 35°44' 22" E, a distance of 942.16 feet to a point, said point being S 55°02' 00" W, 27.00 feet from "P.R.M." R-39;
thence S 35°00' 57" E, a distance of 1004.46 feet to a point, said point being N 55°02' 00" E, 108.00 feet from "P.R.M." R-40;
thence S 33° 52' 27" E, a distance of 964.66 feet to a point, said point being S 55°02' 00" W, 61.00 feet from "P.R.M." R-41;
thence S 32°50' 00" E, a distance of 1091.62 feet to a point, said point being N 55°02' 00" E, 47.00 feet from "P.R.M." R-42;
thence S 32°48' 28" E, a distance of 1007.32 feet to a point, said point being N 55°02' 00" E, 101.00 feet from "P.R.M." R-43;
thence S 32°28' 52" E, a distance of 1069.24 feet to a point, said point being N 60°02' 00" E, 48.00 feet from "P.R.M." R-44;
thence S 32°26' 10" E, a distance of 1038.62 feet to a point, said point being N 60°02' 00" E, 48.00 feet from "P.R.M." R-45;
thence S 30°26' 38" E, a distance of 987.86 feet to a point, said point being N 55°02' 00" E, 55.00 feet from "P.R.M." R-46;
thence S 30°58' 54" E, a distance of 1068.28 feet to a point, said point being N 60°02' 00" E, 104.00 feet from "P.R.M." R-47;
thence S 32°20' 47" E, a distance of 875.53 feet to a point, said point being N 55°02' 00" E, 75.00 feet from "P.R.M." R-48;
thence S 35°51' 13" E, a distance of 1040.57 feet to a point, said point being N 55°02' 00" E, 102.00 feet from "P.R.M." R-49;
thence S 37°07' 35" E, a distance of 943.17 feet to a point, said point being N 55°02' 00" E, 50.00 feet from "P.R.M." R-50;
thence S 38°48' 58" E, a distance of 1183.62 feet to a point, said point being N 60°02' 00" E, 15.00 feet from "P.R.M." R-51;
thence S 35°50' 00" E, a distance of 1102.96 feet to a point, said point being S 60°02' 00" W, 10.00 feet from "P.R.M." R-52;
thence S 32°27' 39" E, a distance of 1112.53 feet to a point, said point being S 55°02' 00" W, 20.00 feet from "P.R.M." R-53;
thence S 29°11' 32" E, a distance of 1045.14 feet to a point, said point being N 60°02' 00" E, 43.00 feet from "P.R.M." R-54;
thence S 27°16' 56" E, a distance of 1032.93 feet to a point, said point being N 60°02' 00" E, 75.00 feet from "P.R.M." R-55;
thence S 33°22' 35" E, a distance of 1040.95 feet to a point, said point being N 55°02' 00" E, 75.00 feet from "P.R.M." R-56;
thence S 33°07' 47" E, a distance of 490.57 feet to a point, said point being N 35°02' 00" E, 90.00 feet from "P.R.M." R-57;
thence S 46°00' 00" E, a distance of 320.00 feet to a point on the setback line;
thence S 9°25' 53" E, a distance of 2154.46 feet across a body of water known as Gasparilla Pass, to a point being "P.R.M." R-58;
thence S 65° 20' 35" W, a distance of 345.00 feet to a point, said point being S 24° 58' 00" E, 75.00 feet from "P.R.M." R-59 and N 24° 58' 00" W, 93.00 feet from a Point of Intersection (PI) in said DNR Setback Line;
thence S 52° 16' 54" W, a distance of 235.00 feet to a point;
thence S 14° 27' 55" W, a distance of 500.00 feet to "P.R.M." R-60;
thence S 07° 49' 24" E, a distance of 1033.02 feet to a point, said point being S 65° 02' 00" W, 104.00 feet from "P.R.M." R-61 and S 65° 02' 00" W, 104.00 feet from a PI in said DNR Setback Line;
thence S 24° 34' 24" E, a distance of 765.00 feet to a point;
thence S 29° 09' 17" E, a distance of 321.36 feet to a point, said point being S 60° 02' 00" W, 11.23 feet from "P.R.M." R-62 and S 60° 02' 00" W, 46.23 feet from a PI in said DNR Setback Line;
thence S 29° 09' 17" E, a distance of 467.26 feet to a point;
thence S 36° 20' 18" E, a distance of 500.00 feet to "P.R.M." R-63;
thence S 33° 50' 18" E, a distance of 1001.06 feet to "P.R.M." R-64, sai[illegible].M." being S 60°

02' 00" W, 00 feet from a PI in said DNR Setback Line;
thence S 31° 35' 18" E, a distance of 780.00 feet to a point;
thence S 38° 41' 52" E, a distance of 229.82 feet to a point, said point being S 60° 02' 00" W, 48.57 feet from "P.R.M." R-65 and S 60° 02' 00" W, 38.57 feet from a PI in said DNR Setback Line;
thence S 38° 41' 52" E, a distance of 317.59 feet to an intersection with said DNR Setback Line;
thence S 31° 43' 28" E, along said DNR Setback Line a distance of 670.00 feet to a point, said point being S 60° 02' 00" W, 5.00 feet from "P.R.M." R-66;
thence S 28° 41' 38" E, a distance of 1001.72 feet to "P.R.M." R-67, said "P.R.M." being S 65° 02' 00" W, 25.00 feet from a PI in said DNR Setback Line;
thence S 29° 02' 53" E, a distance of 545.78 feet to "P.M.R." R-68 on said DNR Setback Line;
thence run S 26° 22' 57" E, along said DNR Setback Line to a point of intersection with the Charlotte County-Lee County Line, said point being the southerly terminus of the above described Coastal Construction Setback Line.

CHARLOTTE COUNTY
COORDINATE LIST

STATION	NORTHING	EASTING
R-2	948,673.16	378,515.62
R-3	947,768.08	378,956.49
R-4	946,857.51	379,421.65
R-5	945,993.18	379,902.58
R-6	945,115.32	380,354.78
R-7	944,307.75	380,791.27
R-8	943,533.53	381,259.23
	942,643.72	381,736.24
	941,676.98	382,282.71
	940,722.21	382,755.05
R-12	939,848.40	383,246.08
R-13	938,922.07	383,687.30
R-14	937,984.40	384,222.10
R-15	937,128.72	384,704.52
R-16	936,314.51	385,235.76
R-17	935,458.02	335,746.85
R-18	934,609.01	386,278.07
R-19	933,780.89	386,787.26
R-20	933,025.81	387,284.03
R-21	932,305.86	387,954.58
R-22	931,432.42	388,743.60
R-23	930,563.05	389,073.39
R-24	929,866.75	389,790.57
R-25	929,033.66	390,467.02
R-26	928,187.39	391,002.12
R-27	927,514.44	391,630.72
R-28	926,614.84	392,189.43
R-29	925,828.71	392,823.48
R-30	925,007.33	393,418.65
R-31	924,113.32	393,879.69
R-32	923,259.67	394,340.63
R-33	922,455.53	394,876.50
R-34	921,713.54	395,391.80
R-35	920,934.58	395,948.61
R-36	920,107.51	396,527.89
R-37	919,240.19	396,985.70
R-38	918,574.12	397,383.61
R-39	917,875.87	398,028.98
R-40	916,975.85	398,494.72
R-41	916,271.78	399,170.89
R-42	915,292.66	399,674.25
R-43	914,415.06	400,175.79
R-44	913,546.99	400,791.18

STATION	NORTHING	EASTING
R-45	912,670.41	401,348.25
R-46	911,811.20	401,845.31
R-47	910,874.90	402,350.20
R-48	910,144.19	402,847.28
R-49	909,285.32	403,434.63
R-50	908,563.12	404,046.52
R-51	907,662.05	404,816.42
R-52	906,780.35	405,483.79
R-53	905,848.11	406,088.63
R-54	904,902.77	406,544.75
R-55	903,968.76	406,990.50
R-56	903,093.96	407,566.67
R-57	902,652.43	407,844.59
R-58	900,378.49	408,479.49
R-59	900,324.45	407,885.25
R-60	899,628.54	407,606.12
R-61	898,617.80	407,773.93
R-62	897,634.39	408,231.15
R-63	896,817.95	408,745.33
R-64	895,986.46	409,302.77
R-65	895,166.93	409,897.11
R-66	894,327.41	410,410.23
R-67	893,446.21	410,886.85
R-68	892,969.08	411,151.85

16B-26.07 Description of the Lee County Coastal Construction Setback Line. There is hereby established pursuant to Section 161.053, Florida Statutes, a coastal construction setback line in Lee County, Florida. The legal description of said line is attached hereto and labeled exhibit "A".

After this rule has been recorded in the office of the Clerk of the Circuit Court in and for Lee County, Florida, no person, firm, corporation or governmental agency shall construct any structure whatsoever seaward thereof, or perform any actions as described in Section 161.053, Florida Statutes, without obtaining a permit as described in said Section of the Statute, and all provisions of said Section shall apply to this rule.

Specific Authority 120, 161.053 FS. Law Implemented 161.053 FS. History—New 9-28-77.

EXHIBIT "A" (Chapter 16B-26.07)

METES AND BOUNDS DESCRIPTION FOR THE COASTAL CONSTRUCTION SETBACK LINE IN LEE COUNTY, FLORIDA

Description of Coastal Construction Setback Lines established in compliance with Section 161.053, Florida Statutes, said setback line lying along the Gulf of Mexico Coast from the Charlotte County and Lee County line, southerly to the Lee County and Collier County line.

Said Coastal Construction Setback Line is related to a series of "Permanent Reference Monuments" (P.R.M.) designated and hereinafter referred to as "R-1" through "R-239" as established by the Department of Natural Resources, State of Florida.

GASPARILLA ISLAND

The Coastal Construction Setback Line is coincident with the seaward boundary of Zone I as established by Lee County Ordinance Number 77-1 and described as follows in Exhibit A of that ordinance; said exhibit is on file with the Clerk of the Circuit Court for Lee County.

From Department of Natural Resources (D.N.R.) P.R.M. R-1 having coordinates of North 892,404.43 and East 411,390.67 of the Florida State Plane Coordinate System West Zone in Section 2. Township 43 South, range 20 East, Lee County, Florida;

Thence N 32°24' 13" W for 246.83 feet to P.R.M. G-1 marking the intersection with the north line of said Section 2 on the north boundary of Lee County on Gasparilla Island and the point of beginning of the seaward line of Zone 1;

Thence S 23°44' 27" E to P.R.M. G-2, said point being S 85°00' W, 55 feet from Department of Natural Resources (D.N.R.) P.R.M. R-1;

Thence S 23°44' 27" E for 1030.78 feet to P.R.M. G-3, said point being S 85° 00' W, 25 feet from D.N.R. P.R.M. R-2.
Thence S 16°57' 21" E for 994.60 feet to P.R.M. G-4, said point being N 85° 00' S, 30 feet from D.N.R. P.R.M. R-3;
Thence S 15° 02' 43" E for 994.20 feet to P.R.M. G-5, said point being S 85°00' W, 23 feet from D.N.R. P.R.M. R-4;
Thence S 11°53' 17" E for 1019.61 feet to P.R.M. G-6, said point being S 85°00' W, 30 feet from D.M.R. P.R.M. R-5;
Thence S 10°36' 22" E for 1036.21 feet to P.R.M. G-7, said point being N 85° 00' E, 35 feet from D.N.R. P.R.M. R-6;
Thence S 7° 25' 05" E for 978.81 feet to P.R.M. G-8, said point being S 85°00' W, 40 feet from D.N.R. P.R.M. R-7;
Thence S 10°47' 31" E for 1011.94 feet to P.R.M. G-9, said point being N 85°00' E, 38 feet from D.N.R. P.R.M. R-8;
Thence S 6°43' 39" E for 1170.18 feet to P.R.M. G-10, said point being S 85°00' W, 142 feet from D.N.R. P.R.M. R-9;
Thence S 1°41' 09" E for 415.36 feet to P.R.M. G-11;
Thence run S 6°46' 23" E for 889.41 feet to P.R.M. G-12, said point being S 85°00' W, 35 feet from D.N.R. P.R.M. R-10;
Thence S 2° 09' 26" W for 214.47 feet to P.R.M. G-13 marking the southerly boundary of area 1-A and the northerly boundary of area 1-B of said Zone 1, said point being S 11°27' 06" W, 221.24 feet from D.N.R. P.R.M. R-10;
Thence S 7° 48' 09" E for 1874.64 feet to P.R.M. G-14;
Thence S 9° 37' 17" E for 786.72 feet to P.R.M. G-15, said point being S 25°52' 48" E, 184.12 feet from D.N.R. P.R.M. R-12;
Thence S 00°43' 17" E for 1542.36 feet to P.R.M. G-16;
Thence S 4° 13' 59" E for 446.28 feet to P.R.M. G-17;
Thence S 00°29' 02" E for 1384.87 feet to P.R.M. G-18;
Thence S 33° 36' 56" E for 190.32 feet to P.R.M. G-19 marking a point on the south boundary of said area 1-B and the north boundary of said area 1-A of said Zone 1, said point being N 20°32' 07" W, 465.28 feet from D.N.R. P.R.M. R-16;
Thence S 4° 46' 24" E for 1171.33 feet to P.R.M. G-20;
Thence S 4°31' 58" W for 276.27 feet to P.R.M. G-21, said point being S 85° 00' W, 107.00 feet from D.N.R. P.R.M. R-17;
Thence S 1°26' 52" E for 1025.69 feet to P.R.M. G-22, said point being S 85° 00' W, 120.00 feet from D.N.R. P.R.M. R-18;
Thence S 1°42' 44" E for 1002.42 feet to P.R.M. G-23, said point being S 85°00' W, 165.00 feet from D.N.R. P.R.M. R-19;
Thence S 12° 18' 02" E for 319.00 feet to P.R.M. G-24;
Thence S 5°38' 30" E for 615.00 feet to P.R.M. G-25, said point being N 70° 46' 21" W, 141.08 feet from D.N.R. P.R.M. R-20;
Thence S 1°20' 46" E for 1338.38 feet to P.R.M. G-26;
Thence S 1°10' 02" E for 716.77 feet to P.R.M. G-27;
Thence S 4° 12' 49" W for 870.55 feet to P.R.M. G-28, said point being N 85°00' E, 45.00 feet from D.N.R. P.R.M. R-23;
Thence S 2° 45' 23" W for 1121.06 feet to P.R.M. G-29, said point being S 85°00' W, 95.00 feet from D.N.R. P.R.M. R-24;
Thence S 3° 39' 43" W for 577.93 feet to P.R.M. G-30;
Thence S 34° 12' 37" W for 272.42 feet to P.R.M. G-31;
Thence S 45°58' 41" E for 434.24 feet to P.R.M. G-32;
Thence S 38° 34' 30" E for 514.87 feet to P.R.M. G-33, said point being N 85°00' E, 45.00 feet from D.N.R. P.R.M. R-26;
Thence S 39°50' 22" E for 369.49 feet to P.R.M. G-34, said point being N 72°22' 48" W, 278.41 feet from D.N.R. P.R.M. R-26-A;
Thence S 80° 22' 20" E for 395.89 feet to P.R.M. G-35, said point being N 81°46' 29" E, 126.26 feet from said D.N.R. P.R.M. R-26-A;
Thence continue S 80°22' 20" E for 180 feet more or less to the peak high water line of Charlotte Ha[illegible] being the southerly terminus of the aforementioned seaward line of Zone 1.

LA COSTA ISLAND

Commence at P.R.M. R-27.
THENCE run S 45° 00' 00" E (GN) a distance of 33.00 feet to a point on the SBL and the point of beginning;
THENCE run N 59°30' 00" E (GN) a distance of 497.00 feet to a point on the SBL;
THENCE run N 67°16' 55" E (GN) a distance of 238.00 feet to a point on the SBL;
THENCE run N 40° 47' 25" W (GN) to a point of intersection with the mean high water line, said point being the Northerly terminus of the Coastal Construction Setback Line for La Costa Island.
THENCE returning along the same lines to the P.O.B.;
THENCE run S 42°34' 43" W (GN) a distance of 956.42 feet to a point on the SBL, said point being S 40°00' 00" E (GN) 46.00 feet from P.R.M. R-28;
THENCE run S 30°37' 48" W (GN) a distance of 238.00 feet to a point on the SBL;
THENCE run S 13°41' 20" E (GN) a distance of 437.00 feet to a point on the SBL, said point being S 75° 00' 00" E (GN) 61.00 feet from P.R.M. R-29;
THENCE run S 06° 55' 13" E (GN) a distance of 283.00 feet to a point on the SBL;
THENCE run S 20°52' 08" W (GN) a distance of 772.00 feet to a point on the SBL, said point being S 57°00' 00" E (GN) 117.00 feet from P.R.M. R-30;
THENCE run S 05°46' 41" W (GN) a distance of 946.40 feet to a point on the SBL, said point being S 75°00' 00" E (GN) 20.00 feet from P.R.M. R-31;
THENCE run S 05° 23' 11" E (GN) a distance of 817.92 feet to a point on the SBL, said point being N 75°00' 00" W. (GN) 46.00 feet from P.R.M. R-32;
THENCE run S 0° 23' 29" W (GN) a distance of 1174.00 feet to a point on the SBL, said point being N 85°00' 00" W (GN) 109.00 feet from P.R.M. R-33;
THENCE run S 06° 38' 33" W (GN) a distance of 882.92 feet to a point on the SBL, said point being N 80°00' 00" W (GN) 148.00 feet from P.R.M. R-34;
THENCE run S 05° 46' 57" W (GN) a distance of 226.00 feet to a point on the SBL;
THENCE run S 19°01' 22" W (GN) a distance of 824.00 feet to a point on the SBL, said point being N 75°00' 00" W (GN) 262.00 feet from P.R.M. R-35;
THENCE run S 19° 53' 44" W (GN) a distance of 297.00 feet to a point on the SBL;
THENCE run S 33°51' 42" W (GN) a distance of 616.00 feet to a point on the SBL;
THENCE run S 20°08' 00" E (GN) a distance of 152.00 feet to a point on the SBL, said point being S 72°00' 00" W (GN) 178.00 feet from P.R.M. R-36;
THENCE run S 20°07' 44" E (GN) a distance of 846.35 feet to a point on the SBL, said point being N 60°00' 00" E (GN) 80.00 feet from P.R.M. R-37;
THENCE run S 15°31' 40" E (GN) a distance of 959.44 feet to a point on the SBL, said point being S 60°00' 00" W (GN) 64.00 feet from P.R.M. R-38;
THENCE run S 14°47' 13" E (GN) a distance of 523.00 feet to a point on the SBL;
THENCE run S 07°24' 42" W (GN) a distance of 512.00 feet to a point on the SBL, said point being S 75°00' 00" W (GN) 9.00 feet from P.R.M. R-39;
THENCE run S 38° 38' 38" E (GN) a distance of 903.45 feet to a point on the SBL, said point being N 60° 00' 00" E (GN) 96.00 feet from P.R.M. R-40;
THENCE run S 36°42' 23" E (GN) a distance of 940.94 feet to a point on the SBL, said point being S 60°00' 00" W (GN) 182.00 feet from P.R.M. R-41;
THENCE run S 36° 29' 41" E (GN) a distance of 768.99 feet to a point on the SBL, said point being S 45° 00' 00" W (GN) 70.00 feet from P.R.M. R-42;
THENCE run S 34°47' 36" E (GN) a distance of 1106.75 feet to a point on the SBL, said point being N 65° 00' 00" E (GN) 44.00 feet from P.R.M. R-43;
THENCE run S 33°07' 29" E (GN) a distance of 310.00 feet to a point on the SBL;
THENCE run S 15°32' 45" E (GN) a distance of 952.00 feet to a point on the SBL, said point being N 80°00' 00" E (GN) 32.00 feet from P.R.M. R-44;
THENCE run S 14°52' 24" E (GN) a distance of 975.43 feet to a point on the SBL, said point being N 75°00' 00" E (GN) 79.00 feet from P.R.M. R-45;
THENCE run S 07° 52' 01" E (GN) a distance of 1024.08 feet to a point on the SBL, said point being N 80°00' 00" 69.00 feet from P.R.M. R-46;
THENCE run S 19° 26' 10" E (GN) a distance of 940.06 feet to a point on the SBL, said point being N 60°00' 00" E (GN) 165.00 feet from P.R.M. R-47;
THENCE run S 22° 04' 34" E (GN) a distance of 987.78 feet to a p[illegible] the SBL, said point being N 80°00' 00" E (GN) 106.00 feet from P.R.M. R-48;

THENCE run S 53' 35" E (GN) a distance of 1021.61 feet to a point on the SBL, said point being N 60°00' 00" E (GN) 106.00 feet from P.R.M. R-49;
THENCE run S 19° 32' 24" E (GN) a distance of 958.79 feet to a point on the SBL, said point being N 75°00' 00" E (GN) 111.00 feet from P.R.M. R-50;
THENCE run S 20° 18' 03" E (GN) a distance of 1143.77 feet to a point on the SBL, said point being N 65°00' 00" E (GN) 72.00 feet from P.R.M. R-51;
THENCE run S 18° 33' 54" E (GN) a distance of 308.00 feet to a point on the SBL;
THENCE run S 39°39' 55" E (GN) a distance of 655.00 feet to a point on the SBL, said point being S 55°00' 00" W (GN) 135.00 feet from P.R.M. R-52;
THENCE run S 51°34' 14" E (GN) a distance of 876.89 feet to a point on the SBL, said point being N 40°00' 00" E (GN) 74.00 feet from P.R.M. R-53;
THENCE run S 51° 28' 18" E (GN) a distance of 925.61 feet to a point on the SBL, said point being N 45°00' 00" E (GN) 24.00 feet from P.R.M. R-54;
THENCE run S 42° 50' 38" E (GN) a distance of 954.60 feet to a point on the SBL, said point being N 60°00' 00" E (GN) 62.00 feet from P.R.M. R-55;
THENCE run S 35° 11' 18" E (GN) a distance of 1060.71 feet to a point on the SBL, said point being N 65°00' 00" E (GN) 82.00 feet from P.R.M. R-56;
THENCE run S 26° 48' 15" E (GN) a distance of 1061.49 feet to a point on the SBL, said point being N 70°00' 00" E (GN) 97.00 feet from P.R.M. R-57;
THENCE run S 23° 33' 35" E (GN) a distance of 1018.59 feet to a point on the SBL, said point being N 70°00' 00" E (GN) 108.00 feet from P.R.M. R-58;
THENCE run S 18° 40' 04" E (GN) a distance of 1012.86 feet to a point on the SBL, said point being N 75°00' 00" E (GN) 92.00 feet from P.R.M. R-59;
THENCE run S 17° 46' 35" E (GN) a distance of 985.25 feet to a point on the SBL, said point being N 75°00' 00" E (GN) 105.00 feet from P.R.M. R-60;
THENCE run S 14° 50' 39" E (GN) a distance of 1048.89 feet to a point on the SBL, said point being N 80°00' 00" E (GN) 113.00 feet from P.R.M. R-61;
THENCE run S 16° 12' 37" E (GN) a distance of 1002.63 feet to a point on the SBL, said point being N 80°00' 00" E (GN) 140.00 feet from P.R.M. R-62;
THENCE run S 15° 38' 53" E (GN) a distance of 991.34 feet to a point on the SBL, said point being N 80°00' 00" E (GN) 153.00 feet from P.R.M. R-63;
THENCE run S 14° 46' 28" E (GN) a distance of 1339.01 feet to a point on the SBL, said point being N 75°00' 00" E (GN) 186.00 feet from P.R.M. R-64;
THENCE run S 20° 33' 32" E (GN) a distance of 953.21 feet to a point on the SBL, said point being N 45°00' 00" E (GN) 198.00 feet from P.R.M. R-65;
THENCE run S 20° 06' 17" E (GN) to a point of intersection with the mean high water line, said point being the Southerly terminus of the Coastal Construction Setback Line on La Costa Island.

NORTH CAPTIVA ISLAND

Commence at P.R.M. R-66;
THENCE run S 30°00' 00" E (GN) a distance of 135.00 feet to a point on the SBL and the P.O.B.;
THENCE run N 66°05' 52" E (GN) a distance of 355.00 feet to a point on the SBL;
THENCE run N 20°06' 17" E (GN) to a point of intersection with the mean high water line, said point being the Northerly terminus of the Coastal Construction Setback Line on North Captiva Island;
THENCE returning along the same lines to the P.O.B.;
THENCE run S 40°59' 59" W (GN) a distance of 892.50 feet to a point on the SBL, said point being S 55°00' 00" E (GN) 111.00 feet from P.R.M. R-67;
THENCE run S 18°39' 08" W (GN) a distance of 861.99 feet to a point on the SBL, said point being S 80° 00' 00" E (GN) 71.00 feet from P.R.M. R-68;
THENCE run S 01°57' 27" W (GN) a distance of 1077.85 feet to a point on the SBL, said point being N 80° 00' 00" W (GN) 3.00 feet from P.R.M. R-69;
THENCE run S 01°10' 13" E (GN) a distance of 988.53 feet to a point on the SBL, said point being N 90°00' 00" E (GN) 38.00 feet from P.R.M. R-70;
THENCE run S 05°56' 25" E (GN) a distance of 1044.81 feet to a point on the SBL, said point also being P.R.M. R-71;
THENCE run S 22°33' 24" E (GN) a distance of 1181.00 feet to a point on the SBL;
THENCE run S 37°10' 05" E (GN) a distance of 292.00 feet to a point on the SBL, said point

being N 60°00' 00" E (GN) 71.00 feet from P.R.M. R-72;
THENCE run S 39° 10' 21" E (GN) a distance of 1404.76 feet to a point on the SBL, said point being N 60°00' 00" E (GN) 49.00 feet from P.R.M. R-73;
THENCE run S 37° 18' 52" E (GN) a distance of 981.63 feet to a point on the SBL, said point being N 60°00' 00" E (GN) 2.00 feet from P.R.M. R-74;
THENCE run S 36° 39' 05" E (GN) a distance of 649.25 feet to a point on the SBL, said point being N 60°00' 00" E (GN) 34.00 feet from P.R.M. R-74-A;
THENCE run S 34° 12' 50" E (GN) a distance of 595.43 feet to a point on the SBL, said point being N 60°00' 00" E (GN) 23.00 feet from P.R.M. R-75;
THENCE run S 32° 28' 28" E (GN) a distance of 778.56 feet to a point on the SBL, said point being N 60°00' 00" E (GN) 58.00 feet from P.R.M. R-75-A;
THENCE run S 31°29' 57" E (GN) a distance of 911.59 feet to a point on the SBL, said point being N 60° 00' 00" E (GN) 128.00 feet from P.R.M. R-76;
THENCE run S 31°16' 44" E (GN) a distance of 745.16 feet to a point on the SBL, said point being N 60° 00' 00" (GN) 139.00 feet from P.R.M. R-76-A;
THENCE run S 34°46' 52" E (GN) a distance of 670.96 feet to a point on the SBL, said point being N 55° 00' 00" E (GN) 100.00 feet from P.R.M. R-77;
THENCE run S 30°42' 48" E (GN) a distance of 758.55 feet to a point on the SBL, said point being N 55° 00' 00" E (GN) 112.00 feet from P.R.M. R-77-A;
THENCE run S 30°55' 22" E (GN) a distance of 1372.99 feet to a point on the SBL, said point being N 60° 00' 00" E (GN) 156.00 feet from P.R.M. R-78;
THENCE run S 25°36' 59" E (GN) a distance of 1215.19 feet to a point on the SBL, said point being N 80°00' 00" E (GN) 90.00 feet from P.R.M. R-79;
THENCE run S 18°00' 31" E (GN) a distance of 742.56 feet to a point on the SBL, said point N 80° 00' 00" E (GN) 110.00 feet from P.R.M. R-79-A;
THENCE run S 18°10' 28" E (GN) a distance of 745.46 feet to a point on the SBL, said point being N 80° 00' 00" E (GN) 150.00 feet from P.R.M. R-80;
THENCE run S 17°34' 34" E (GN) a distance of 1048.45 feet to a point on the SBL, said point being N 77°00' 00" E (GN) 86.00 feet from P.R.M. R-81;
THENCE run S 16° 14' 18" E (GN) a distance of 995.00 feet to a point on the SBL;
THENCE run S 41°54' 23" E (GN) a distance of 633.00 feet to a point on the SBL, said point being N 35°00' 00" E (GN) 78.00 feet from P.R.M. R-82;
THENCE run S 61° 49' 28" E (GN) to a point of intersection with the mean high water line; said point being the Southerly terminus of the Coastal Construction Setback Line on North Captiva Island.

CAPTIVA ISLAND

The Coastal Construction Setback Line is coincident with the seaward boundary of Zone I established by Lee County Ordinance Number 76-15 and described as follows in Exhibit A of that ordinance; said exhibit is on file with the Clerk of the Circuit Court for Lee County.

From (D.N.R.) P.R.M. R-84 having coordinates of North 806,098.346 and East 434,296.943 of the Florida State Plane Coordinate System, West Zone, being in Section 15, Township 45 South, Range 21 East, Lee County:
THENCE North 63° 52' 06" East for 557.89 feet to P.R.M. C-I and the point of beginning of the seaward line of Zone I, said point being South 35° 24' 55" East, 90.00 feet from (D.N.R.) P.R.M. R-83;
THENCE South 60°00' 37" West for 370.16 feet to P.R.M. C-2, said point being North 70°58' 03" East, 195.0 feet from (D.N.R.) P.R.M. R-84;
THENCE South 8° 49' 18" West for 342.71 feet to P.R.M. C-3, said point being South 25°35' 58" East, 305.0 feet from (D.N.R.) P.R.M. R-84;
THENCE South 25°35' 58" East for 1048.62 feet to P.R.M. C-4, said point being South 80 °West, 70.0 feet from (D.N.R.) P.R.M. R-85;
THENCE South 18°15' 16" East for 728.45 feet to P.R.M. C-5, said point being South 80°West, 280.0 feet from (D.N.R.) P.R.M. R-86;
THENCE South 25°11' 55" East for 1074.14 feet to P.R.M. C-6, said point being South 80 °West, 170.0 feet from (D.N.R.) P.R.M. R-87;
THENCE South 7°14' 02" East for 916.09 feet to P.R.M. C-7, said point being South 80°West, 80.0 feet from (D.N.R.) P.R.M. R-88;
THENCE South 11° 12' 46" East for 1077.97 feet to P.R.M. C-8, said point being South 80

°West, 10.0 feet from (D.N.R.) P.R.M. R-89, DESTROYED;
THENCE South 8°53' 37" East for 857.84 feet to P.R.M. C-9, said point being South 80°West, 40.0 feet from (D.N.R.) P.R.M. R-90;
THENCE South 8°24' 05" East for 964.23 feet to P.R.M. C-10, said point being North 80°East, 10.0 feet from (D.N.R.) P.R.M. R-91;
THENCE South 9° 27' 23" East for 1125.24 feet to P.R.M. C-11, said point being North 80 °East, 20.0 feet from (D.N.R.) P.R.M. R-92, DESTROYED;
THENCE South 9°30' 11" East for 900.82 feet to P.R.M. C-12, said point being North 80°East, 40.0 feet from (D.N.R.) P.R.M. R-93;
THENCE South 5°21' 07" East for 621.63 feet to P.R.M. C-13, said point being North 62°57' 07" West, 494.45 West from (N.O.A.A.) P.R.M. Munson 1934, 1976;
THENCE South 9°57' 29" East for 899.23 feet to P.R.M. C-14, said point being South 80°West, 80.0 feet from (D.N.R.) P.R.M. R-94 DESTROYED;
THENCE South 10°45' 55" East for 927.92 feet to P.R.M. C-15, said point being North 80 °East, 55.0 feet from (D.N.R.) P.R.M. R-95;
THENCE South 10°01' 02" East for 1025.74 feet to P.R.M. C-16, said point being North 80 °East, 25.0 feet from (D.N.R.) P.R.M. R-96;
THENCE South 12°14' 05" East for 908.38 feet to P.R.M. C-17, said point being North 80 °East, 50.0 feet from (D.N.R.) P.R.M. R-97;
THENCE South 11° 14' 00" East for 1068.36 feet to P.R.M. C-18, said point being North 80 °East, 23.0 feet from (D.N.R.) P.R.M. R-98;
THENCE South 11°52' 18" East for 916.12 feet to P.R.M. C-19, said point being South 80 °West, 15.0 feet from (D.N.R.) P.R.M. R-99;
THENCE South 10° 05' 45" East for 1074.62 feet to P.R.M. C-20, said point being North 80 °East, 3.0 feet from (D.N.R.) P.R.M. R-100;
THENCE South 10°51' 58" East for 983.71 feet to P.R.M. C-21, said point being South 80 °West, 40.0 feet from (D.N.R.) P.R.M. R-101;
THENCE South 11°28' 45" East for 1201.25 feet to P.R.M. C-22, said point being North 80 °East, 5.0 feet from (D.N.R.) P.R.M. R-102;
THENCE South 11°33' 45" East for 792.71 feet to P.R.M. C-23; said point being South 80 °West, 45.0 feet from (D.N.R.) P.R.M. R-103;
THENCE South 10°08' 02" East for 1060.72 feet to P.R.M. C-24, said point being South 80° West, 55.0 feet from (D.N.R.) P.R.M. R-104;
THENCE South 11° 23' 51" East for 1119.75 feet to P.R.M. C-25, said point being North 80 °East, 30.0 feet from (D.N.R.) P.R.M. R-105;
THENCE South 11°25' 20" East for 957.66 feet to P.R.M. C-26, said point being South 80° West, 290.8 feet from (D.N.R.) P.R.M. R-106;
THENCE South 15°40' 05" East for 1116.58 feet to P.R.M. C-27, said point being South 80 °West, 315.0 feet from (D.N.R.) P.R.M. R-107;
THENCE South 20°28' 55" East for 1240.06 feet to P.R.M. C-28;
THENCE South 20° 08' 31" East for 769.09 feet to P.R.M. C-29, said point being North 55°51' 55" West, 99.99 feet from (D.N.R.) P.R.M. R-109 DESTROYED;
THENCE South 55° 51' 55" East for 99.99 feet to P.R.M. C-30, said point being at (D.N.R.) P.R.M. R-109, DESTROYED;
THENCE South 69°East for 40 feet more or less to the approximate mean high water line of Pine Island sound; said mean high water line being the Southerly terminus of the aforementioned seaward line of Zone I.

SANIBEL ISLAND

Commence at P.R.M. R-110;
THENCE run N 67°28' 00" E (GN) a distance of 115.00 feet to a point on the SBL and the P.O.B.;
THENCE run N 70°00' 00" W (GN) to a point of intersection with the mean high water line; said point being the Northerly terminus of the Coastal Construction Setback Line for Sanibel Island;
THENCE return along the same line to the P.O.B.;
THENCE run S 07° 50' 04" E (GN) a distance of 1041.51 feet to a point on the SBL; said point also being P.R.M. R-111;
THENCE run S 36° 16' 31" E (GN) a distance of 761.66 feet to a point on the SBL, said point being N 60°00' 00" E (GN) 200.00 feet from P.R.M. R-112;
THENCE run S 18° 52' 05" E (GN) a distance of 1415.80 feet to a point on the SBL, said point being N 60°00' 00" E (GN) 111.00 feet from P.R.M. R-113;
THENCE run S 36° 50' 15" E (GN) a distance of 790.43 feet to a point on the SBL, said point being N 60°00' 00" E (GN) 43.00 feet from P.R.M. R-114;
THENCE run S 40° 51' 29" E (GN) a distance of 1120.95 feet to a point on the SBL, said point being N 45°00' 00" E (GN) 59.00 feet from P.R.M. R-115;
THENCE run S 47° 13' 05" E (GN) a distance of 1141.54 feet to a point on the SBL, said point being N 40°00' 00" E (GN) 51.00 feet from P.R.M. R-116;
THENCE run S 56° 07' 24" E (GN) a distance of 1068.50 feet to a point on the SBL, said point being N 40°00' 00" E (GN) 23.00 feet from P.R.M. R-117;
THENCE run S 60°28' 49" E (GN) a distance of 1083.60 feet to a point on the SBL, said point being S 30°00' 00" W (GN) 39.00 feet from P.R.M. R-118;
THENCE run S 60°03' 54" E (GN) a distance of 1058.38 feet to a point on the SBL, said point being S 30° 00' 00" W (GN) 85.00 feet from P.R.M. R-119;
THENCE run S 61°36' 03" (GN) a distance of 1033.19 feet to a point on the SBL, said point being N 30° 00' 00" E (GN) 63.00 feet from P.R.M. R-120;
THENCE run S 62°03' 13" E (GN) a distance of 1045.59 feet to a point on the SBL, said point being N 25° 00' 00" E (GN) 7.00 feet from P.R.M. R-121;
THENCE run S 60°58' 57" E (GN) a distance of 974.67 feet to a point on the SBL, said point being N 25° 00' 00" E (GN) 7.00 feet from P.R.M. R-122;
THENCE run S 62°11' 59" E (GN) a distance of 1111.37 feet to a point on the SBL, said point being S 25°00' 00" W (GN) 72.00 feet from P.R.M. R-123;
THENCE run S 59°21' 04" E (GN) a distance of 975.60 feet to a point on the SBL, said point being N 35° 00' 00" E (GN) 58.00 feet from P.R.M. R-124;
THENCE run S 54°54' 54" E (GN) a distance of 1348.01 feet to a point on the SBL, said point being S 40° 00' 00" W (GN) 18.00 feet from P.R.M. R-125;
THENCE run S 47°35' 23" E (GN) a distance of 1042.72 feet to a point on the SBL, said point being N 50° 00' 00" E (GN) 129.00 feet from P.R.M. R-126;
THENCE run S 44°17' 35" E (GN) a distance of 960.99 feet to a point on the SBL, said point being N 45° 00' 00" E (GN) 64.00 feet from P.R.M. R-127;
THENCE run S 43°35' 36" E (GN) a distance of 1369.10 feet to a point on the SBL, said point being N 45°00' 00" E (GN) 77.00 feet from P.R.M. R-128;
THENCE run S 42°41' 08" E (GN) a distance of 933.93 feet to a point on the SBL, said point being N 40°00' 00" E (GN) 66.00 feet from P.R.M. R-129;
THENCE run S 41°15'06" E (GN) a distance of 1155.47 feet to a point on the SBL, said point being N 40°00'00" E (GN) 10.00 feet from P.R.M. R-130;
THENCE run S 41°40' 24" E (GN) a distance of 987.34 feet to a point on the SBL, said point being N 45°00' 00" E (GN) of 72.00 feet from P.R.M. R-131;
THENCE run S 44°03' 05" E (GN) a distance of 1,007.26 feet to a point on the SBL, said point being N 50° 00' 00" E (GN) 90.00 feet from P.R.M. R-132;
THENCE run S 48°03' 38" E (GN) a distance of 923.35 feet to a point on the SBL, said point being N 30°00' 00" E (GN) 52.00 feet from P.R.M. R-133;
THENCE run S 58°42' 26" E (GN) a distance of 1,000.87 feet to a point on the SBL, said point being N 35°00' 00" E (GN) 50.00 feet from P.R.M. R-134;

THENCE run S 62°56' 51" E (GN) a distance of 987.02 feet to a point on the SBL, said point being N 35°00' 00" E (GN) 60.00 feet from P.R.M. R-135;
THENCE run S 65°30' 03" E (GN) a distance of 883.25 feet to a point on the SBL, said point being N 25°00' 00" E (GN) 70.00 feet from P.R.M. R-136;
THENCE run S 64°02' 09" E (GN) a distance of 1,176.96 feet to a point on the SBL, said point being N 25°00' 00" E (GN) 26.00 feet from P.R.M. R-137;
THENCE run S 65°11' 40" E (GN) a distance of 854.41 feet to a point on the SBL, said point being N 30°00' 00" E (GN) 42.00 feet from P.R.M. R-138;
THENCE run S 67°01' 03" E (GN) a distance of 1,095.09 feet to a point on the SBL, said point being N 25°00' 00" E (GN) 79.00 feet from P.R.M. R-139;
THENCE run S 67°20' 55" E (GN) a distance of 939.11 feet to a point on the SBL, said point being N 20°00' 00" E (GN) 31.00 feet from P.R.M. R-140;
THENCE run S 68°37' 02" E (GN) a distance of 978.82 feet to a point on the SBL, said point being N 20°00' 00" E (GN) 37.00 feet from P.R.M. R-141;
THENCE run S 68°31' 44" E (GN) a distance of 1,039.77 feet to a point on the SBL, said point being N (GN) 33.00 feet from P.R.M. R-142;
THENCE run S 68°13' 00" E (GN) a distance of 1,007.04 feet to a point on the SBL, said point being N 20°00' 00" E (GN) 100.00 feet from P.R.M. R-143;
THENCE run S 67°18' 05" E (GN) a distance of 898.87 feet to a point on the SBL, said point being N 25°00' 00" E (GN) 62.00 feet from P.R.M. R-144;
THENCE run S 71°34' 02" E (GN) a distance of 987.86 feet to a point on the SBL, said point N 20°00' 00" E (GN) 109.00 feet from P.R.M. R-145;
THENCE run S 71°58' 37" E (GN) a distance of 1,021.98 feet to a point on the SBL, said point being N 20°00' 00" E (GN) 80.00 feet from P.R.M. R-146;
THENCE run S 76°16' 24" E (GN) a distance of 1,047.28 feet to a point on the SBL, said point being N 05°00' 00" E (GN) 49.00 feet from P.R.M. R-147;
THENCE run S 76°55' 35" E (GN) a distance of 1,035.30 feet to a point on the SBL, said point being N 10°00' 00" E (GN) 90.00 feet from P.R.M. R-148;
THENCE run S 88°19' 04" E (GN) a distance of 968.56 feet to a point on the SBL, said point being S 05°00' 00" W (GN) 5.00 feet from P.R.M. R-149;
THENCE run S 88° 55' 22" E (GN) a distance of 946.83 feet to a point on the SBL, said point being N 05°00' 00" E (GN) 78.00 feet from P.R.M. R-150;
THENCE run N 87°41' 53" E (GN) a distance of 1,094.96 feet to a point on the SBL, said point being S 05°00' 00" W (GN) 50.00 feet from P.R.M. R-151;
THENCE run N 85°28' 56" E (GN) a distance of 837.17 feet to a point on the SBL, said point being S 05°00' 00" W (GN) 48.00 feet from P.R.M. R-152;
THENCE run N 77°03' 02" E (GN) a distance of 1,129.67 feet to a point on the SBL, said point also being P.R.M. R-153;
THENCE run N 71° 44' 56" E (GN) a distance of 889.12 feet to a point on the SBL, said point being S 10°00' 00" E (GN) 89.00 feet from P.R.M. R-154;
THENCE run N 63° 18' 30" E (GN) a distance of 998.43 feet to a point on the SBL, said point being N 20°00' 00" W (GN) 139.00 feet from P.R.M. R-155;
THENCE run N 66°26' 17" E (GN) a distance of 1,001.40 feet to a point on the SBL, said point being N 20°00' 00" W (GN) 118.00 feet from P.R.M. R-156;
THENCE run N 66°22' 07" E (GN) a distance of 982.34 feet to a point on the SBL, said point being N 20°00' 00" W (GN) 137.00 feet from P.R.M. R-157;
THENCE run N 67°08' 58" E (GN) a distance of 957.72 feet to a point on the SBL, said point being N 25°00' 00" W (GN) 82.00 feet from P.R.M. R-158;
THENCE run N 65°26' 44" E (GN) a distance of 1,034.29 feet to a point on the SBL, said point being N 25°00' 00" W (GN) 80.00 feet from P.R.M. R-159;
THENCE run N 60°47' 24" E (GN) a distance of 860.88 feet to a point on the SBL, said point being N 35°00' 00" W (GN) 100.00 feet from P.R.M. R-160;
THENCE run N 58°18' 48" E (GN) a distance of 1,033.99 feet to a point on the SBL, said point being N 35°00' 00" W (GN) 96.00 feet from P.R.M. R-161;
THENCE run N 58°08' 56" E (GN) a distance of 1,019.89 feet to a point on the SBL, said point being N 15°00' 00" W (GN) 100.00 feet from P.R.M. R-161A;
THENCE run N 55°35' 46" E (GN) a distance of 752.89 feet to a point on the SBL, said point being S 25°00' 00" E (GN) 42.00 feet from P.R.M. R-162;
THENCE run N 58°35' 34" E (GN) a distance of 1,223.81 feet to a point on the SBL, said point

being N 10°00' 00" W (GN) 18.00 feet from P.R.M. R-163;
THENCE run N 58°36' 02" E (GN) a distance of 749.52 feet to a point on the SBL, said point being S 28°00' 00" E (GN) 65.00 feet from P.R.M. R-164;
THENCE run N 58°10' 24" E (GN) a distance of 1,221.34 feet to a point on the SBL, said point being S 30°00' 00" E (GN) 93.00 feet from P.R.M. R-165;
THENCE run N 58°24' 33" E (GN) a distance of 978.18 feet to a point on the SBL, said point being N 35°00' 00" W (GN) 22.00 feet from P.R.M. R-166;
THENCE run N 59°25' 03" E (GN) a distance of 983.20 feet to a point on the SBL, said point being N 25°00' 00" W (GN) 13.00 feet from P.R.M. R-167;
THENCE run N 69°20' 32" E (GN) a distance of 996.16 feet to a point on the SBL, said point being N 25°00' 00" W (GN) 63.00 feet from P.R.M. R-168;
THENCE run N 55°53' 03" E (GN) a distance of 1,076.99 feet to a point on the SBL, said point being N 30°00' 00" W (GN) 88.00 feet from P.R.M. R-169;
THENCE run N 56°26' 54" E (GN) a distance of 1,107.37 feet to a point on the SBL, said point being S 30°00' 00" E (GN) 153.00 feet from P.R.M. R-170;
THENCE run N 56°43' 19" E (GN) a distance of 876.68 feet to a point on the SBL, said point being S 14°00' 00" E (GN) 260.00 feet from P.R.M. R-171;
THENCE run N 54°20' 33" E (GN) a distance of 883.99 feet to a point on the SBL, said point being S 30°00' 00" E (GN) 23.00 feet from P.R.M. R-172;
THENCE run N 65°00' 24" E (GN) a distance of 1,135.03 feet to a point on the SBL, said point being N 35°00' 00" W (GN) 33.00 feet from P.R.M. R-173;
THENCE run N 32°27' 23" E (GN) a distance of 621.55 feet to a point on the SBL, said point also being P.R.M. R-174;
THENCE run due East (GN) to a point of intersection with the mean high water line, said point being the Southerly terminus of the Coastal Construction Setback Line for Sanibel Island.

ESTERO ISLAND

The Coastal Construction Setback Line is coincident with the seaward boundary of Zone I as established by Lee County Ordinance Number 76-3 and described as follows in Exhibit A of that ordinance; said exhibit is on file with the Clerk of the Circuit Court for Lee County.

From N. O. A. A. P.R.M. IFMBBH7, reset RM-1, 1980 a brass disk in a concrete seawall cap, having coordinates of North 774,092.13 and East 510,765.58 of the Florida State Plane Coordinate System, West Zone, being in Section 24, Township 46 South, Range 23 East, Lee County;
THENCE North 61° 01' 57" East for 415.39 feet to P.R.M. E-1, and the point of beginning of the seaward line of Zone 1; THENCE North 87° 59' 13" East for 35 feet more or less to the approximate mean high water line of San Carlos Bay;
THENCE South 87°59' 13" West for 35 feet more or less to P.R.M. E-1, said point being North 81°18' 56" East, 237.39 feet from Department of Natural Resources (D.N.R.) P.R.M. R-175;
THENCE South 87°59' 13" West for 215.00 feet to P.R.M. E-2, said point being North 34° 59' 13" East, 34.53 feet from D.N.R. P.R.M. R-175;
THENCE South 34°59' 13" West for 100.00 feet to P.R.M. E-3, said point being South 34° 59' 13" West, 65.47 feet from D.N.R. P.R.M. R-175;
THENCE South 04° 20' 29" E for 473.00 feet to P.R.M. E-4, said point being South 0°11' 21" West, 525.28 feet from D.N.R. P.R.M. R-175;
THENCE South 19°20' 29" East for 833.00 feet to P.R.M. E-5, said point being North 73° 35' 43" West, 511.52 feet from D.N.R. P.R.M. R-177;
THENCE South 40°26' 45" East for 1122.70 feet to P.R.M. E-6, said point being North 76°54' 22" West, 517.18 feet from D.N.R. P.R.M. R-178;
THENCE South 44°13' 48" East for 784.76 feet to P.R.M. E-7, said point being South 05°36' 09" East, 447.29 feet from D.N.R. P.R.M. R-178;
THENCE South 47°17' 48" East for 680.00 feet to P.R.M. E-8, said point being South 12°28' 55" West, 251.82 feet from D.N.R. P.R.M. R-179;
THENCE South 54°49' 10" East for 916.71 feet to P.R.M. E-9, said point being South 29°25' 28" West, 22.00 feet from D.N.R. P.R.M. R-180;
THENCE South 53° 13' 48" East for 818.33 feet to P.R.M. E-10, said point being North 77°53' 42" West, 188.28 feet from D.N.R. P.R.M. R-181;
THENCE South 67°10' 54" East for 1482.93 feet to P.R.M. E-11, said point being South 29°52' 46" East, 302.84 feet from D.N.R. P.R.M. R-182;

THENCE South 67°38' 48" East for 1074.82 feet to P.R.M. E-12, said point being South 42°53' 07" East, 552.53 feet from D.N.R. P.R.M. R-183;
THENCE South 67°38' 48" East for 800.00 feet to P.R.M. E-13, said point being South 19°16' 05" East, 349.08 feet from D.N.R. P.R.M. R-184;
THENCE South 66°13' 54" East for 1455.81 feet to P.R.M. E-14, said point being North 74°46' 45" West, 294.77 feet from D.N.R. P.R.M. R-186;
THENCE South 66°07' 47" East for 1399.66 feet to P.R.M. E-15, said point being North 88°31' 46" West, 331.62 feet from D.N.R. P.R.M. R-187;
THENCE South 61°00' 39" East for 1056.97 feet to P.R.M. E-16, said point being North 53°08' 29" West, 164.79 feet from D.N.R. P.R.M. R-187-A;
THENCE South 60° 14' 34" East for 878.68 feet to P.R.M. E-17, said point being South 28° 07' 32" West, 150.0 feet from D.N.R. P.R.M. R-188;
THENCE South 58°50' 33" East for 1017.52 feet to P.R.M. E-18, said point being South 50°31' 55" East, 1036.34 feet from D.N.R. P.R.M. R-188;
THENCE South 57° 22' 40" East for 1062.96 feet to P.R.M. E-19, said point being South 12°37' 44" West, 156.34 feet from D.N.R. P.R.M. R-190;
THENCE South 56° 54' 54" East for 909.53 feet to P.R.M. E-20, said point being South 07°26' 48" West, 159.41 feet from D.N.R. P.R.M. R-191;
THENCE South 53°46' 54" East for 1056.39 feet to P.R.M. E-21, said point being South 08° 27' 37" West, 128.82 feet from D.N.R. P.R.M. R-192;
THENCE South 50°57' 40" East for 1140.64 feet to P.R.M. E-22, said point being South 16° 17' 10" East, 312.59 feet from D.N.R. P.R.M. R-193;
THENCE South 49°54' 15" East for 1575.28 feet to P.R.M. E-23, said point being North 39°05' [illegible]" West, 328.97 feet from D.N.R. P.R.M. R-195;
THENCE South 47°02' 21" East for 1572.48 feet to P.R.M. E-24, said point being South 17°49' 47" East, 360.11 feet from D.N.R. P.R.M. R-196;
THENCE South 38°43' 41" East for 349.58 feet to P.R.M. E-25, said point being North 64°01' 23" West, 446.16 feet from D.N.R. P.R.M. R-197;
THENCE South 43° 33' 54" East for 828.22 feet to P.R.M. E-26, said point being South 22° 45' 00" East, 438.84 feet from D.N.R. P.R.M. R-197;
THENCE South 45°11' 48" East for 447.38 feet to P.R.M. E-27, said point being South 74°23' 21" West, 153.83 feet from D.N.R. P.R.M. R-198;
THENCE South 43°26' 32" East for 776.66 feet to P.R.M. E-28, said point being North 34°53' 07" West, 391.31 feet from D.N.R. P.R.M. R-199;
THENCE South 39°10' 40" East for 1273.08 feet to P.R.M. E-29, said point being South 49°37' 06" West, 80.00 feet from D.N.R. P.R.M. R-200;
THENCE South 29° 22' 44" East for 1101.79 feet to P.R.M. E-30, said point being South 57° 16' 57" West, 45.00 feet from D.N.R. P.R.M. R-201;
THENCE South 27°33' 26" East for 908.12 feet to P.R.M. E-31, said point being North 87°27' 00" West, 15.00 feet from D.N.R. P.R.M. R-202;
THENCE South 13°32' 40" East for 658.05 feet to P.R.M. E-32, said point being South 12°16' 55" East, 654.05 feet from D.N.R. P.R.M. R-202;
THENCE South 08° 05' 44" East for 677.15 feet to P.R.M. E-33, said point being North 74° 35' 32" East, 70.00 feet from D.N.R. P.R.M. R-203;
THENCE South 13°58' 51" East for 1041.04 feet to P.R.M. E-34, said point being North 89°47' 43" West, 50.00 feet from D.N.R. P.R.M. R-204;
THENCE South 49°47' 53" East for 1021.55 feet to P.R.M. E-35, said point being South 51° 38' 47" West, 246.27 feet from D.N.R. P.R.M. R-205;
THENCE South 40°19' 08" East for 1861.78 feet to P.R.M. E-36, said point being South 20°59' 23" East, 850.13 feet from N. O. A. A. P.R.M. 100B 2, 1955, having coordinates of North 753,526.17, and East 533,958.48 of West Zone, also said point being North 67° 18' 19" West, 358.91 feet from D.N.R. P.R.M. R-207;
THENCE South 77°44' 06" East for 1396.11 feet to P.R.M. E-37, said point being North 07° 57' 25" East, 35.09 feet from D.N.R. P.R.M. R-208;
THENCE South 86° 10' 53" East for 1018.38 feet to P.R.M. E-38, said point being North 02°41' 49" East, 15.00 feet from D.N.R. P.R.M. R-209;
THENCE North 88°43' 47" East for 936.35 feet to P.R.M. E-39, said point being North 72°14' 59" We[illegible]36 feet from D.N.R. P.R.M. R-210;
THENCE [illegible] 68°39' 47" East for 607.27 feet to P.R.M. E-40, approximate mean high water

line of Ostego Bay;
THENCE continue North 68° 39' 47" East for 120 feet more or less to the approximate centerline of road at the beginning of Big Carlos Pass Bridge, said mean high water line being the Southerly terminus of the aforementioned seaward line of Zone 1.

LOVERS KEY

Commence at P.R.M. R-211.
THENCE run S 49°58' 00" E (GN) a distance of 329.00 feet to a point on the SBL, and the P.O.B.;
THENCE run N 25° 00' 00" W (GN) a distance of 700.00 feet to a point on the SBL, said point being the Northerly terminus of the Coastal Construction Setback Line for Lovers Key;
THENCE return along the same line to the P.O.B.;
THENCE run S 62°48' 27" W (GN) a distance of 755.53 feet to a point on the SBL, said point being S 50°00' 00" E (GN) 87.00 feet from P.R.M. R-212;
THENCE run S 62°40' 55" W (GN) a distance of 736.01 feet to a point on the SBL;
THENCE run S 04° 18' 15" W (GN) a distance of 133.55 feet to a point on the SBL, said point being S 69°58' 00" E (GN) 100.00 feet from P.R.M. R-213;
THENCE run S 29° 22' 23" E (GN) a distance of 595.72 feet to a point on the SBL, said point being N 55°02' 00" E (GN) 620.00 feet from P.R.M. R-214;
THENCE run S 57°33' 07" E (GN) a distance of 881.49 feet to a point on the SBL, said point being N 49°02' 00" E (GN) 945.00 feet from P.R.M. R-215;
THENCE run S 10°13' 49" E (GN) a distance of 1,182.89 feet to a point on the SBL, said point being N 35°02' 00" E (GN) 180.00 feet from P.R.M. R-216;
THENCE run S 40°04' 55" E (GN) a distance of 1,021.27 feet to a point on the SBL, said point being N 55°02' 00" E (GN) 120.00 feet from P.R.M. R-217;
THENCE run S 44°29' 36" E (GN) a distance of 962.63 feet to a point on the SBL, said point being N 50°00' 00" E (GN) 129.00 feet from P.R.M. R-218;
THENCE S 57°13' 52" E (GN) a distance of 1,132.75 feet to a point on the SBL, said point being N 50°02' 00" E (GN) 370.00 feet from P.R.M. R-219;
THENCE run S 39°12' 10" E (GN) a distance of 921.48 feet to a point on the SBL, said point being N 55°02' 00" E (GN) 273.00 feet from P.R.M. R-220;
THENCE run S 40°19' 43" E (GN) a distance of 986.53 feet to a point on the SBL, said point being N 55°02' 00" E (GN) 427.00 feet from P.R.M. R-221;
THENCE run S 31°02' 40" E (GN) a distance of 1,155.39 feet to a point on the SBL, said point also being P.R.M. R-222;
THENCE run S 30°30' 28" E (GN) to a point of intersection with the mean high water line, said point being the Southerly terminus of the Coastal Construction Setback Line for Lovers Key.

DESCRIPTION FOR BIG HICKORY ISLAND

Commence at P.R.M. R-223.
THENCE run N 80°02' 00" E (GN) a distance of 190.00 feet to a point on the SBL, and that P.O.B.;
THENCE N 30°30' 28" W (GN) to a point of intersection with the mean high water line, said point being the Northerly terminus of the Coastal Construction Setback Line for Big Hickory Island;
THENCE returning along the same line to the P.O.B.;
THENCE run S 17°05' 00" E (GN) a distance of 1,324.93 feet to a point on the SBL, said point being N 70°02' 00" E (GN) 75.00 feet from P.R.M. R-224;
THENCE run S 20°47' 25" E (GN) a distance of 804.27 feet to a point on the SBL, said point being N 85° 02' 00" E (GN) 103.00 feet from P.R.M. R-225;
THENCE run S 18°15' 00" E (GN) a distance of 300.00 feet to a point on the SBL;
THENCE run S 71°45' 00" W (GN) to a point of intersection with the mean high water line, of the waters of the Gulf of Mexico, said point being the Southerly terminus of the Coastal Construction Setback Line on Big Hickory Island.

BONITA BEACH

The Coastal Construction Setback Line is coincident with the seaward boundary of Zone I as established by Lee County Ordinance Number 76-10 and described as follows in Exhibit A of that ordinance; said exhibit is on file with the Clerk of the Circuit Court for Lee County.

FROM (D.N.R.) P.R.M. R-226 HAVING COORDINATES OF N[illegible]H 738037.622 AND EAST 544768.058 OF THE FLORIDA STATE PLANE COOR[illegible]TE SYSTEM,

WEST ZONE [illegible]NG WITHIN ACCRETIONS TO SECTION 25, TOWNSHIP 47 SOUTH, RANGE 24 EAST, LEE COUNTY;

THENCE SOUTH 88°28'46" EAST FOR 555.60 FEET TO P.R.M.B-1, AND THE POINT OF BEGINNING OF THE SEAWARD LINE OF ZONE 1;

THENCE SOUTH 76°26' 13" WEST FOR 516.09 FEET TO THE P.R.M. B-2, SAID POINT OF BEING SOUTH 21° 34" 54"EAST, 146.01 FEET FROM (D.N.R.) P.R.M. R-226;

THENCE SOUTH 25°49' 25" EAST FOR 822.07 FEET TO P.R.M. B-3, SAID POINT BEING NORTH 28°31' 30" WEST, 1171.78 FEET FROM (D.N.R.) P.R.M. R-228;

THENCE SOUTH 30° 13' 47" EAST FOR 1,174.45 FEET TO P.R.M. B-4, SAID POINT BEING NORTH 65 EAST, 35.0 FEET FROM (D.N.R.) P.R.M. R-228;

THENCE SOUTH 31°28' 43" EAST FOR 775.43 FEET TO P.R.M. B-5, SAID POINT BEING SOUTH 65 WEST, 129.86 FEET FROM (D.N.R.) P.R.M. R-229;

THENCE SOUTH 29°49' 02" EAST FOR 1,074.66 FEET TO P.R.M. B-6, SAID POINT BEING SOUTH 65 WEST, 100.0 FEET FROM (D.N.R.) P.R.M. R-230;

THENCE SOUTH 30°19' 18" EAST FOR 776.39 FEET TO P.R.M. B-7, SAID POINT BEING NORTH 65°45' WEST, 297.52 FEET FROM (D.N.R.) P.R.M. R-231;

THENCE SOUTH 27°06' 31" EAST FOR 1,004.44 FEET TO P.R.M. B-8, SAID POINT BEING North 29°47' 58" WEST, 394.31 FEET FROM (D.N.R.) R-232;

THENCE SOUTH 24°52' 13" EAST FOR 1,355.17 FEET TO P.R.M. B-9, SAID POINT BEING SOUTH 44° 44' 32" WEST, 201.52 FEET FROM (D.N.R.) P.R.M. R-233;

THENCE SOUTH 23°19' 50" EAST FOR 458.01 FEET TO P.R.M. B-10, SAID POINT BEING SOUTH 4°00' 44" EAST, 565.08 FEET FROM (D.N.R.) P.R.M. R-233;

THENCE SOUTH 19°59' 06" EAST FOR 672.89 FEET TO P.R.M. B-11, SAID POINT BEING SOUTH 54° 48' 41" WEST, 148.33 FEET FROM (D.N.R.) P.R.M. R-234;

[illegible]ENCE SOUTH 22°42' 34" EAST FOR 849.52 FEET TO P.R.M. B-12, SAID POINT [illegible]ING SOUTH 13° 22' 49" EAST, 893.38 FEET FROM (D.N.R.) P.R.M. R-234;

[illegible]CE SOUTH 20°46' 45" EAST FOR 903.53 FEET TO P.R.M. B-13, SAID POINT BEING NORTH 53°35' 19" WEST, 289.35 FEET FROM (D.N.R.) P.R.M. R-236 AND BEING NORTH 40°59' 26" WEST, 389.98 FEET FROM N.O.A.A. P.R.M. HICKORY R.M. 1;

THENCE SOUTH 20° 34' 32" EAST FOR 851.30 FEET TO P.R.M. B-14, SAID POINT BEING NORTH 27°04' 57" WEST, 347.27 FEET FROM (D.N.R.) P.R.M. R-237;

THENCE SOUTH 22°57' 42" EAST FOR 1151.29 FEET TO P.R.M. B-15, SAID POINT BEING NORTH 22°58' 43" WEST, 341.83 FEET FROM (D.N.R.) P.R.M. R-238;

THENCE SOUTH 22°55' 49" EAST FOR 933.20 FEET TO P.R.M. B-16, SAID POINT BEING NORTH 29°14' 36" WEST, 543.41 FEET FROM (D.N.R.) P.R.M. R-239;

THENCE SOUTH 22°55' 49" EAST FOR 785.26 FEET TO P.R.M. B-17, SAID POINT BEING SOUTH 9°13' 53" EAST, 252.32 FEET FROM (D.N.R.) P.R.M. R-239 AND BEING SOUTH 6°09' 13" EAST, 167.65 FEET FROM N.O.A.A. P.R.M. WIGGINS, 1934 AND BEING AT THE SOUTH BOUNDARY LINE OF LEE COUNTY, AND BEING THE SOUTHERLY TERMINUS OF THE AFOREMENTIONED SEAWARD LINE OF ZONE 1.

16B-26.08 Description of the Manatee County Coastal Construction Setback Line. There is hereby established pursuant to Section 161.053, Florida Statutes, a coastal construction setback line in Manatee County, Florida. The legal description of said line is attached hereto and labeled exhibit "A".

After this rule has been recorded in the office of the Clerk of the Circuit Court in and for Manatee County, Florida, no person, firm, corporation or governmental agency shall construct any structure whatsoever seaward thereof, or perform any actions as described in Section 161.053, Florida Statutes, without obtaining a permit as described in said Section of the Statute, and all provisions of said Section shall apply to this rule.

Specific Authority 120, 161.053 FS. Law Implemented 161.053 FS. History—New 9-28-77.

EXHIBIT "A" (Chapter 16B-26.08)

METES AND BOUNDS DESCRIPTION FOR THE COASTAL CONSTRUCTION SETBACK LINE IN MANATEE COUNTY, FLORIDA

Description of Coastal Construction Setback Lines established in compliance with Section

161.053, Florida Statutes, said setback line lying along the Gulf of Mex[illegible]ast from the Pinellas County and Manatee County, line southerly to the Manatee County and Sarasota County line.

Said Coastal Construction Setback Line is related to a series of "Permanent Reference Monuments" (P.R.M.) designated and hereinafter referred to as "R-1" through "R-67" as established by the Department of Natural Resources, State of Florida. In the case where the original monument or monuments has been lost or destroyed and replaced at a later date with a new monument, there will be a "T" instead of an "R" designation.

Commence at P.R.M. T-3.

THENCE run N 58°41' 08" W (GN) a distance of 103.35 feet to a point on the SBL and the point of beginning;

THENCE run due North to a point of intersection with the mean high water line of the Gulf of Mexico and the Northerly terminus of the Coastal Construction Setback Line for Manatee County.

THENCE returning along the same line to the P.O.B.;

THENCE run S 20°38' 55" E (GN) a distance of 1,054.38 feet to a point on the SBL, said point being N 69°52' 00" E (GN) 105.00 feet from P.R.M. R-4;

THENCE run S 25°21' 05" E (GN) a distance of 825.61 feet to a point on the SBL, said point being N 69°52' 00" E (GN) 102.00 feet from P.R.M. R-5;

THENCE run S 35°29' 15" E (GN) a distance of 953.12 feet to a point on the SBL, said point being N 39°52' 00" E (GN) 117.00 feet from P.R.M. R-6;

THENCE run S 35°25' 42" E (GN) a distance of 1,172.27 feet to a point on the SBL, said point being N 54°52' 00" E (GN) 145.00 feet from P.R.M. R-7;

THENCE run S 35°23' 54" E (GN) a distance of 915.33 feet to a point on the SBL, said point being N 44°52' 00" E (GN) 114.00 feet from P.R.M. R-8;

THENCE run S 48°16' 10" E (GN) a distance of 1,082.34 feet to a point on the SBL, said point being N 49°52' 00" E (GN) 110.00 feet from P.R.M. R-9;

THENCE run S 44°09' 26" E (GN) a distance of 942.71 feet to a point on the SBL, said point being N 34°52' 00" E (GN) 80.00 feet from P.R.M. R-10;

THENCE run S 45°40' 44" E (GN) a distance of 1,103.27 feet to a point on the SBL, said point being N 44°52' 00" E (GN) 121.00 feet from P.R.M. R-11;

THENCE run S 42°10' 15" E (GN) a distance of 1,063.71 feet to a point on the SBL, said point being N 34°52' 00" E (GN) 90.00 feet from P.R.M. R-12;

THENCE run S 41°57' 04" E (GN) a distance of 1,012.16 feet to a point on the SBL, said point being N 49°52" 00" E (GN) 120.00 feet from P.R.M. R-13;

THENCE run S 37°08' 55" E (GN) a distance of 983.63 feet to a point on the SBL, said point being N 22°00' 38" E (GN) 13.13 feet from P.R.M. T-14;

THENCE run S 35°57' 15" E (GN) a distance of 1,200.73 feet to a point on the SBL, said point being N 54°52' 00" E (GN) 95.00 feet from P.R.M. R-15;

THENCE run S 35°37' 34" E (GN) a distance of 1,001.41 feet to a point on the SBL, said point being N 68°50' 37" E (GN) 67.78 feet from P.R.M. T-16;

THENCE run S 31°48' 44" E (GN) a distance of 900.70 feet to a point on the SBL, said point being N 59°52' 00" E (GN) 120.00 feet from P.R.M. R-17;

THENCE run S 33°22' 47" E (GN) a distance of 941.14 feet to a point on the SBL, said point being N 59°52' 00" E (GN) 122.00 feet from P.R.M. R-18;

THENCE run S 28°00' 39" E (GN) a distance of 1,007.89 feet to a point on the SBL, said point being N 51°14' 16" E (GN) 89.74 feet from P.R.M. T-19;

THENCE run S 28°23' 12" E (GN) a distance of 989.92 feet to a point on the SBL, said point being N 69°52' 00" E (GN) 85.00 feet from P.R.M. R-20;

THENCE run S 27°53' 24" E (GN) a distance of 1,132.66 feet to a point on the SBL, said point being N 74°16' 36" E (GN) 72.09 feet from P.R.M. T-21;

THENCE run S 23°42' 52" E (GN) a distance of 976.81 feet to a point on the SBL, said point being N 59°52' 00"E (GN) 55.00 feet from P.R.M. R-22;

THENCE run S 21°11' 59" E (GN) a distance of 990.52 feet to a point on the SBL, said point being N 69°52' 00" E (GN) 180.00 feet from P.R.M. R-23;

THENCE run S 24°59' 38" E (GN) a distance of 961.41 feet to a point on the SBL, said point being N 69°52' 00" E (GN) 106.00 feet from P.R.M. R-24;

THENCE run S 22°36' 49" E (GN) a distance of 967.14 feet to a point on the SBL, said point

being N 42°32' 15" E (GN) 104.39 feet from P.R.M. T-25;
THENCE run S 20°47' 17" E (GN) a distance of 1,085.54 feet to a point on the SBL, said point being N 74°52' 00" E (GN) 80.00 feet from P.R.M. R-26;
THENCE run S 16°23' 11" E (GN) a distance of 938.92 feet to a point on the SBL, said point being N 77°52' 00" E (GN) 125.00 feet from P.R.M. R-27;
THENCE run S 15°01' 52" E (GN) a distance of 998.36 feet to a point on the SBL, said point being N 74°52' 00" E (GN) 45.00 feet from P.R.M. R-28;
THENCE run S 23°20' 43" E (GN) a distance of 1,392.23 feet to a point on the SBL, said point being N 17°30' 57" W (GN) 107.77 feet from P.R.M. T-29;
THENCE run S 19°31' 49" E (GN) a distance of 946.86 feet to a point on the SBL, said point being S 85°59' 25" E (GN) 44.19 feet from P.R.M. T-30;
THENCE run S 17°17' 58" E (GN) a distance of 1,108.95 feet to a point on the SBL, said point being S 69°52' 00" W (GN) 4.00 feet from P.R.M. R-31;
THENCE run S 16°14' 54" E (GN) a distance of 906.87 feet to a point on the SBL, said point being N 72°52' 00" E (GN) 37.00 feet from P.R.M. R-32;
THENCE run S 16°33' 09" E (GN) a distance of 975.29 feet to a point on the SBL, said point being N 79°52' 00" E (GN) 75.00 feet from P.R.M. R-33;
THENCE run S 17°07' 04" E (GN) a distance of 959.80 feet to a point on the SBL, said point also being P.R.M. R-34;
THENCE run S 17°52' 31" E (GN) a distance of 1,019.75 feet to a point on the SBL, said point also being P.R.M. R-35;
THENCE run S 12°51' 34" E (GN) a distance of 491.91 feet to a point on the SBL;
THENCE run S 29°51' 58" E (GN) a distance of 440.54 feet to a point on the SBL, said point being N 69°52' 00" E (GN) 40.00 feet from P.R.M. R-36;
THENCE run S 23°20' 59" E (GN) a distance of 1,022.21 feet to a point on the SBL, said point being N 69°52' 00" E (GN) 21.00 feet from P.R.M. R-37;
THENCE run S 23°51' 17" E (GN) a distance of 892.78 feet to a point on the SBL, said point being S 28°14' 25" E (GN) 96.34 feet from P.R.M. T-38;
THENCE S 23°06' 21" E (GN) a distance of 930.53 feet to a point on the SBL, said point being N 69°52' 00" E (GN) 32.00 feet from P.R.M. R-39;
THENCE run S 23°50' 11" E (GN) a distance of 907.96 feet to a point on the SBL, said point being N 69°52' 00" E (GN) 139.00 feet from P.R.M. R-40;
THENCE run S 23°45' 33" E (GN) a distance of 886.70 feet to a point on the SBL, said point being N 77°52' 00" E (GN) 173.00 feet from P.R.M. R-41;
THENCE run S 23°50' 34" E (GN) a distance of 281.08 feet to a point on the SBL;
THENCE run S 04°19' 43" E (GN) a distance of 1,370.58 feet to a point on the SBL;
THENCE run N 70°02' 41" W (GN) a distance of 307.57 feet to a point on the SBL, said point being S 60°08' 00" E (GN) 235.00 feet from P.R.M. R-42;
THENCE run S 28°00' 17" W (GN) a distance of 486.20 feet to a point on the SBL, said point being N 79°52' 00" E (GN) 180.00 feet from P.R.M. R-43;
THENCE run S 17°41' 36" E (GN) a distance of 767.71 feet to a point on the SBL, said point being N 59°52' 00" E (GN) 225.00 feet from P.R.M. R-44;
THENCE run S 29°29' 51" E (GN) a distance of 995.81 feet to a point on the SBL, said point being N 34°52' 00" E (GN) 165.00 feet from P.R.M. R-45;
THENCE run S 55°11' 56" E (GN) a distance of 932.12 feet to a point on the SBL, said point being N 34°52' 00" E (GN) 103.00 feet from P.R.M. R-46;
THENCE run S 46°57' 45" E (GN) a distance of 1,115.95 feet to a point on the SBL, said point being N 54°52' 00" E (GN) 87.00 feet from P.R.M. R-47;
THENCE run S 40°53' 22" E (GN) a distance of 898.80 feet to a point on the SBL, said point being N 44°52' 00" E (GN) 125.00 feet from P.R.M. R-48;
THENCE run S 43°06' 23" E (GN) a distance of 1,055.17 feet to a point on the SBL;
THENCE run S 50°27' 45" E (GN) a distance of 389.32 feet to a point on the SBL, said point also being P.R.M. R-49;
THENCE run S 52°07' 50" E (GN) a distance of 984.79 feet to a point on the SBL, said point being S 36°52' 00" W (GN) 87.00 feet from P.R.M. R-50;
THENCE run S 54°03' 14" E (GN) a distance of 999.62 feet to a point on the SBL, said point being N 34°52' 00" E (GN) 120.00 feet from P.R.M. R-51;
THENCE run S 51°48' 00" E (GN) a distance of 974.03 feet to a point on the SBL, said point being N 49°52' 00" E (GN) 86.00 feet from P.R.M. R-52;

THENCE run S 44°54' 07" E (GN) a distance of 1,032.77 feet to a point on the SBL, said point being N 49°52' 00" E (GN) 115.00 feet from P.R.M. R-53;
THENCE run S 44°23' 08" E (GN) a distance of 939.11 feet to a point on the SBL, said point being N 49°52' 00" E (GN) 120.00 feet from P.R.M. R-54;
THENCE run S 43°48' 23" E (GN) a distance of 800.84 feet to a point on the SBL, said point being N 44°52' 00" E (GN) 105.00 feet from P.R.M. R-55;
THENCE run S 43°48' 30" E (GN) a distance of 964.87 feet to a point on the SBL, said point being N 49°50' 37" E (GN) 110.09 feet from P.R.M. T-56;
THENCE run S 41°51' 50" E (GN) a distance of 980.07 feet to a point on the SBL, said point being N 49°52' 00" E (GN) 85.00 feet from P.R.M. R-57;
THENCE run S 41°49' 03" E (GN) a distance of 918.09 feet to a point on the SBL, said point being N 49° 52' 00" E (GN) 103.00 feet from P.R.M. R-58;
THENCE run S 39°51' 50" E (GN) a distance of 904.46 feet to a point on the SBL, said point being N 39°52' 00" E (GN) 90.00 feet from P.R.M. R-59;
THENCE run S 38°35' 18" E (GN) a distance of 991.33 feet to a point on the SBL, said point being N 11°29' 45" E (GN) 131.15 feet from P.R.M. T-60;
THENCE run S 34°48' 00" E (GN) a distance of 1,086.85 feet to a point on the SBL, said point being N 44°52' 00" E (GN) 40.00 feet from P.R.M. R-61;
THENCE run S 32°59' 38" E (GN) a distance of 1,215.19 feet to a point on the SBL, said point being N 59°52' 00" E (GN) 125.00 feet from P.R.M. R-62;
THENCE run S 31°24' 01" E (GN) a distance of 1,006.35 feet to a point on the SBL, said point being N 49°52' 00" E (GN) 88.00 feet from P.R.M. R-63;
THENCE run S 34°20' 53" E (GN) a distance of 1,051.04 feet to a point on the SBL, said point being N 54°52' 00" E (GN) 160.00 feet from P.R.M. R-64;
THENCE run S 35°39' 29" E (GN) a distance of 961.40 feet to a point on the SBL, said point being N 54°52' 00" E (GN) 62.00 feet from P.R.M. R-65;
THENCE run S 34°00' 37" E (GN) a distance of 1,117.33 feet to a point on the SBL, said point being S 54°52' 00" W (GN) 37.00 feet from P.R.M. R-66;
THENCE run S 33°38' 22" E (GN) a distance of 913.46 feet to a point on the SBL, said point being N 59°52' 00" E (GN) 125.00 feet from P.R.M. R-67;
THENCE run S 30°53' 55" E (GN) a distance of approximately 420.00 feet to a point on the Manatee County/Sarasota County Line, said point being the Southerly terminus of the Coastal Construction Setback Line for Manatee County.

Manatee County, Florida

"Permanent Reference Monument"
Coordinates, based on the Florida State Plane Grid System

	Final Coordinators	
P.R.M.	Y (Ft.)	X (Ft.)
R-1	1165473.939	259662.491
T-2	1165538.169	258785.180
T-3	1164821.552	258915.456
R-4	1163852.476	259100.390
R-5	1163107.407	259456.705
R-6	1162276.642	260030.785
R-7	1161327.783	260666.751
R-8	1160584.305	261235.123
R-9	1159873.764	262039.180
R10	1159202.699	262734.266
R-11	1158411.748	263483.956
R-12	1157635.295	264231.985
R-13	1156879.029	264868.316
T-14	1156160.183	265549.141
R-15	1155145.710	266181.366

P.R.M.	Y (Ft.)	X (Ft.)
T-16	1154361.938	266779.156
R-17	1153560.760	267213.383
R-18	1152773.863	267729.456
T-19	1151889.102	268238.336
R-20	1151045.135	268699.136
T-21	1150053.757	269239.387
R-22	1149151.349	269654.066
R-23	1148193.518	269890.823
R-24	1147347.613	270366.515
T-25	1146414.393	270767.346
[illegible]	1145455.556	271145.967
[illegible]7	1144549.386	271365.866
R-28	1143599.712	271703.553
T-29	1142230.429	272331.135
T-30	1141443.913	272571.158
R-31	1140383.417	272948.761
R-32	1139500.495	273163.392
R-33	1138563.325	273402.777
R-34	1137659.234	273759.120
R-35	1136688.713	274072.127
R-36	1135813.345	274363.428
R-37	1134881.437	274786.335
T-38	1134156.976	275121.603
R-39	1133205.209	275502.310
R-40	1132337.862	275768.779
R-41	1131537.799	276087.395
R-42	1130172.400	275980.702
R-43	1129594.432	275779.005
R-44	1128781.757	275994.926
R-45	1127892.598	276585.519
R-46	1127411.476	277386.365
R-47	1126684.304	278189.755
R-48	1125966.307	278761.078
R-49	1125036.700	279870.569
R-50	1124501.774	280700.175
R-51	1123746.908	281388.644
R-52	1123177.007	282167.563
R-53	1122437.361	282863.795
R-54	1121763.003	283516.865
R-55	1121187.983	284088.897
T-56	1120495.097	284746.761
R-57	1119781.417	285419.978
R-58	1119085.589	286018.364
R-59	1118388.665	286619.154
T-60	1117554.354	287269.022

P.R.M.	Y (Ft.)	X(Ft.)
R-61	1116762.056	287887.220
R-62	1115708.441	288469.058
R-63	1114855.499	289034.211
R-64	1113952.377	289563.657
R-65	1113227.627	290204.250
R-66	1112358.402	290910.188
R-67	1111513.865	291277.849

16B-26.09 Description of the Sarasota County Coastal Construction Control Line. There is Hereby Established Pursuant to Section 161.053, Florida Statutes, a Coastal Construction Control Line in Sarasota County, Florida. The Legal Description of Said Line Is Attached Hereto.

After this rule has been recorded in the office of the Clerk of the Circuit Court in and for Sarasota County, Florida, no person, firm, corporation or governmental agency shall construct any structure whatsoever seaward thereof, or perform any actions as described in Section 161.053, Florida Statutes, without obtaining a permit as described in said section of the Statute, and all provisions of said Section shall apply to this rule.

General Authority Chapter 120, Section 161.053, FS. Law Implemented 161.053, FS. History—New 9-19-78.

EXHIBIT "D"

METES AND BOUNDS DESCRIPTION FOR THE COASTAL CONSTRUCTION CONTROL LINE IN SARASOTA COUNTY, FLORIDA

Description of Coastal Construction Control Lines established in compliance with Section 161.053, Florida Statutes. Said Control Line lying along the Gulf of Mexico coast from the Manatee-Sarasota County line, southerly to the Sarasota-Charlotte County line.

Said Coastal Construction Control Line is related to a series of "Permanent Reference Monuments" (P.R.M.) designated and hereinafter referred to as "T-1" through "R-183" as established by the Department of Natural Resources, State of Florida. In the case where the original monument or monuments has been lost or destroyed and replaced at a later date with a new monument, there will be a "T" instead of an "R" designation. Additional monuments have an "A" designation.

Commence at P.R.M. T-1, said monument having State Plane Coordinates of 1,111,173.33 (N) and 291,779.51 (E);

Thence run S 60°00' 00" W (GN) a distance of 129.03 feet to a point on the CCL and a true point of beginning;

Thence run N 30° 53' 55" W (GN) a distance of 120 ± feet to a point of intersection with the Sarasota-Manatee County Line, said point being the northerly terminus of the Sarasota County Coastal Construction Control Line;

Thence return along the same line to the true point of beginning and run S 29° 55' 24" E (GN) a distance of 984.27 feet to a point on the CCL, said point being S 65° W (GN) a distance of 43.00 feet from P.R.M. R-2;

Thence run S 29° 24' 07" E (GN) a distance of 968.81 feet to a point on the CCL, said point being N 65° E (GN) a distance of 107.00 feet from P.R.M. T-3;

Thence run S 25° 58' 28" E (GN) a distance of 981.84 feet to a point on the CCL, said point being N 65°E (GN) a distance of 137.00 feet from P.R.M. R-4;

Thence run S 28° 40' 18" E (GN) a distance of 987.10 feet to a point on the CCL;

Thence run S 30° 11' 08" E (GN) a distance of 940.80 feet to a point on the CCL, said point being S 56° W (GN) a distance of 23.00 feet from P.R.M. T-6;

Thence run S 31° 53' 03" E (GN) a distance of 1,043.28 feet to a point on the CCL, said point being N 60° E (GN) a distance of 97.00 feet from P.R.M. R-7;

Thence run S 34° 25' 39" E (GN) a distance of 973.82 feet to a point on the CCL, said point being N 55° E (GN) a distance of 122.00 feet from P.R.M. R-8;

Thence run S 34° 45' 01" E (GN) a distance of 990.30 feet to a point on the CCL, said point being N 55° E (GN) a distance of 62.00 feet from P.R.M. R-9;

Thence run S 34° 20' 30" E (GN) a distance of 1,014.70 feet to a point on the CCL, said point being N 55° E (GN) a distance of 2.00 feet from P.R.M. T-10;
Thence run S 34° 18' 38" E (GN) a distance of 1,053.26 feet to a point on the CCL, said point being N 55° E (GN) a distance of 111.00 feet from P.R.M. R-11;
Thence run S 33°23' 27" E (GN) a distance of 1,014.00 feet to a point on the CCL, said point being N 55° E (GN) a distance of 55.00 feet from P.R.M. R-12;
Thence run S 32° 45' 19" E (GN) a distance of 1,022.01 feet to a point on the CCL, said point being N 50° E (GN) a distance of 72.00 feet from P.R.M. R-13;
Thence run S 40° 29' 08" E (GN) a distance of 595.66 feet to a point on the CCL;
Thence run S 55°06' 23" E (GN) a distance of 392.60 feet to a point on the CCL, said point being N 55° E (GN) a distance of 90.00 feet from P.R.M. R-14;
Thence run S 41° 37' 37" E (GN) a distance of 1,003.65 feet to a point on the CCL, said point being N 56° E (GN) a distance of 53.00 feet from P.R.M. T-15;
Thence run S 38° 48' 58" E (GN) a distance of 1,014.79 feet to a point on the CCL, said point being N 50° E (GN) a distance of 95.00 feet from P.R.M. R-16;
Thence run S 38° 52' 20" E (GN) a distance of 1,002.79 feet to a point on the CCL, said point being N 24° 54' 16" W (GN) a distance of 292.31 feet from P.R.M. T-17;
Thence run S 38° 30' 09" E (GN) a distance of 959.12 feet to a point on the CCL, said point being N 40° E (GN) a distance of 106.00 feet from P.R.M. R-18;
Thence run S 43° 18' 32" E (GN) a distance of 453.09 feet to a point on the Control Line;
Thence run S 50° 09' 14" E (GN) a distance of 509.12 feet to a point on the CCL, said point being N 50° E (GN) a distance of 92.00 feet from P.R.M. R-19;
Thence run S 40° 50' 34" E (GN) a distance of 1,006.77 feet to a point on the CCL, said point being N 50° E (GN) a distance of 55.00 feet from P.R.M. R-20;
Thence run S 41° 31' 03" E (GN) a distance of 1,004.18 feet to a point on the CCL, said point being N 53° E (GN) a distance of 11.00 feet from P.R.M. R-21;
Thence run S 41° 58' 31" E (GN) a distance of 990.59 feet to a point on the CCL, said point being S 31° W (GN) a distance of 45.00 feet from P.R.M. T-22;
Thence run S 43° 27' 34" E (GN) a distance of 1,010.15 feet to a point on the CCL, said point being S 49° W (GN) a distance of 40.00 feet from P.R.M. T-23;
Thence run S 40° 24' 59" E (GN) a distance of 1,009.59 feet to a point on the CCL, said point being S 50° W (GN) a distance of 30.00 feet from P.R.M. T-24;
Thence run S 39° 31'29" E (GN) a distance of 986.18 feet to a point on the CCL, said point being N 50° E (GN) a distance of 74.00 feet from P.R.M. R-25;
Thence run S 39° 19' 31" E (GN) a distance of 955.53 feet to a point on the CCL, said point being N 50° E (GN) a distance of 45.00 feet from P.R.M. T-26;
Thence run S 38° 23' 44" E (GN) a distance of 978.64 feet to a point on the CCL, said point being N 50° E (GN) a distance of 22.00 feet from P.R.M. R-27;
Thence run S 43° 13' 32" E (GN) a distance of 973.87 feet to a point on the CCL, said point being N 50° E (GN) a distance of 22.00 feet from P.R.M. R-28;
Thence run S 50° 47' 35" E (GN) a distance of 957.13 feet to a point on the CCL, said point being N 32° E (GN) a distance of 22.00 feet from P.R.M. R-29;
Thence run S 74° 00' 00" E (GN) a distance of 500 ± feet to the Mean High Water Line of New Pass.
Recommence at P.R.M. R-30, said monument having State Plane Coordinates of 1,088,644.05 (N) and 309,480.14 (E);
Thence run S 75° 00' 00" E (GN) a distance of 30.00 feet to a point on the CCL and a true point of beginning;
Thence run N 50°00' 00" W (GN) a distance of 120 ± feet to the Mean High Water Line of New Pass;
Thence return along the same line to the true point of beginning and run S 26°34' 52" W (GN) a distance of 887.03 feet to a point on the CCL, said point being N 75°E (GN) a distance of 117.00 feet from P.R.M. R-31;
Thence run S 08°04' 07" E (GN) a distance of 845.00 feet to a point on the CCL, said point being N 75°E (GN) a distance of 182.00 feet from P.R.M. R-32;
Thence run S 39°10' 06" E (GN) a distance of 870.81 feet to a point on the CCL, said point being N [illegible] (GN) a distance of 74.00 feet from P.R.M. R-33;
The[illegible] N 48°18' 13" E (GN) a distance of 250.69 feet to a point on the CCL;
Then[illegible]n S 43°10' 52" E (GN) a distance of 1,269.90 feet to a point on the CCL;

Thence run S 33°25' 48" W (GN) a distance of 183.33 feet to a point on the CCL;
Thence run S 33°36' 49" E (GN) a distance of 668.01 feet to a point on the CCL, said point being N 60°E (GN) a distance of 87.00 feet from P.R.M. R-35;
Thence run S 30°14' 50" E (GN) a distance of 988.58 feet to a point on the CCL, said point being N 55°E (GN) a distance of 85.00 feet from P.R.M. T-36;
Thence run S 41° 34' 12" E (GN) a distance of 989.69 feet to a point on the CCL, said point being P.R.M. R-37;
Thence run S 36°43' 45" E (GN) a distance of 952.32 feet to a point on the CCL;
Thence run S 37°48' 07" E (GN) a distance of 1,010.63 feet to a point on the CCL, said point being N 50°E (GN) a distance of 118.00 feet from P.R.M. R-39;
Thence run S 30°42' 24" E (GN) a distance of 1,026.49 feet to a point on the CCL, said point being N 65° E (GN) a distance of 161.00 feet from P.R.M. R-40;
Thence run S 25°27' 31" E (GN) a distance of 973.34 feet to a point on the CCL, said point being N 60°E (GN) a distance of 168.00 feet from P.R.M. R-41;
Thence run S 25° 47'04" E (GN) a distance of 933.95 feet to a point on the CCL, said point being N 60°E (GN) a distance of 86.00 feet from P.R.M. R-42;
Thence run S 30° 49' 13" E (GN) a distance of 986.82 feet to a point on the CCL, said point being N 50° E (GN) a distance of 115.00 feet from P.R.M. R-43;
Thence run S 70°00' 00" E (GN) a distance of 1,000± feet to the Mean High Water Line of Big Sarasota Pass.
Recommence at P.R.M. R-45, said monument having State Plane Coordinates of 1,071,097.12 (N) and 314,833.18 (E);
Thence run S 75°00' 00" E (GN) a distance of 210.00 feet to a point on the CCL and a true point of beginning;
Thence run N 10°00' 00" E (GN) a distance of 356 ± feet to the Mean High Water Line of Big Sarasota Pass;
Thence return along the same line to the true point of beginning and run S 20°11' 53" E (GN) a distance of 876.60 feet to a point on the CCL, said point being N 89°E (GN) a distance of 118.00 feet from P.R.M. T-46;
Thence run S 09°53' 56" W (GN) a distance of 475.15 feet to a point on the CCL;
Thence run S 38°57' 56" E (GN) a distance of 497.73 feet to a point on the CCL;
Thence run S 53°47' 23" E (GN) a distance of 947.78 feet to a point on the CCL, said point being S 35°W (GN) a distance of 21.00 feet from P.R.M. R-48;
Thence run S 53°39' 34" E (GN) a distance of 938.59 feet to a point on the CCL, said point being S 30°W (GN) a distance of 170.00 feet from P.R.M. R-49;
Thence run S 58°07' 29" E (GN) a distance of 1,097.03 feet to a point on the CCL, said point being S 30°W (GN) a distance of 45.00 feet from P.R.M. R-50;
Thence run S 62°13' 31" E (GN) a distance of 987.22 feet to a point on the CCL, said point being S 20°W (GN) a distance of 12.00 feet from P.R.M. T-51;
Thence run S 59°16' 26" E (GN) a distance of 997.24 feet to a point on the CCL, said point being S 30°W (GN) a distance of 15.00 feet from P.R.M. R-52;
Thence run S 61°49' 26" E (GN) a distance of 1,012.52 feet to a point on the CCL, said point being S 45°W (GN) a distance of 25.00 feet from P.R.M. R-53;
Thence run S 53°00' 35" E (GN) a distance of 1,075.20 feet to a point on the CCL, said point being N 45° E (GN) a distance of 35.00 feet from P.R.M. R-54;
Thence run S 51° 07' 35" E (GN) a distance of 1,039.93 feet to a point on the CCL, said point being N 45° E (GN) a distance of 120.00 feet from P.R.M. R-55;
Thence run S 51°00' 49" E (GN) a distance of 1,089.72 feet to a point on the CCL, said point being S 55° W (GN) a distance of 26.00 feet from P.R.M. R-56;
Thence run S 43° 49' 52" E (GN) a distance of 1,062.62 feet to a point on the CCL, said point being N 60° E (GN) a distance of 27.00 feet from P.R.M. R-57;
Thence run S 36°23' 15" E (GN) a distance of 1,017.52 feet to a point on the CCL, said point being N 60°E (GN) a distance of 63.00 feet from P.R.M. R-58;
Thence run S 29°28' 37" E (GN) a distance of 999.49 feet to a point on the CCL, said point being N 60°E (GN) a distance of 137.00 feet from P.R.M. R-59;
Thence run S 29°40' 29" E (GN) a distance of 1,004.50 feet to a point on the CCL, said point being N 60°E (GN) a distance of 106.00 feet from P.R.M. R-60;
Thence run S 23°35' 26" E (GN) a distance of 958.03 feet to a point on t[illegible]L, said point being N 65°E (GN) a distance of 4.00 feet from P.R.M. R-61;

Thence run S 21°02' 23" E (GN) a distance of 612.52 feet to a point on the CCL, said point being N 70°E (GN) a distance of 102.00 feet from P.R.M. R-61A;
Thence run S 06°22' 26" W (GN) a distance of 540.90 feet to a point on the CCL;
Thence run S 06°07' 56" W (GN) a distance of 121.70 feet to a point on the CCL;
Thence run S 72°48' 36" W (GN) a distance of 199.05 feet to a point on the CCL, said point being S 78°E (GN) a distance of 86.00 feet from P.R.M. R-62;
Thence run S 31°41' 49" E (GN) a distance of 896.99 feet to a point on the CCL, said point being N 60°E (GN) a distance of 51.00 feet from P.R.M. R-63;
Thence run S 36°36' 53" E (GN) a distance of 956.60 feet to a point on the CCL, said point being N 50°E (GN) a distance of 90.00 feet from P.R.M. R-64;
Thence run S 77°35' 23" E (GN) a distance of 382.24 feet to a point on the CCL;
Thence run S 47° 02' 45" E (GN) a distance of 582.80 feet to a point on the CCL, said point being N 60°E (GN) a distance of 75.00 feet from P.R.M. R-65;
Thence run S 30°57' 16" E (GN) a distance of 890.43 feet to a point on the CCL, said point being N 40°E (GN) a distance of 90.00 feet from P.R.M. R-66;
run S 48°53' 03" E (GN) a distance of 1,080.80 feet to a point on the CCL, said point g N 57°E (GN) a distance of 110.00 feet from P.R.M. R-67;
Then run S 33°20' 30" E (GN) a distance of 1,066.89 feet to a point on the CCL, said point bein, N 89°E (GN) a distance of 64.00 feet from P.R.M. R-68;
Thence run S 26°01' 50" E (GN) a distance of 993.89 feet to a point on the CCL, said point being N 89°E (GN) a distance of 82.00 feet from P.R.M. R-69;
Thence run S 25°55' 39" E (GN) a distance of 1,012.96 feet to a point on the CCL, said point being N 76°E (GN) a distance of 116.00 feet from P.R.M. R-70;
Thence run S 24°02' 32" E (GN) a distance of 968.15 feet to a point on the CCL, said point being N 73°E (GN) a distance of 114.00 feet from P.R.M. R-71;
Thence run S 24°33' 31" E (GN) a distance of 1,000.58 feet to a point on the CCL, said point being S 80°W (GN) a distance of 25.00 feet from P.R.M. T-72;
Thence run S 23°15' 31" E (GN) a distance of 1,006.84 feet to a point on the CCL, said point being N 75°E (GN) a distance of 86.00 feet from P.R.M. R-73;
Thence run S 22°29' 08" E (GN) a distance of 994.85 feet to a point on the CCL, said point being N 75°E (GN) a distance of 38.00 feet from P.R.M. R-74;
Thence run S 19°34' 21" E (GN) a distance of 1,036.71 feet to a point on the CCL, said point being N 75°E (GN) a distance of 112.00 feet from P.R.M. R-75;
Thence run S 20°47' 52" E (GN) a distance of 1,006.21 feet to a point on the CCL, said point being N 70°E (GN) a distance of 116.00 feet from P.R.M. R-76;
Thence run S 24°10' 52" E (GN) a distance of 1,002.10 feet to a point on the CCL, said point being N 75°E (GN) a distance of 104.00 feet from P.R.M. R-77;
Thence run S 32°51' 58" E (GN) a distance of 968.03 feet to a point on the CCL;
Thence run S 45°00'00" E (GN) a distance of 270 ± feet to the Mean High Water Line of Midnight Pass.
Recommence at P.R.M. R-79, said monument having State Plane Coordinates of 1,044,243.42 (N) and 334,423.07 (E);
Thence run N 50°E (GN) a distance of 175.00 feet to a point on the CCL and a true point of beginning;
Thence run N 45°00' 00" W (GN) a distance of 200 ± feet to the Mean High Water Line of Midnight Pass;
Thence return along the same line to the true point of beginning and run S 22°12' 22" E (GN) a distance of 1,118.89 feet to a point on the CCL;
Thence run S 15°41' 16" E (GN) a distance of 992.35 feet to a point on the CCL, said point being N 75°E (GN) a distance of 104.00 feet from P.R.M. R-81;
Thence run S 19°42' 14" E (GN) a distance of 918.27 feet to a point on the CCL, said point being N 32°E (GN) a distance of 106.00 feet from P.R.M. R-82;
Thence run S 17°54' 25" E (GN) a distance of 1,070.85 feet to a point on the CCL, said point being N 75°E (GN) a distance of 84.00 feet from P.R.M. R-83;
Thence run S 19°40' 10" E (GN) a distance of 908.84 feet to a point on the CCL, said point being S 80°W (GN) a distance of 32.00 feet from P.R.M. R-84;
Thence run S 18° 57' 55" E (GN) a distance of 989.66 feet to a point on the CCL, said point being N 70°E (GN) a distance of 58.00 feet from P.R.M. R-85;
Thence run S 18°23' 06" E (GN) a distance of 1,065.26 feet to a point on the CCL, said point

being N 70°E (GN) a distance of 75.00 feet from P.R.M. R-86;
Thence run S 18°38' 08" E (GN) a distance of 986.66 feet to a point on the CCL, said point being N 75°E (GN) a distance of 11.00 feet from P.R.M. R-87;
Thence run S 16°58' 49" E (GN) a distance of 1,073.06 feet to a point on the CCL, said point being N 80°E (GN) a distance of 10.00 feet from P.R.M. R-88;
Thence run S 18°41' 27" E (GN) a distance of 985.29 feet to a point on the CCL, said point being N point being 75°E (GN) a distance of 42.00 feet from P.R.M. R-89;
Thence run S 21°38' 28" E (GN) a distance of 1,126.54 feet to a point on the CCL, said point being S 72°W (GN) a distance of 103.00 feet from P.R.M. R-90;
Thence run S 24°05' 53" E (GN) a distance of 1,118.71 feet to a point on the CCL, said point being N 75°E (GN) a distance of 39.00 feet from P.R.M. R-91;
Thence run S 28°24' 42" E (GN) a distance of 971.79 feet to a point on the CCL, said point being S 75°W (GN) a distance of 10.00 feet from P.R.M. R-92;
Thence run S 29°05' 41" E (GN) a distance of 1,050.97 feet to a point on the CCL, said point being N 70°E (GN) a distance of 70.00 feet from P.R.M. R-93;
Thence run S 29°27' 19" E (GN) a distance of 1,008.88 feet to a point on the CCL, said point being N 70°E (GN) a distance of 40.00 feet from P.R.M. R-94;
Thence run S 29°48' 17" E (GN) a distance of 1,065.82 feet to a point on the CCL, said point being S 60°W (GN) a distance of 80.00 feet from P.R.M. R-95;
Thence run S 28°47' 04" E (GN) a distance of 1,026.04 feet to a point on the CCL, said point being S 75°W (GN) a distance of 70.00 feet from P.R.M. R-96;
Thence run S 28°35' 32" E (GN) a distance of 1,113.97 feet to a point on the CCL, said point being S 60°W (GN) a distance of 50.00 feet from P.R.M. R-97;
Thence run S 29°48' 54" E (GN) a distance of 1,064.19 feet to a point on the CCL, said point being N 60° E (GN) a distance of 52.00 feet from P.R.M. R-98;
Thence run S 29°35' 35" E (GN) a distance of 977.26 feet to a point on the CCL, said point being N 65°E (GN) a distance of 32.00 feet from P.R.M. R-99;
Thence run S 28°07' 59" E (GN) a distance of 942.09 feet to a point on the CCL, said point being S 65°W (GN) a distance of 29.00 feet from P.R.M. R-100;
Thence run S 28°11' 32" E (GN) a distance of 1,025.94 feet to a point on the CCL, said point being N 70°E (GN) a distance of 7.00 feet from P.R.M. R-101;
Thence run S 27°28' 12" E (GN) a distance of 987.78 feet to a point on the CCL, said point being N 70° E (GN) a distance of 53.00 feet from P.R.M. R-102;
Thence run S 24°04' 57" E (GN) a distance of 1,028.59 feet to a point on the CCL, said point being N 70°E (GN) a distance of 42.00 feet from P.R.M. R-103;
Thence run S 21°48' 50" E (GN) a distance of 1,016.44 feet to a point on the CCL, said point being N 70°E (GN) a distance of 52.00 feet from P.R.M. R-104;
Thence run S 21°37' 24" E (GN) a distance of 1,023.25 feet to a point on the CCL, said point being N 75°E (GN) a distance of 68.00 feet from P.R.M. R-105;
Thence run S 19°06' 57" E (GN) a distance of 1,036.57 feet to a point on the CCL, said point being N 75°E (GN) a distance of 49.00 feet from P.R.M. R-106;
Thence run S 17°01' 53" E (GN) a distance of 1,034.78 feet to a point on the CCL, said point being N 75°E (GN) a distance of 54.00 feet from P.R.M. R-107;
Thence run S 16°28' 59" E (GN) a distance of 1,042.27 feet to a point on the CCL, said point being N 26°E (GN) a distance of 74.00 feet from P.R.M. R-108;
Thence run S 14°17' 51" E (GN) a distance of 1,012.98 feet to a point on the CCL, said point being N 80°E (GN) a distance of 75.00 feet from P.R.M. R-109;
Thence run S 15°09' 38" E (GN) a distance of 972.92 feet to a point on the CCL, said point being N 80°E (GN) a distance of 59.00 feet from P.R.M. R-110;
Thence run S 14°26' 03" E (GN) a distance of 987.42 feet to a point on the CCL, said point being S 09°W (GN) a distance of 190.00 feet from P.R.M. T-111;
Thence run S 13°47' 11" E (GN) a distance of 982.93 feet to a point on the CCL, said point being N 75°E (GN) a distance of 79.00 feet from P.R.M. R-112;
Thence run S 13° 35' 02" E (GN) a distance of 991.97 feet to a point on the CCL, said point being S 58°E (GN) a distance of 140.00 feet from P.R.M. T-113;
Thence run S 12°52' 40" E (GN) a distance of 1,037.66 feet to a point on the CCL, said point being N 80°E (GN) a distance of 114.00 feet from P.R.M. R-114;
Thence run S 14° E (GN) a distance of 765 ± feet to the Mean High Water Line of Venice Inlet.
Recommence at P.R.M. R-115, said monument having State Plane Coordinates of 1,010,212.70

(N) and 347,809.10 (E);
Thence run S 81°00' 00" E (GN) a distance of 481.00 feet to a point on the CCL and a true point of beginning;
Thence run S 35°55' 02" E (GN) a distance of 606.51 feet to a point on the CCL, said point being N 60°E (GN) a distance of 69.00 feet from P.R.M. R-116;
Thence run S 30°40' 43" E (GN) a distance of 1,008.98 feet to a distance on the CCL, said point being N 70°E (GN) a distance of 76.00 feet from P.R.M. R-117;
Thence run S 23°52' 15" E (GN) a distance of 929.00 feet to a point on the CCL, said point being N 70°E (GN) a distance of 44.00 feet from P.R.M. R-118;
Thence run S 21°07' 11" E (GN) a distance of 1,036.96 feet to a point on the CCL, said point being N 18°E (GN) a distance of 120.00 feet from P.R.M. T-119;
Thence run S 19°10' 53" E (GN) a distance of 986.85 feet to a point on the CCL, said point being N 75°E (GN) a distance of 28.00 feet from P.R.M. R-120;
Thence run S 18°58' 45" E (GN) a distance of 920.64 feet to a point on the CCL;
Thence run S 36°33' 22" W (GN) a distance of 101.55 feet to a point on the CCL, said point being N 75°E (GN) a distance of 71.00 feet from P.R.M. R-121;
Thence run S 15°11' 50" E (GN) a distance of 969.17 feet to a point on the CCL, said point being N 35°E (GN) a distance of 139.00 feet from P.R.M. T-122;
Thence run S 17°01' 03" E (GN) a distance of 973.00 feet to a point on the CCL, said point being N 75°E (GN) a distance of 80.00 feet from P.R.M. R-123;
Thence run S 16°43' 47" E (GN) a distance of 966.30 feet to a point on the CCL, said point being [illegible]5°E (GN) a distance of 55.00 feet from P.R.M. R-124;
[illegible] run S 15°18' 51" E (GN) a distance of 959.54 feet to a point on the CCL, said point being N [illegible] E (GN) a distance of 119.00 feet from P.R.M. T-125;
Thence run S 28°42' 02" E (GN) a distance of 983.29 feet to a point on the CCL, said point being S 11°E (GN) a distance of 40.00 feet from P.R.M. T-126;
Thence run S 15°42' 13" E (GN) a distance of 996.46 feet to a point on the CCL, said point being N 75°E (GN) a distance of 87.00 feet from P.R.M. T-127;
Thence run S 15°13' 51" E (GN) a distance of 988.30 feet to a point on the CCL, said point being N 70°E (GN) a distance of 26.00 feet from P.R.M. R-128;
Thence run S 18°44' 11" E (GN) a distance of 965.71 feet to a point on the CCL, said point being N 70°E (GN) a distance of 56.00 feet from P.R.M. R-129;
Thence run S 20°17' 26" E (GN) a distance of 995.66 feet to a point on the CCL, said point being N 70°E (GN) a distance of 114.00 feet from P.R.M. R-130;
Thence run S 15°18' 15" E (GN) a distance of 1,016.28 feet to a point on the CCL, said point being N 70°E (GN) a distance of 2.00 feet from P.R.M. T-131;
Thence run S 18°09' 10" E (GN) a distance of 973.07 feet to a point on the CCL, said point being N 70°E (GN) a distance of 40.00 feet from P.R.M. R-132;
Thence run S 20°24' 26" E (GN) a distance of 1,021.20 feet to a point on the CCL, said point being N 70°E (GN) a distance of 22.00 feet from P.R.M. R-133;
Thence run S 19°05' 23" E (GN) a distance of 1,043.73 feet to a point on the CCL, said point being S 65°W (GN) a distance of 105.00 feet from P.R.M. T-134;
Thence run S 21°15' 35" E (GN) a distance of 981.25 feet to a point on the CCL, said point being N 65°E (GN) a distance of 29.00 feet from P.R.M. R-135;
Thence run S 24°18' 55" E (GN) a distance of 1,024.05 feet to a point on the CCL, said point being N 60°E (GN) a distance of 52.00 feet from P.R.M. R-136;
Thence run S 26°29' 31" E (GN) a distance of 995.28 feet to a point on the CCL, said point being N 60°E (GN) a distance of 69.00 feet from P.R.M. T-137;
Thence run S 29°58' 21" E (GN) a distance of 1,010.62 feet to a point on the CCL, said point being N 60°E (GN) a distance of 13.00 feet from P.R.M. R-138;
Thence run S 30°18' 58" E (GN) a distance of 1,003.60 feet to a point on the CCL, said point being N 60°E (GN) a distance of 75.00 feet from P.R.M. R-139;
Thence run S 29°35' 49" E (GN) a distance of 1,000.27 feet to a point on the CCL, said point being N 21°E (GN) a distance of 56.00 feet from P.R.M. T-140;
Thence run S 29°58' 56" E (GN) a distance of 992.39 feet to a point on the CCL, said point being N 60°E (GN) a distance of 18.00 feet from P.R.M. R-141;
Thence run S 31°59' 02" E (GN) a distance of 986.66 feet to a point on the CCL, said point being N 6[illegible]N) a distance of 20.00 feet from P.R.M. R-142;
Thence [illegible] 32°40' 58" E (GN) a distance of 1,013.14 feet to a point on the CCL, said point

being N 60°E (GN) a distance of 40.00 feet from P.R.M. R-143;
Thence run S 33°13' 29" E (GN) a distance of 1,004.71 feet to a point on the CCL, said point being N 60°E (GN) a distance of 38.00 feet from P.R.M. R-144;
Thence run S 33°33' 47" E (GN) a distance of 981.39 feet to a point on the CCL, said point being N 60°E (GN) a distance of 41.00 feet from P.R.M. T-145;
Thence run S 32°24' 01" E (GN) a distance of 1,010.67 feet to a point on the CCL, said point being N 60°E (GN) a distance of 58.00 feet from P.R.M. R-146;
Thence run S 31°22' 00" E (GN) a distance of 1,025.87 feet to a point on the CCL, said point being N 60°E (GN) a distance of 72.00 feet from P.R.M. R-147;
Thence run S 28°20' 31" E (GN) a distance of 996.50 feet to a point on the CCL;
Thence run S 30°00' 01" E (GN) a distance of 984.81 feet to a point on the CCL, said point being N 45°E (GN) a distance of 52.00 feet from P.R.M. T-149;
Thence run S 30°38' 01" E (GN) a distance of 1,033.32 feet to a point on the CCL, said point being N 55°E (GN) a distance of 6.00 feet from P.R.M. R-150;
Thence run S 29°39' 07" E (GN) a distance of 1,023.39 feet to a point on the CCL, said point being N 65°E (GN) a distance of 57.00 feet from P.R.M. R-151;
Thence run S 28°27' 10" E (GN) a distance of 980.61 feet to a point on the CCL, said point being N 65°E (GN) a distance of 43.00 feet from P.R.M. R-152;
Thence run S 29°40' 51" E (GN) a distance of 993.01 feet to a point on the CCL, said point being N 60°E (GN) a distance of 20.00 feet from P.R.M. R-153;
Thence run S 30°02' 39" E (GN) a distance of 1,006.58 feet to a point on the CCL, said point being N 60°E (GN) a distance of 4.00 feet from P.R.M. R-154;
Thence run S 28°53' 51" E (GN) a distance of 1,011.77 feet to a point on the CCL, said point being N 65°E (GN) a distance of 11.00 feet from P.R.M. R-155;
Thence run S 26°41' 51" E (GN) a distance of 1,016.10 feet to a point on the CCL, said point being N 65°E (GN) a distance of 20.00 feet from P.R.M. R-156;
Thence run S 25°55' 18" E (GN) a distance of 1,004.93 feet to a point on the CCL, said point being N 65°E (GN) a distance of 6.00 feet from P.R.M. R-157;
Thence run S 26°36' 48" E (GN) a distance of 997.19 feet to a point on the CCL, said point being N 65°E (GN) a distance of 16.00 feet from P.R.M. R-158;
Thence run S 25°57' 03" E (GN) a distance of 986.75 feet to a point on the CCL, said point being N 65°E (GN) a distance of 21.00 feet from P.R.M. R-159;
Thence run S 24° 18' 26" E (GN) a distance of 904.10 feet to a point on the CCL, said point being N 65°E (GN) a distance of 15.00 feet from P.R.M. R-160;
Thence run S 22°40' 19" E (GN) a distance of 1,024.64 feet to a point on the CCL, said point being N 65° E (GN) a distance of 60.00 feet from P.R.M. R-161;
Thence run S 22° 53' 03" E (GN) a distance of 991.39 feet to a point on the CCL, said point being N 65° E (GN) a distance of 72.00 feet from P.R.M. R-162;
Thence run S 23° 39' 09" E (GN) a distance of 979.45 feet to a point on the CCL, said point being N 65° E (GN) a distance of 55.00 feet from P.R.M. R-163;
Thence run S 25° 55' 16" E (GN) a distance of 991.38 feet to a point on the CCL, said point being N 65° E (GN) a distance of 40.00 feet from P.R.M. R-164;
Thence run S 23° 47' 57" E (GN) a distance of 1,002.94 feet to a point on the CCL;
Thence run S 23° 05' 50" E (GN) a distance of 1,001.66 feet to a point on the CCL, said point being N 65° E (GN) a distance of 55.00 feet from P.R.M. T-166;
Thence run S 24° 38' 27" E (GN) a distance of 999.31 feet to a point on the CCL, said point being N 65° E (GN) a distance of 75.00 feet from P.R.M. R-167;
Thence run S 25° 13' 07" E (GN) a distance of 992.62 feet to a point on the CCL, said point being N 65° E (GN) a distance of 78.00 feet from P.R.M. R-168;
Thence run S 27° 01' 44" E (GN) a distance of 1,002.50 feet to a point on the CCL, said point being N 65° E (GN) a distance of 80.00 feet from P.R.M. R-169;
Thence run S 29° 47' 18" E (GN) a distance of 943.46 feet to a point on the CCL, said point being N 55° E (GN) a distance of 85.00 feet from P.R.M. R-170;
Thence run S 32° 47' 10" E (GN) a distance of 996.75 feet to a point on the CCL, said point being N 55° E (GN) a distance of 72.00 feet from P.R.M. R-171;
Thence run S 28° 13' 55" E (GN) a distance of 1,019.95 feet to a point on the CCL, said point being N 55° E (GN) a distance of 70.00 feet from P.R.M. R-172;
Thence run S 36° 17' 11" E (GN) a distance of 980.31 feet to a point on t[illegible], said point being N 55° E (GN) a distance of 56.00 feet from P.R.M. R-173;

Thence run S 31° 54' 11" E (GN) a distance of 942.13 feet to a point on the CCL, said point being N 55° E (GN) a distance of 92.00 feet from P.R.M. R-174;
Thence run S 33° 20' 52" E (GN) a distance of 990.25 feet to a point on the CCL, said point being N 60° E (GN) a distance of 73.00 feet from P.R.M. R-175;
Thence run S 31° 48' 25" E (GN) a distance of 1,016.41 feet to a point on the CCL, said point being N 60° E (GN) a distance of 65.00 feet from P.R.M. R-176;
Thence run S 30° 39' 48" E (GN) a distance of 980.80 feet to a point on the CCL, said point being N 60° E (GN) a distance of 102.00 feet from P.R.M. R-177;
Thence run S 30° 27' 28" E (GN) a distance of 984.58 feet to a point on the CCL, said point being N 65° E (GN) a distance of 63.00 feet from P.R.M. R-178;
Thence run S 31° 30' 19" E (GN) a distance of 981.61 feet to a point on the CCL, said point being N 65° E (GN) a distance of 78.00 from P.R.M. R-179;
Thence run S 30°03' 23" E (GN) a distance of 980.86 feet to a point on the CCL, said point being N 65°E (GN) a distance of 58.00 feet from P.R.M. R-180;
Thence run S 29°24' 11" E (GN) a distance of 952.80 feet to a point on the CCL, said point being [illegible]°E (GN) a distance of 59.00 feet from P.R.M. R-181;
[illegible] run S 29°26' 04" E (GN) a distance of 946.12 feet to a point on the CCL, said point being [illegible] E (GN) a distance of 80.00 feet from P.R.M. R-182;
Thence run S 29°13' 42" E (GN) a distance of 1,040.72 feet to a point on the CCL, said point being N 65°E (GN) a distance of 78.00 feet from P.R.M. R-183;
Thence run S 27°29' 00" E (GN) a distance of 783 ± feet to a point of intersection with the Sarasota-Charlotte County Line, said point being the southerly terminus of the Sarasota County Coastal Construction Control Line.

16B-26.10 Description of the Palm Beach County Coastal Construction Control Line. There is hereby established pursuant to Section 161.053, Florida Statutes, a coastal construction control line in Palm Beach County, Florida. The legal description of said line is attached hereto.

(1) This rule shall take effect 20 days after filing with the Department of State or on the date that it is duly recorded in the public records in the office of the Clerk of the Circuit Court in and for Palm Beach County, together with each affected municipality, whichever is later.

(2) After this rule becomes effective no person, firm, corporation, or governmental agency shall construct any structure whatsoever seaward thereof, or perform any actions as described in Section 161.053, Florida Statutes, without obtaining a permit as described in said section, and all provisions of said section shall apply to this rule.

Specific Authority 161.053, 370.021 FS. Law Implemented 161.053, 370.021(1) FS. History—New 1-10-79.

EXHIBIT "B"

METES AND BOUNDS DESCRIPTION
for the
COASTAL CONSTRUCTION CONTROL LINE
PALM BEACH COUNTY, FLORIDA

Description of the Coastal Construction Control Line (CCCL) is established in compliance with Section 161.053 of the Florida Statutes. Said Control Line lying along the Atlantic coast from the Palm Beach and Martin County Line south to the Palm Beach and Broward County Line.

Said Coastal Construction Control Line is related to a series of "Permanent Reference Monuments" (P.R.M.) designated and hereinafter referred to as "06-78-A-01" through "06-78-J-03" for monuments established by the Department of Natural Resources, State of Florida or referred to by station name for monuments established by the National Geodetic Survey (N.G.S.).

Commence at P.R.M. 06-78-A-01 thence S 37 deg. 30 min. 33.8 sec. E (GN) a distance of 668.51 feet to the point of beginning;
Thence N 13 deg. W (GN) to the Palm Beach and Martin County Line;
Thence return along the same course to the point of beginning;
Thence S 16 deg. 30 min. 41.5 sec. E (GN) a distance of 390.42 feet;
Thence S 13 deg. 57 min. 33.1 sec. E (GN) a distance of 1081.95 feet;
Thence S 21 deg. 24 min. 16.7 sec. E (GN) a distance of 821.72 feet;
Thence S 22 deg. 50 min. 01.2 sec. E (GN) a distance of 391.69 feet;

Thence S 9 deg. 53 min. 53.7 sec. E (GN) a distance of 605.01 feet;
Thence S 14 deg. 41 min. 01.0 sec. E (GN) a distance of 938.11 feet to a point on the CCCL said point being N 68 deg. 13 min. 16.1 sec. E (GN) a distance of 215.10 feet from P.R.M. 06-78-A-02;
Thence S 19 deg. 20 min. 41.1 sec. E (GN) a distance of 1152.92 feet;
Thence S 18 deg. 39 min. 09.4 sec. E (GN) a distance of 1348.53 feet;
Thence S 19 deg. 52 min. 17.0 sec. E (GN) a distance of 832.57 feet;
Thence S 20 deg. 12 min. 03.5 sec. E (GN) a distance of 829.10 feet;
Thence S 23 deg. 24 min. 49.6 sec. E (GN) a distance of 975.42 feet to a point on the CCCL said point being N 18 deg. 09 min. 04.4 sec. W (GN) a distance of 387.63 feet from P.R.M. 06-78-B-01;
Thence S 23 deg. 24 min. 49.6 sec. E (GN) to the Mean High Water Line of Jupiter Inlet.
Recommence at P.R.M. 06-78-B-01 thence S 24 deg. 19 min. 59.7 sec. W (GN) a distance of 463.61 feet to a point on the CCCL;
Thence N 5 deg. 30 min. E (GN) to the Mean High Water Line of Jupiter Inlet;
Thence return along the same course to said point on the CCCL;
Thence S 14 deg. 13 min. 38.3 sec. E (GN) a distance of 904.79 feet;
Thence S 18 deg. 53 min. 02.8 sec. E (GN) a distance of 726.08 feet;
Thence S 16 deg. 51 min. 07.3 sec. E (GN) a distance of 862.02 feet;
Thence S 11 deg. 49 min. 42.9 sec. E (GN) a distance of 790.79 feet;
Thence S 9 deg. 45 min. 35.3 sec. E (GN) a distance of 896.07 feet;
Thence S 4 deg. 09 min. 09.4 sec. E (GN) a distance of 754.03 feet to a point on the CCCL said point being S 16 deg. 16 min. 26.9 sec. W (GN) a distance of 160.78 feet from P.R.M. 06-78-B-02;
Thence S 12 deg. 36 min. 26.0 sec. E (GN) a distance of 624.92 feet;
Thence S 15 deg. 37 min. 13.3 sec. E (GN) a distance of 1210.72 feet;
Thence S 14 deg. 26 min. 18.8 sec. E (GN) a distance of 1291.80 feet;
Thence S 16 deg. 46 min. 51.3 sec. E (GN) a distance of 1007.92 feet;
Thence S 17 deg. 57 min. 41.1 sec. E (GN) a distance of 1061.91 feet to a point on the CCCL said point being N 16 deg. 51 min. 27.9 sec. W (GN) a distance of 325.50 feet from P.R.M. 06-78-B-03;
Thence S 15 deg. 13 min. 38.7 sec. E (GN) a distance of 1030.01 feet;
Thence S 16 deg. 38 min. 06.0 sec. E (GN) a distance of 1110.48 feet;
Thence S 17 deg. 59 min. 12.7 sec. E (GN) a distance of 943.07 feet to a point on the CCCL said point being S 9 deg. 53 min. 59.4 sec. E (GN) a distance of 102.89 feet from P.R.M. 06-78-C-01;
Thence S 18 deg. 05 min. 21.0 sec. E (GN) a distance of 1020.57 feet;
Thence S 17 deg. 20 min. 01.8 sec. E (GN) a distance of 1100.90 feet;
Thence S 16 deg. 32 min. 46.7 sec. E (GN) a distance of 979.67 feet;
Thence S 15 deg. 35 min. 02.3 sec. E (GN) a distance of 1104.78 feet to a point on the CCCL said point being N 70 deg. 46 min. 42.2 sec. W (GN) a distance of 76.17 feet from P.R.M. 06-78-C-02;
Thence S 13 deg. 56 min. 00.4 sec. E (GN) a distance of 1072.29 feet;
Thence S 13 deg. 48 min. 12.9 sec. E (GN) a distance of 955.60 feet;
Thence S 16 deg. 59 min. 07.3 sec. E (GN) a distance of 1112.53 feet;
Thence S 18 deg. 22 min. 44.8 sec. E (GN) a distance of 973.67 feet;
Thence S 17 deg. 57 min. 35.3 sec. E (GN) a distance of 1138.83 feet to a point on the CCCL said point being N 69 deg. 56 min. 41.4 sec. W (GN) a distance of 45.52 feet from P.R.M. 06-78-C-03;
Thence S 18 deg. 08 min. 44.8 sec. E (GN) a distance of 1010.94 feet;
Thence S 18 deg. 32 min. 49.7 sec. E (GN) a distance of 1292.11 feet;
Thence S 17 deg. 31 min. 12.7 sec. E (GN) a distance of 1069.62 feet;
Thence S 15 deg. 51 min. 33.7 sec. E (GN) a distance of 823.34 feet;
Thence S 16 deg. 00 min. 38.6 sec. E (GN) a distance of 1084.05 feet;
Thence S 16 deg. 23 min. 40.2 sec. E (GN) a distance of 682.41 feet to a point on the CCCL said point being being N 30 deg. 38 min. 15.6 sec. W (GN) a distance of 226.94 feet from P.R.M. 06-78-C-04;
Thence S 12 deg. 25 min. 21.2 sec. E (GN) a distance of 945.47 feet;
Thence S 13 deg. 23 min. 52.4 sec. E (GN) a distance of 958.08 feet;

Thence S 14 deg. 26 min. 16.4 sec. E (GN) a distance of 926.81 feet to a point on the CCCL said point being N 33 deg. 26 min. 08.0 sec. W (GN) a distance of 446.07 feet from P.R.M. 06-78-C-05;
Thence S 10 deg. 13 min. 27.6 sec. E (GN) a distance of 878.40 feet;
Thence S 8 deg. 57 min. 26.2 sec. E (GN) a distance of 969.83 feet;
Thence S 4 deg. 16 min. 18.4 sec. E (GN) a distance of 657.83 feet;
Thence S 13 deg. 54 min. 42.2 sec. E (GN) a distance of 669.64 feet;
Thence S 10 deg. 48 min. 36.5 sec. E (GN) a distance of 1348.94 feet;
Thence S 12 deg. 28 min. 00.8 sec. E (GN) a distance of 1204.40 feet;
Thence S 13 deg. 59 min. 14.2 sec. E (GN) a distance of 1022.42 feet to a point on the CCCL said point being S 40 deg. 12 min. 10.4 sec. W (GN) a distance of 67.17 feet from P.R.M. 06-78-C-06;
Thence S 13 deg. 54 min. 41.3 sec. E (GN) a distance of 935.33 feet;
Thence S 14 deg. 10 min. 38.7 sec. E (GN) a distance of 885.99 feet;
Thence S 17 deg. 12 min. 40.0 sec. E (GN) a distance of 932.77 feet;
Thence S 11 deg. 32 min. 31.3 sec. E (GN) a distance of 774.67 feet;
Thence S 8 deg. 56 min. 43.4 sec. E (GN) a distance of 983.97 feet;
Thence S 12 deg. 36 min. 55.6 sec. E (GN) a distance of 860.78 feet;
Thence S 13 deg. 10 min. 35.2 sec. E (GN) a distance of 776.45 feet to a point on the CCCL said point being N 60 deg. 57 min. 06.5 sec. W (GN) a distance of 29.53 feet from P.R.M. 06-78-C-07;
Thence S 6 deg. 45 min. 00.9 sec. W (GN) a distance of 323.23 feet;
Thence S 7 deg. 46 min. 53.8 sec. E (GN) a distance of 627.78 feet;
Thence S 17 deg. 54 min. 09.7 sec. E (GN) a distance of 953.15 feet;
Thence S 19 deg. 32 min. 08.9 sec. E (GN) a distance of 1033.47 feet to a point on the CCCL said point being S 43 deg. 40 min. 37.7 sec. E (GN) a distance of 271.59 feet from P.R.M. N.G.S. MUN;
Thence S 19 deg. 04 min. 06.0 sec. E (GN) a distance of 1035.86 feet;
Thence S 15 deg. 17 min. 19.2 sec. E (GN) a distance of 299.60 feet;
Thence S 13 deg. 58 min. 31.6 sec. E (GN) a distance of 1142.83 feet;
Thence S 9 deg. 56 min. 53.1 sec. E (GN) a distance of 1163.49 feet;
Thence S 12 deg. 32 min. 26.3 sec. E (GN) a distance of 1050.05 feet;
Thence S 11 deg. 35 min. 11.3 sec. E (GN) a distance of 1082.59 feet to a point on the CCCL said point being S 64 deg. 31 min. 04.3 sec. E (GN) a distance of 512.97 feet from P.R.M. 06-78-D-01;
Thence S 9 deg. 48 min. 20.1 sec. E (GN) a distance of 1095.47 feet;
Thence S 11 deg. 04 min. 46.6 sec. F (GN) a distance of 390.27 feet;
Thence S 9 deg. 03 min. 53.3 sec. W (GN) a distance of 710.88 feet;
Thence S 7 deg. 50 min. 18.1 sec. W (GN) a distance of 916.56 feet;
Thence S 0 deg. 48 min. 12.2 sec. W (GN) a distance of 1141.11 feet;
Thence S 2 deg. 12 min. 38.9 sec. W (GN) a distance of 803.60 feet;
Thence S 2 deg. 35 min. 15.5 sec. E (GN) a distance of 620.72 feet to a point on the CCCL said point being N 88 deg. 29 min. 01.3 sec. E (GN) a distance of 710.16 feet from P.R.M. 06-78-D-02;
Thence S 3 deg. 19 min. 07.6 sec. E (GN) a distance of 586.89 feet;
Thence S 3 deg. 32 min. 11.7 sec. E (GN) a distance of 988.88 feet;
Thence S 5 deg. 05 min. 31.6 sec. E (GN) a distance of 1014.00 feet;
Thence S 1 deg. 13 min. 34.8 sec. E (GN) a distance of 981.22 feet;
Thence S 0 deg. 55 min. 50.1 sec. E (GN) a distance of 800.51 feet to a point on the CCCL said point being S 87 deg. 40 min. 12.2 sec. E (GN) a distance of 350.89 feet from P.R.M. 06-78-D-03;
Thence S 0 deg. 45 min. E (GN) to the Mean High Water Line of Lake Worth Inlet.
Recommence at P.R.M. 06-78-D-03 S 56 deg. 41 min. 42.4 sec. W (GN) a distance of 1453.05 feet to a point on the CCCL;
Thence N 7 deg. 38 min. E (GN) to the Mean High Water Line of Lake Worth Inlet;
Thence return along the same course to said point on the CCCL;
Thence S 7 deg. 37 min. 42.8 sec. W (GN) a distance of 1227.87 feet;
Thence [illegible] deg. 04 min. 44.1 sec. W (GN) a distance of 616.70 feet;
Then[illegible] eg. 30 min. 29.3 sec. E (GN) a distance of 578.29 feet to a point on the CCCL said

point being S 45 deg. 56 min. 58.1 sec. E (GN) a distance of 29.06 feet from P.R.M. 06-78-D-04;
Thence S 6 deg. 25 min. 42.6 sec. E (GN) a distance of 1093.55 feet;
Thence S 6 deg. 36 min. 13.1 sec. E (GN) a distance of 1008.69 feet;
Thence S 5 deg. 39 min. 15.9 sec. E (GN) a distance of 1116.43 feet;
Thence S 7 deg. 14 min. 38.4 sec. E (GN) a distance of 450.18 feet to a point on the CCCL said point being N 87 deg. 00 min. 36.4 sec. E (GN) a distance of 63.90 feet from P.R.M. 06-78-D-05;
Thence S 6 deg. 15 min. 38.9 sec. E (GN) a distance of 900.79 feet;
Thence S 6 deg. 12 min. 12.4 sec. E (GN) a distance of 647.79 feet;
Thence S 2 deg. 58 min. 53.3 sec. E (GN) a distance of 672.91 feet;
Thence S 6 deg. 26 min. 24.3 sec. E (GN) a distance of 1203.60 feet;
Thence S 3 deg. 25 min. 48.6 sec. E (GN) a distance of 964.05 feet to a point on the CCCL said point being N 7 deg. 35 min. 50.8 sec. W (GN) a distance of 491.52 feet from P.R.M. 06-78-D-06;
Thence S 2 deg. 48 min. 39.0 sec. E (GN) a distance of 903.76 feet;
Thence S 2 deg. 34 min. 15.3 sec. E (GN) a distance of 1315.32 feet;
Thence S 0 deg. 21 min. 11.9 sec. W (GN) a distance of 973.02 feet;
Thence S 2 deg. 02 min. 11.8 sec. W (GN) a distance of 928.59 feet;
Thence S 3 deg. 12 min. 56.5 sec. E (GN) a distance of 553.02 feet to a point on the CCCL said point being S 8 deg. 24 min. 09.1 sec. W (GN) a distance of 217.92 feet from P.R.M. 06-78-E-01;
Thence S 0 deg. 27 min. 39.7 sec. W (GN) a distance of 499.86 feet;
Thence S 2 deg. 00 min. 54.5 sec. E (GN) a distance of 540.33 feet;
Thence S 4 deg. 09 min. 21.8 sec. E (GN) a distance of 579.52 feet;
Thence S 5 deg. 56 min. 30.3 sec. E (GN) a distance of 1159.23 feet;
Thence S 6 deg. 56 min. 54.2 sec. E (GN) a distance of 1176.60 feet;
Thence S 9 deg. 15 min. 28.3 sec. E (GN) a distance of 783.20 feet;
Thence S 8 deg. 44 min. 33.1 sec. E (GN) a distance of 300.67 feet;
Thence S 33 deg. 15 min. 52.7 sec. E (GN) a distance of 252.14 feet to a point on the CCCL said point being N 5 deg. 44 min. 00.9 sec. W (GN) a distance of 456.75 feet from P.R.M. N.G.S. BREAKERS;
Thence S 1 deg. 56 min. 52.1 sec. E (GN) a distance of 1382.80 feet;
Thence S 1 deg. 31 min. 49.6 sec. W (GN) a distance of 786.28 feet;
Thence S 0 deg. 48 min. 34.1 sec. E (GN) a distance of 1274.13 feet;
Thence S 2 deg. 15 min. 16.8 sec. E (GN) a distance of 1197.73 feet to a point on the CCCL said point being N 0 deg. 28 min. 06.7 sec. W (GN) a distance of 669.42 feet from P.R.M. 06-78-E-02;
Thence S 2 deg. 33 min. 32.3 sec. W (GN) a distance of 1167.36 feet;
Thence S 2 deg. 49 min. 50.5 sec. W (GN) a distance of 992.21 feet;
Thence S 2 deg. 23 min. 02.3 sec. W (GN) a distance of 1202.04 feet;
Thence S 2 deg. 51 min. 35.1 sec. W (GN) a distance of 1082.35 feet;
Thence S 3 deg. 00 min. 45.7 sec. W (GN) a distance of 285.42 feet to a point on the CCCL said point being S 88 deg. 04 min. 15.8 sec. W (GN) a distance of 32.71 feet from P.R.M. 06-78-E-03;
Thence S 15 deg. 47 min. 19.5 sec. W (GN) a distance of 349.14 feet;
Thence S 7 deg. 30 min. 33.6 sec. W (GN) a distance of 443.81 feet;
Thence S 6 deg. 45 min. 34.0 sec. W (GN) a distance of 1146.97 feet;
Thence S 6 deg. 47 min. 56.4 sec. W (GN) a distance 1351.50 feet;
Thence S 3 deg. 40 min. 23.5 sec. W (GN) a distance of 1150.33 feet to a point on the CCCL said point being N 89 deg. 42 min. 54.9 sec. W (GN) a distance of 24.75 feet from P.R.M. 06-78-E-04;
Thence S 5 deg. 26 min. 19.3 sec. W (GN) a distance of 1132.13 feet;
Thence S 6 deg. 56 min. 03.7 sec. W (GN) a distance of 820.00 feet;
Thence S 0 deg. 22 min. 40.3 sec. W (GN) a distance of 1213.03 feet;
Thence S 1 deg. 36 min. 28.9 sec. W (GN) a distance of 1318.52 feet;
Thence S 4 deg. 14 min. 25.9 sec. W (GN) a distance of 989.34 feet to a point on the CCCL said point being S 11 deg. 14 min. 43.8 sec. W (GN) a distance of [illegible] feet from P.R.M. 06-78-E-05;

Thence S 0 deg. 03 min. 29.3 sec. E (GN) a distance of 1138.37 feet;
Thence S 2 deg. 21 min. 38.9 sec. W (GN) a distance of 1043.89 feet;
Thence S 3 deg. 07 min. 10.8 sec. W(GN) a distance of 422.63 feet;
Thence S 2 deg. 13 min. 56.8 sec. E (GN) a distance of 590.45 feet;
Thence S 1 deg. 20 min. 30.5 sec. W (GN) a distance of 1110.30 feet;
Thence S 2 deg. 25 min. 49.3 sec. W (GN) a distance of 966.87 feet;
Thence S 4 deg. 46 min. 40.7 sec. W (GN)a distance of 349.11 fee to a point on the CCCL said point being S 38 deg. 06 min. 52.0 sec. W (GN) a distance of 88.62 feet from P.R.M. 06-78-E-06;
Thence S 5 deg. 02 min. 27.6 sec. W (GN) a distance of 692.18 feet;
Thence S 1 deg. 06 min. 41.4 sec. W (GN) a distance of 732.04 feet;
Thence S 0 deg. 10 min. 31.2 sec. E (GN) a distance of 1176.51 feet;
Thence S 0 deg. 07 min. 44.9 sec. W (GN) a distance of 1109.20 feet;
Thence S 1 deg. 11 min. 23.5 sec. E (GN) a distance of 722.36 feet;
Thence S 3 deg. 10 min. 36.2 sec. E (GN) a distance of 942.82 feet to a point on the CCCL said point being N 32 deg. 35 min. 15.6 sec. W (GN) a distance of 79.95 feet from P.R.M. 06-78-E-07;
Thence S 1 deg. 20 min. 53.5 sec. E (GN) a distance of 1022.31 feet;
Thence S 1 deg. 54 min. 30.8 sec. E (GN) a distance of 1282.11 feet;
Thence S 3 deg. 29 min. 59.9 sec. E (GN) a distance of 982.83 feet;
Thence S 1 deg. 57 min. 44.4 sec. E (GN) a distance of 1206.11 feet;
Thence S 0 deg. 25 min. 57.3 sec. E (GN) a distance of 1072.88 feet to a point on the CCCL said point being N 11 deg. 49 min. 41.5 sec. W (GN) a distance of 106.00 feet from P.R.M. 06-78-E-08;
Thence S 1 deg. 13 min. 04.8 sec. E (GN) a distance of 1030.28 feet;
Thence S 0 deg. 31 min. 51.9 sec. E (GN) a distance of 1175.95 feet;
Thence S 0 deg. 09 min. 19.9 sec. W (GN) a distance of 1326.20 feet;
Thence S 0 deg. 43 min. 13.3 sec. W (GN) a distance of 1240.80 feet;
Thence S 0 deg. 48 min. 00.7 sec. E (GN) a distance of 1202.25 feet to a point on the CCCL said point being S 16 deg. 34 min. 21.7 sec. W (GN) a distance of 123.23 feet from P.R.M. N.G.S. BRAY;
Thence S 0 deg. 45 min. 27.3 sec. E (GN) a distance of 1225.97 feet;
Thence S 1 deg. 31 min. 13.6 sec. W (GN) a distance of 1206.02 feet;
Thence S 3 deg. 02 min. 40.4 sec. W (GN) a distance of 1317.96 feet;
Thence S 1 deg. 07 min. 00.4 sec. W (GN) a distance of 964.58 feet;
Thence S 3 deg. 13 min 03.7 sec. W (GN) a distance of 978.87 feet to a point on the CCCL said point being N 1 deg. 01 min. 15.6 sec. E (GN) a distance of 160.84 feet from P.R.M. 06-78-F-01;
Thence S 3 deg. 20 min. 36.0 sec. W (GN) a distance of 686.84 feet;
Thence S 3 deg. 24 min. 06.0 sec. W (GN) a distance of 1242.09 feet;
Thence S 3 deg. 19 min. 58.5 sec. W (GN) a distance of 1063.00 feet;
Thence S 3 deg. 52 min. 53.4 sec. W (GN) a distance of 1045.90 feet;
Thence S 5 deg. 16 min. 18.9 sec. W (GN) a distance of 1038.03 feet to a point on the CCCL said point being N 1 deg. 25 min. 29.8 sec. E (GN) a distance of 463.38 feet from P.R.M. N.G.S. KIRK 2;
Thence S 5 deg. 52 min. 57.3 sec. W (GN) a distance of 1010.08 feet;
Thence S 10 deg. 51 min. 03.6 sec. W (GN) a distance of 313.40 feet;
Thence S 11 deg. 26 min. 49.8 sec. W (GN) a distance of 655.03 feet;
Thence S 13 deg. 25 min. 38.6 sec. W (GN) a distance of 1141.19 feet;
Thence S 12 deg. 02 min. 20.8 sec. W (GN) a distance of 1078.73 feet;
Thence S 9 deg. 25 min. 31.4 sec. W (GN) a distance of 1019.77 feet;
Thence S 5 deg. 44 min. 56.0 sec. W (GN) a distance of 628.95 feet to a point on the CCCL said point being N 73 deg. 55 min. 00.5 sec. W (GN) a distance of 11.25 feet from P.R.M. 06-78-G-01;
Thence S 4 deg. 57 min. 09.1 sec. W (GN) a distance of 498.07 feet;
Thence S 4 deg. 05 min. 39.1 sec. W (GN) a distance of 952.43 feet;
Thence S 2 deg. 44 min. 33.4 sec. W (GN) a distance of 668.77 feet;
Thence S 2 deg. 37 min. 43.7 sec. W (GN) a distance of 1090.15 feet to a point on the CCCL said point being N 25 deg. 36 min. 24.2 sec. W (GN) a distance of 396.54 feet from P.R.M. N.G.S.

HAULOVER RM 3;
Thence S 3 deg. W (GN) to the Mean High Water Line of South Lake Worth Inlet.
Recommence at P.R.M. N.G.S. Haulover Rm 3 thence S 38 deg. 54 min. 26.8 Sec. W (GN) a distance of 659.77 feet to a point on the CCL;
Thence N 12 deg. 30 min. E (GN) to the Mean High Water Line of South Lake Worth Inlet;
Thence return along the same course to said point on the CCCL;
Thence S 15 deg. 06 min. 03.2 sec. W (GN) a distance of 1326.20 feet;
Thence S 14 deg. 29 min. 38.9 sec. W (GN) a distance of 1013.66 feet;
Thence S 12 deg. 40 min. 57.6 sec. W (GN) a distance of 1045.23 feet;
Thence S 11 deg. 01 min. 02.1 sec. W (GN) a distance of 1332.25 feet;
Thence S 8 deg. 09 min. 07.3 sec. W (GN) a distance of 1003.97 feet to a point on the CCCL said point being S 27 deg. 07 min. 58.5 sec. W (GN) a distance of 492.79 feet from P.R.M. 06-78-G-02;
Thence S 5 deg. 14 min. 50.7 sec. W (GN) a distance of 705.98 feet;
Thence S 6 deg. 18 min. 53.7 sec. W (GN) a distance of 695.77 feet;
Thence S 7 deg. 13 min. 10.1 sec. W (GN) a distance of 1192.40 feet;
Thence S 8 deg. 05 min. 14.9 sec. W (GN) a distance of 864.63 feet;
Thence S 8 deg. 36 min. 50.8 sec. W (GN) a distance of 1152.43 feet to a point on the CCCL said point being N 13 deg. 58 min. 37.6 sec. W (GN) a distance of 193.91 feet from P.R.M. 06-78-G-03;
Thence S 10 deg. 45 min. 59.6 sec. W (GN) a distance of 1089.57 feet;
Thence S 10 deg. 52 min. 36.2 sec. W (GN) a distance of 1130.92 feet;
Thence S 9 deg. 59 min. 40.5 sec. W (GN) a distance of 991.04 feet;
Thence S 7 deg. 43 min. 56.7 sec. W (GN) a distance of 1181.75 feet;
Thence S 6 deg. 20 min. 39.6 sec. W (GN) a distance of 916.71 feet;
Thence S 4 deg. 38 min. 13.7 sec. W (GN) a distance of 1036.91 feet to a point on the CCCL said point being N 78 deg. 27 min. 57.4 sec. W (GN) a distance of 100.42 feet from P.R.M. 06-78-G-04;
Thence S 8 deg. 52 min. 49.7 sec. W (GN) a distance of 342.49 feet;
Thence S 10 deg. 32 min. 33.2 sec. W (GN) a distance of 776.10 feet;
Thence S 4 deg. 56 min. 21.2 sec. W (GN) a distance of 325.21 feet;
Thence S 2 deg. 40 min. 41.8 sec. W (GN) a distance of 1072.17 feet;
Thence S 7 deg. 11 min. 32.4 sec. W (GN) a distance of 1136.08 feet to a point on the CCCL said point being N 64 deg. 48 min. 55.4 sec. W (GN) a distance of 24.91 feet from P.R.M. 06-78-G-05;
Thence S 7 deg. 32 min. 22.8 sec. W (GN) a distance of 1087.26 feet;
Thence S 8 deg. 54 min. 46.5 sec. W (GN) a distance of 1097.25 feet;
Thence S 7 deg. 43 min. 13.1 sec. W (GN) a distance of 632.74 feet;
Thence S 7 deg. 03 min. 02.8 sec. W (GN) a distance of 382.90 feet;
Thence S 7 deg. 39 min. 03.7 sec. W (GN) a distance of 797.17 feet to a point on the CCCL said point being N 31 deg. 44 min. 42.7 sec. W (GN) a distance of 51.82 feet from P.R.M. 06-78-G-06;
Thence S 8 deg. 31 min. 41.8 sec. W (GN) a distance of 531.80 feet;
Thence S 9 deg. 05 min. 59.8 sec. W (GN) a distance of 935.78 feet;
Thence S 7 deg. 58 min. 27.0 sec. W (GN) a distance of 1247.06 feet;
Thence S 8 deg. 47 min. 38.6 sec. W (GN) a distance of 1000.76 feet;
Thence S 7 deg. 57 min. 34.8 sec. W (GN) a distance of 1140.99 feet;
Thence S 8 deg. 28 min. 11.0 sec. W (GN) a distance of 1197.41 feet to a point on the CCCL said point being S 27 deg. 45 min. 59.2 sec. E (GN) a distance of 92.19 feet P.R.M. N.G.S. DELRAY;
Thence S 7 deg.08 min. 05.8 sec. W (GN) a distance of 1035.67 feet;
Thence S 5 deg. 53 min. 26.3 sec. W (GN) a distance of 1140.02 feet;
Thence S 7 deg. 22 min. 32.6 sec. W (GN) a distance of 1020.44 feet;
Thence S 6 deg. 59 min. 13.9 sec. W (GN) a distance of 1134.43 feet;
Thence S 6 deg. 05 min. 11.7 sec. W (GN) a distance of 1165.25 feet to a point on the CCCL said point being N 6 deg. 45 min. 54.1 sec. W (GN) a distance of 507.69 feet from P.R.M. 06-78-H-01;
Thence S 7 deg. 31 min. 51.6 sec. W (GN) a distance of 876.27 feet;
Thence S 6 deg. 03 min. 16.4 sec. W (GN) a distance of 934.81 feet;

Thence S 6 deg. 16 min. 52.9 sec. W (GN) a distance of 1398.40 feet;
Thence S 6 deg. 08 min. 29.4 sec. W (GN) a distance of 1025.38 feet;
Thence S 5 deg. 19 min. 18.7 sec. W (GN) a distance of 887.32 feet;
Thence S 6 deg. 45 min 40.5 sec. W (GN) a distance of 1163.25 feet to a point on the CCCL said point being N 64 deg. 50 min. 16.1 sec. W (GN) a distance of 49.43 feet from P.R.M. 06-78-H-02;
Thence S 4 deg. 11 min. 36.6 sec. W (GN) a distance of 1208.18 feet;
Thence S 4 deg. 44 min. 38.1 sec W (GN) a distance of 1230.92 feet;
Thence S 4 deg. 32 min. 23.0 sec. W (GN) a distance of 794.69 feet;
Thence S 4 deg. 04 min. 21.8 sec. W (GN) a distance of 633.50 feet;
Thence S 4 deg. 55 min. 50.8 sec. W (GN) a distance of 1337.95 feet;
Thence S 3 deg. 20 min. 29.5 sec. W (GN) a distance of 852.17 feet to a point on the CCCL said point being S 28 deg. 31 min. 31.6 sec. W (GN) a distance of 243.78 feet from P.R.M. 06-78-H-03;
Thence S 3 deg. 38 min. 38.8 sec. W (GN) a distance of 1106.51 feet;
Thence S 2 deg. 47 min. 19.9 sec. W (GN) a distance of 1089.29 feet;
Thence S 5 deg. 02 min. 32.8 sec. W (GN) a distance of 853.30 feet;
Thence S 6 deg. 16 min. 02.9 sec. W (GN) a distance of 696.16 feet;
Thence S 2 deg. 11 min. 31.5 sec. W (GN) a distance of 418.31 feet;
Thence S 5 deg. 37 min. 36.3 sec. W (GN) a distance of 1127.61 feet to a point on the CCCL said point being N 17 deg. 51 min. 57.5 sec., W (GN) a distance of 359.88 feet from P.R.M. N.G.S. POCK 3;
Thence S 3 deg. 42 min. 59.4 sec. W (GN) a distance of 1102.15 feet;
Thence S 4 deg. 59 min. 52.6 sec. W (GN) a distance of 1056.02 feet;
Thence S 28 deg. 53 min. 11.7 sec. W (GN) a distance of 364.33 feet;
Thence S 7 deg. 32 min. 40.1 sec. W (GN) a distance of 830.19 feet;
Thence S 3 deg. 32 min. 00.9 sec. W (GN) a distance of 1087.07 feet;
Thence S 2 deg. 22 min. 29.9 sec. W (GN) a distance of 868.75 feet;
Thence S 1 deg. 50 min. 02.1 sec. W (GN) a distance of 1416.71 feet to a point on the CCCL said point being S 6 deg. 20 min. 04.7 sec. W (GN) a distance of 375.67 feet from P.R.M. 06-78-I-01;
Thence S 2 deg. 49 min. 52.9 sec. W (GN) a distance of 1177.45 feet;
Thence S 3 deg. 46 min. 07.3 sec. W (GN) a distance of 966.09 feet;
Thence S 3 deg. 15 min. 20.3 sec W (GN) a distance of 893.46 feet;
Thence S 3 deg. 42 min. 57.1 sec. W (GN) a distance of 1055.42 feet;
Thence S 3 deg. 32 min. 09.7 sec. W (GN) a distance of 1241.21 feet to a point on the CCCL said point being S 48 deg. 12 min. 48.4 sec. W (GN) a distance of 26.68 feet from P.R.M. N.G.S. CLOISTER;
Thence S 2 deg. 45 min. 44.7 sec. W (GN) a distance of 1044.67 feet;
Thence S 12 deg. 04 min. 32.1 sec. W (GN) a distance of 956.16 feet;
Thence S 11 deg. 07 min. 55.3 sec. W (GN) a distance of 284.87 feet;
Thence S 1 deg. 18 min. 47.9 sec. W (GN) a distance of 653.16 feet;
Thence S 0 deg. 52 min. 44.9 sec. W (GN) a distance of 977.62 feet;
Thence S 2 deg. 11 min. 10.0 sec. W (GN) a distance of 1589.40 feet to a point on the CCCL said point being S 41 deg. 07 min. 17.3 sec. W (GN) a distance of 126.71 feet from P.R.M. 06-78-J-01;
Thence S 1 deg. 23 min. 26.2 sec. W (GN) a distance of 497.40 feet;
Thence S 6 deg. 50 min. 09.4 sec. W (GN) a distance of 533.49 feet;
Thence S 6 deg. 02 min. 08.4 sec. W (GN) a distance of 1350.49 feet;
Thence S 4 deg. 10 min. 44.6 sec. W (GN) a distance of 788.26 feet;
Thence S 4 deg. 00 min. 20.1 sec. W (GN) a distance of 1004.95 feet;
Thence S 4 deg. 19 min. 00.5 sec. W (GN) a distance of 786.98 feet to a point on the CCCL said point being N 52 deg. 31 min. 02.3 sec. W (GN) a distance of 501.78 feet from P.R.M. 06-78-J-02;
Thence S 22 deg. W (GN) to the Mean High Water Line of Boca Raton Inlet.
Recommence at P.R.M. 06-78-J-02 thence S 68 deg. 15 min. 38.8 sec. W (GN) a distance of 898.03 feet to a point on the CCCL;
Thence [illegible] deg. 30 min. E (GN) to the Mean High Water Line of Boca Raton Inlet;
Thence [illegible] along the same course to said point on the CCCL;

Thence S 8 deg. 52 min. 37.2 sec. W (GN) a distance of 1343.89 feet;
Thence S 11 deg. 43 min. 40.6 sec. W (GN) a distance of 1008.04 feet;
Thence S 11 deg. 13 min. 37.6 sec. W (GN) a distance of 909.10 feet;
Thence S 6 deg. 50 min. 47.5 sec. W (GN) a distance of 1030.95 feet;
Thence S 6 deg. 50 min. 32.5 sec. W (GN) a distance 770.07 feet to a point on the CCCL said point being S 86 deg. 16 min. 49.8 sec. W (GN) a distance of 23.94 feet from P.R.M. 06-78-J-03;
Thence S 5 deg. 50 min. 32.5 sec. W (GN) to the Palm Beach and Broward County Line for a point of terminus.

16B-26.11 Description of the Pinellas County Coastal Construction Control Line. There is hereby established pursuant to Section 161.053, Florida Statutes, a coastal construction control line in Pinellas County, Florida. The legal description of said line is attached hereto.

(1) This rule shall take effect 20 days after filing with the Department of State or on the date that it is duly recorded in the public records in the office of the Clerk of the Circuit Court in and for Pinellas County, together with each affected municipality, whichever is later.

(2) After this rule becomes effective no person, firm, corporation, or governmental agency shall construct any structure whatsoever seaward thereof, or perform any actions as described in Section 161.053, Florida Statutes, without obtaining a permit as described in said section, and all provisions of said section shall apply to this rule.

Specific Authority 161.053, 370.021 FS. Law Implemented 161.053, 370.021(1) FS. History—New 1-10-79.

EXHIBIT "B"

METES AND BOUNDS DESCRIPTION
for the
COASTAL CONSTRUCTION CONTROL LINE
PINELLAS COUNTY, FLORIDA

Description of the Coastal Construction Control Line (CCCL) is established in compliance with Section 161.053 of the Florida Statutes. Said Control Line lying along the Gulf of Mexico coast from the north end of Caladesi Island south to Egmont Channel.

Said Coastal Construction Control Line is related to a series of "Permanent Reference Monuments" (P.R.M.) designated and hereinafter referred to as "15-77-B-01" through "15-77-B-18" for monuments established by the Department of Natural Resources, State of Florida or referred to by station name for monuments established by the National Geodetic Survey (N.G.S.).

Commence at P.R.M. N.G.S. HOG ISLAND thence N 74 deg. 03 min. 12.4 sec. W (GN) a distance of 155.79 feet to the point of beginning for that portion of the CCCL from the north end of Caledesi Island south to Hurricane Pass;
Thence N 81 deg. E (GN) to the Mean High Water Line of the Gulf of Mexico;
Thence return along the same course to said point of beginning;
Thence S 56 deg. 14 min. 21.4 sec. W (GN) a distance of 224.93 feet;
Thence S 42 deg. 52 min. 32.3 sec. W (GN) a distance of 915.63 feet to a point on the CCCL said point being N 26 deg. 14 min. 12.4 sec. W (GN) a distance of 297.07 feet from P.R.M. 15-77-B-18;
Thence S 8 deg. 53 min. 29.7 sec. E (GN) a distance of 808.72 feet;
Thence S 0 deg. 21 min. 44.1 sec. E (GN) a distance of 949.02 feet;
Thence S 4 deg. 41 min. 41.7 sec. E (GN) a distance of 1038.48 feet;
Thence S 13 deg. 14 min. 25.9 sec. W (GN) a distance of 593.78 feet;
Thence S 60 deg. 16 min. 58.3 sec. W (GN) a distance of 512.39 feet;
Thence S 7 deg. 41 min. 58.5 sec. W (GN) a distance of 865.81 feet to a point on the CCCL said point being S 69 deg. 13 min. 47.2 sec. E (GN) a distance of 660.86 feet from P.R.M. 15-77-B-17;
Thence S 33 deg. 42 min. 21.9 sec. E (GN) a distance of 992.91 feet;
Thence S 28 deg. 11 min. 43.7 sec. E (GN) a distance of 1068.83 feet;
Thence S 28 deg. 19 min. 51.9 sec. E (GN) a distance of 1120.86 feet to a point on the CCCL said point being S 37 deg. 23 min. 38.1 sec. E (GN) a distance of 2[illegible] feet from P.R.M. 15-77-B-16;

Thence S 4[illegible] 22 min. 55.4 sec. E (GN) a distance of 1025.54 feet;
Thence S 47 deg. 57 min. 12.3 sec. E (GN) a distance of 1086.10 feet;
Thence S 88 deg. 12 min. 17.9 sec. E (GN) a distance of 1168.43 feet;
Thence S 74 deg. 09 min. 03.8 sec. E (GN) a distance of 1142.43 feet;
Thence S 74 deg. 09 min. 03.8 sec. E (GN) to the Mean High Water Line of Hurricane Pass.
Recommence at 15-77-B-15 thence S 40 deg. 22 min. 02.2 sec. E (GN) a distance of 303.42 feet to the point of beginning for that portion of the CCCL from Hurricane Pass south to Dunedin Pass;
Thence N 38 deg. 20 min. 21.3 sec. E (GN) a distance of 1060.75 feet;
Thence N 38 deg. 20 min. 21.3 sec. E (GN) to the Mean High Water Line of Hurricane Pass;
Thence return along the same courses to said point of beginning;
Thence S 38 deg. 57 min. 30.0 sec. W (GN) a distance of 779.32 feet;
Thence S 15 deg. 12 minutes 30.9 sec. W (GN) a distance of 972.04 feet;
Thence S 5 deg. 44 min. 48.9 sec. W (GN) a distance of 1098.52 feet;
Thence S 7 deg. 30 min. 07.0 sec. W (GN) a distance of 980.39 feet;
Thence S 9 deg. 03 min. 22.5 sec. W (GN) a distance of 997.43 feet;
Thence S 14 deg. 41 min. 25.2 sec. W (GN) a distance of 1041.03 feet to a point on the CCCL said point being N 8 deg. 46 min. 32.1 sec. W (GN) a distance 561.42 feet from P.R.M. 15-77-B-14;
Thence S 19 deg. 10 min. 44.4 sec. W (GN) a distance of 1022.77 feet;
Thence S 20 deg. 32 min. 08.1 sec. W (GN) a distance of 983.50 feet;
Thence S 22 deg. 48 min. 18.6 sec. W (GN) a distance of 975.24 feet;
Thence S 24 deg. 11 min. 57.2 sec. W (GN) a distance of 1007.54 feet;
Thence S 16 deg. 39 min. 32.8 sec. W (GN) a distance of 683.70 feet to a point on the CCCL said point being S 43 deg. 46 min. 34.8 sec. E (GN) a distance of 222.78 feet from P.R.M. 15-77-B-13;
Thence S 33 deg. 34 min. 01.9 sec. E (GN) a distance of 1034.52 feet;
Thence S 19 deg. 02 min. 16.9 sec. E (GN) a distance of 751.08 feet;
Thence S 4 deg. 09 min. 25.4 sec. W (GN) a distance of 1200.16 feet;
Thence S 48 deg. (GN) to the Mean High Water Line of Dunedin Pass.
Recommence at P.R.M. 15-77-B-12 thence N 29 deg. 58 min. 01.9 sec. E (GN) a distance of 283.85 feet to the point of beginning for that portion of the CCCL from Dunedin Pass south to Clearwater Pass;
Thence N 48 deg. E (GN) to the Mean High Water Line of Dunedin Pass;
Thence return along the same course to said point of beginning;
Thence S 8 deg. 36 min. 11.2 sec. W (GN) a distance of 548.17 feet;
Thence S 4 deg. 45 min. 01.8 sec. E (GN) a distance of 362.24 feet;
Thence S 7 deg. 12 min. 56.4 sec. E (GN) a distance of 1019.07 feet;
Thence S 1 deg. 08 min. 10.6 sec. E (GN) a distance of 1122.52 feet;
Thence S 22 deg. 35 min. 11.2 sec. W (GN) a distance of 445.90 feet;
Thence S 14 deg. 05 min. 54.5 sec. W (GN) a distance of 527.08 feet;
Thence S 4 deg. 27 Min. 42.4 sec. W (GN) a distance of 1000.33 feet;
Thence S 3 deg. 17 min. 22.1 sec. W (GN) a distance of 658.59 feet;
Thence S 0 deg. 30 min. 04.0 sec. E (GN) a distance of 343.01 feet;
Thence S 3 deg. 09 min. 01.7 sec. E (GN) a distance of 994.20 feet;
Thence S 2 deg. 52 min. 58.5 sec. E (GN) a distance of 543.99 feet to a point on the CCCL said point being N 1 deg. 12 min. 21.8 sec. W (GN) a distance of 149.14 feet from P.R.M. 15-77-B-10;
Thence S 1 deg. 01 min. 03.5 sec. E (GN) a distance of 497.18 feet;
Thence S 1 deg. 36 min. 05.2 sec. E (GN) a distance of 1115.34 feet;
Thence S 3 deg. 00 min. 13.6 sec. W (GN) a distance of 667.92 feet;
Thence S 9 deg. 54 min. 34.2 sec. W (GN) a distance of 505.54 feet;
Thence S 7 deg. 20 min. 11.6. sec. W (GN) a distance of 856.01 feet;
Thence S 11 deg. 31 min. 51.3 sec. W (GN) a distance of 988.96 feet to a point on the CCL said point being N 9 deg. 30 min. 43.6 sec. E (GN) a distance of 800.67 feet from P.R.M. 15-77-B-09A;
Thence S 6 deg. 46 min. 49.5 sec. W (GN) a distance of 2016.58 feet;
Thence S 6 deg. 53 min. 19.2 sec. W (GN) a distance of 607.91 feet to a point on the CCCL said point being N 25 deg. 52 min. 22.3 sec. W (GN) a distance of 263.72 feet from P.R.M. 15-77-B-09;

Thence S 76 deg. 36 min. 27.0 sec. W (GN) a distance of 302.22 feet;
Thence S 22 deg. 39 min. 10.0 sec. E (GN) a distance of 381.57 feet;
Thence S 42 deg. 45 min. E (GN) to the Mean High water line of Clearwater Pass.
Recommence at P.R.M. N.G.S. HARRIS C thence N 28 deg. 47 min. 07.3 sec. E (GN) a distance of 1826.47 feet to the point of beginning for that portion of the CCCL from Clearwater Pass south to Johns Pass;
Thence N 13 deg. E (GN) to the Mean High Water Line of Clearwater Pass;
Thence return along the same course to said point of beginning;
Thence S 49 deg. 14 min. 18.9 sec. W (GN) a distance of 1040.11 feet;
Thence S 60 deg. 49 min. 54.9 sec W (GN) a distance of 1351.12 feet;
Thence S 20 deg. 49 min. 30.8 sec. W (GN) a distance of 523.18 feet;
Thence S 21 deg. 26 min. 17.6 sec. W (GN) a distance of 1201.10 feet;
Thence S 36 deg. 56 min. 07.4 sec. W (GN) a distance of 1224.80 feet; point on the CCCL said point being N 79 deg. 03 min. 44.3 sec. W (GN) a distance of 291.66 feet from P.R.M. N.G.S. HARRIS D;
Thence S 28 deg. 04 min. 21.0 sec. W (GN) a distance of 731.00 feet;
Thence S 31 deg. 07 min. 36.7 sec. W (GN) a distance of 421.72 feet;
Thence S 24 deg. 38 min. 10.0 sec. W (GN) a distance of 869.40 feet;
Thence S 24 deg. 25 min. 05.4 sec. W (GN) a distance of 993.65 feet; to a point on the CCCL said point being N 29 deg. 54 min. 18.7 sec. W (GN) a distance of 548.53 feet from P.R.M. N.G.S. HARRIS E;
Thence S 24 deg. 59 min. 05.7 sec. W (GN) a distance of 1027.08 feet;
Thence S 21 deg. 48 min. 35.2 sec. W (GN) a distance of 1273.13 feet;
Thence S 16 deg. 03 min. 34.1 sec. W (GN) a distance of 2524.52 feet;
Thence S 13 deg. 21 min. 39.6 sec. W (GN) a distance of 1022.68 feet;
Thence S 13 deg. 19 min. 36.6 sec. W (GN) a distance of 1056.96 feet to a point on the CCCL said point being S 47 deg. 22 min. 29.5 sec. W (GN) a distance of 581.61 feet from P.R.M. N.G.S. HALL F;
Thence S 10 deg. 47 min. 56.4 sec. W (GN) a distance of 999.90 feet;
Thence S 10 deg. 55 min. 31.7 sec. W (GN) a distance of 921.53 feet to a point on the CCCL, said point being N 25 deg. 02 min. 59.9 sec. W (GN) a distance of 427.66 feet from P.R.M. N.G.S. HALL D;
Thence S 12 deg. 03 min. 17.8 sec. W (GN) a distance of 960.46 feet;
Thence S 12 deg. 11 min. 35.5 sec. W (GN) a distance of 2023.54 feet to a point on the CCCL said point being S 38 deg. 41 min. 52.1 sec W (GN) a distance of 704.76 feet from P.R.M. N.G.S. HALL C;
Thence S 11 deg. 40 min. 36.8 sec. W (GN) a distance of 1411.53 feet;
Thence S 9 deg. 14 min. 12.7 sec. W (GN) a distance of 710.21 feet to a point on the CCCL said point being W 23 deg. 26 min. 53.9 sec. W (GN) a distance of 535.60 feet from P.R.M. N.G.S. HALL H;
Thence S 8 deg. 17 min. 38.9 sec. W (GN) a distance of 1061.91 feet;
Thence S 8 deg. 15 min. 27.6 sec. W (GN) a distance of 931.30 feet;
Thence S 8 deg. 42 min. 06.3 sec. W (GN) a distance of 931.94 feet;
Thence S 8 deg. 21 min. 39.8 sec. W (GN) a distance of 842.24 feet to a point on the CCCL said point being N 48 deg. 33 min. 55.2 sec. W (GN) a distance of 395.85 feet from P.R.M. N.G.S. HALL J;
Thence S 8 deg. 04 min. 38.6 sec. W (GN) a distance of 1014.67 feet;
Thence S 9 deg. 32 min. 27.8 sec. W (GN) a distance of 992.17 feet;
Thence S 8 deg. 27 min. 57.6 sec. W (GN) a distance of 1015.52 feet to a point on the CCCL said point being S 86 deg. 54 min. 38.0 sec. W (GN) a distance of 257.39 feet from P.R.M. N.G.S. NARROW C;
Thence S 2 deg. 36 min. 09.2 sec. W (GN) a distance of 946.98 feet;
Thence S 3 deg. 19 min. 45.3 sec. E (GN) a distance of 1009.61 feet;
Thence S 0 deg. 49 min. 38.0 sec. E (GN) a distance of 995.20 feet;
Thence S 1 deg. 44 min. 50.2 sec. E (GN) a distance of 1049.49 feet to a point on the CCCL said point being N 62 deg. 36 min. 13.2 sec. W (GN) a distance of 266.63 feet from P.R.M. N.G.S. NARROW;
Thence S 4 deg. 20 min. 50.8 sec. E (GN) a distance of 1028.96 feet;

Thence S 7 deg. 16 min. 25.7 sec. E (GN) a distance of 1003.07 feet;
Thence S 8 deg. 09 min. 30.0 sec. E (GN) a distance of 1003.51 feet to a point on the CCCL, said point being S 53 deg. 39 min. 26.4 sec W (GN) a distance of 224.45 feet from P.R.M. N.G.S. NARROW A AZ MK;
Thence S 8 deg. 33 min. 37.3 sec. E (GN) a distance of 1045.29 feet;
Thence S 11 deg. 01 min. 31.5 sec. E (GN) a distance of 1856.26 feet;
Thence S 14 deg. 34 min. 48.3 sec. E (GN) a distance of 945.45 feet;
Thence S 15 deg. 02 min. 10.5 sec. E (GN) a distance of 1056.15 feet;
Thence S 16 deg. 55 min. 47.6 sec. E (GN) a distance of 999.31 feet to a point on the CCCL said point being S 6 deg. 35 min. 55.9 sec. W (GN) a distance of 473.18 feet from P.R.M. N.G.S. NARROW G;
Thence S 20 deg. 48 min. 32.5 sec. E (GN) a distance of 954.25 feet;
Thence S 22 deg. 18 min. 56.1 sec. E (GN) a distance of 579.39 feet;
Thence S 23 deg. 21 min. 06.5 sec. E (GN) a distance of 638.28 feet;
Thence S 25 deg. 58 min. 36.0 sec. E (GN) a distance of 2917.78 feet to a point on the CCCL said point being S 70 deg. 56 min. 51.5 sec. W (GN) a distance of 338.63 feet from P.R.M. N.G.S. REDINGTON F;
Thence S 30 deg. 43 min. 26.0 sec. E (GN) a distance of 2293.99 feet;
Thence S 32 deg. 04 min. 53.7 sec. E (GN) a distance of 1195.57 feet;
Thence S 26 deg. 52 min. 57.8 sec. E (GN) a distance of 1371.18 feet;
S 23 deg. 30 min. 53.7 sec. E (GN) a distance of 1117.83 feet to a point on the CCCL said point being S 69 deg. 18 min. 51.7 sec. W (GN) a distance of 380.87 feet from P.R.M. N.G.S. REDINGTON B;
Thence S 31 deg. 08 min. 11.1 sec. E (GN) a a distance of 796.79 feet;
Thence S 34 deg. 49 min. 28.2 sec. E (GN) a distance of 896.57 feet to a point on the CCCL, said point being in 89 deg. 01 min. 41.8 sec. W (GN) a distance of 323.14 feet from P.R.M. N.G.S. REDINGTON D;
Thence S 37 deg. 39 min. 56.2 sec. E (GN) a distance of 792.08 feet;
Thence S 42 deg. 36 min. 44.7 sec. E (GN) a distance of 1035.40 feet;
Thence S 43 deg. 45 min. 24.2 sec. E (GN) a distance of 2118.28 feet;
Thence S 51 deg. 54 min. 08.4 sec. E (GN) a distance of 2053.47 feet to a point on the CCCL said point being N 72 deg. 24 min. 26.1 sec. W (GN) a distance of 741.10 feet from P.R.M. N.G.S. REDINGTON J;
Thence S 52 deg. 27 min. 23.8 sec. E (GN) a distance of 1939.73 feet;
Thence S 49 deg. 10 min. 09.0 sec. E (GN) a distance of 1001.79 feet;
Thence S 47 deg. 56 min. 16.6 sec. E (GN) a distance of 910.54 feet;
Thence S 49 deg. 24 min. 17.6 sec. E (GN) a distance of 1003.52 feet to a point on the CCCL said point being S 38 deg. 00 min. 30.1 sec. W (GN) a distance of 259.64 feet from P.R.M. 15-77-B-08;
Thence S 48 deg. 47 min. 59.7 sec. E (GN) a distance of 1141.66 feet;
Thence S 48 deg. 43 min. 24.9 sec. E (GN) a distance of 1012.59 feet;
Thence S 48 deg. 38 min. 43.0 sec. E (GN) a distance of 989.83 feet;
Thence S 48 deg. 40 min. 57.8 sec. E (GN) a distance of 1354.08 feet;
Thence S 44 deg. 07 min. 13.0 sec. E (GN) a distance of 736.89 feet;
Thence S 43 deg. 41 min. 17.2 sec. E (GN) a distance of 648.59 feet to a point on the CCCL said point being S 3 deg. 58 min. 54.4 sec. W (GN) a distance of 335.66 feet from P.R.M. N.G.S. REDINGTON 0;
Thence S 38 deg. 39 min. 35.3 sec. E (GN) a distance of 448.22 feet;
Thence S 36 deg. 40 min. 39.5 sec. E (GN) a distance of 894.00 feet;
Thence S 32 deg. 15 min. 05.8 sec. E (GN) a distance of 1060.64 feet;
Thence S 36 deg. 31 min. 19.0 sec. E (GN) a distance of 494.01 feet to a point on the CCCL said point being S 7 deg. 25 min. 00.0 sec. E (GN) a distance of 912.04 feet from P.R.M. N.G.S. RAINEY A;
Thence S 37 deg. E (GN) to the Mean High Water Line of Johns Pass.
Recommence at P.R.M. N.G.S. MADERIA thence N 78 deg. 16 min. 00.0 sec. W (GN) a distance of 191.88 feet to the point of beginning for that portion of the CCCL from Johns Pass south to Blind Pass;
Thence [illegible] deg. 40 min. 55.4 sec. W (GN) a distance of 168.01 feet;
Thence [illegible] deg. 08 min. 44.0 sec. E (GN) a distance of 1080.54 feet;

Thence S 24 deg. 08 min. 17.8 sec. E (GN) a distance of 496.41 feet;
Thence S 32 deg. 39 min. 18.6 sec. E (GN) a distance of 214.98 feet to a point on the CCCL said point being S 68 deg. 14 min. 12.2 sec. W (GN) a distance of 517.60 feet from P.R.M. N.G.S. RAINEY D;
Thence S 41 deg. 16 min. 39.2 sec. E (GN) a distance of 294.07 feet;
Thence S 51 deg. 34 min. 18.9 sec. E (GN) a distance of 308.91 feet;
Thence S 63 deg. 55 min. 43.9 sec. E (GN) a distance of 259.39 feet;
Thence S 73 deg. 28 min. 55.9 sec. E (GN) a distance of 151.24 feet;
Thence N 22 deg. 16 min. 33.2 sec. E (GN) a distance of 179.39 feet;
Thence S 65 deg. 14 min. 25.9 sec. E (GN) a distance of 255.49 feet;
Thence S 55 deg. 12 min. 20.4 sec. E (GN) a distance of 474.91 feet;
Thence S 48 deg. 18 min. 09.2 sec. E (GN) a distance of 1116.96 feet;
Thence S 39 deg. 44 min. 49.6 sec. E (GN) a distance of 502.03 feet;
Thence S 40 deg. 07 min. 32.8 sec. E (GN) a distance of 194.73 feet;
Thence S 37 deg. 33 min. 34.6 sec. E (GN) a distance of 194.39 feet;
Thence S 32 deg. 10 min. 42.5 sec. E (GN) a distance of 975.38 feet to a point on the CCCL said point being N 60 deg. 23 min. 48.7 sec. W (GN) a distance of 355.13 feet from P.R.M. 15-77-B-06;
Thence S 25 deg. 20 min. 20.5 sec. E (GN) a distance of 947.61 feet;
Thence N 87 deg. 20 min. 13.2 sec. W (GN) a distance of 43.05 feet;
Thence S 23 deg. 23 min. 37.4 sec. E (GN) a distance of 501.20 feet;
Thence S 19 deg. 41 min. 05.0 sec. E (GN) a distance of 623.43 feet;
Thence S 14 deg. 07 min. 32.7 sec. E (GN) a distance of 133.54 feet;
Thence S 16 deg. 23 min. 09.9 sec. E (GN) a distance of 497.72 feet;
Thence S 12 deg. 14 min. 32.4 sec. E (GN) a distance of 542.33 feet;
Thence S 17 deg. 16 min. 35.3 sec. E (GN) a distance of 1075.16 feet to a point on the CCCL said point being N 75 deg. 27 min. 52.1 sec. W (GN) a distance of 1073.00 feet from P.R.M. N.G.S. BLIND A;
Thence S 14 deg. 56 min. 52.2 sec. E (GN) a distance of 1134.75 feet;
Thence S 19 deg. 50 min. 02.6 sec. E (GN) a distance of 1839.10 feet;
Thence S 24 deg. 43 min. 35.5 sec. E (GN) a distance of 1728.48 feet;
Thence S 36 deg. 14 min. 55.8 sec. E (GN) a distance of 948.65 feet to P.R.M. 15-77-B-05A;
Thence S 42 deg. 49 min. 12.3 sec. E (GN) a distance of 685.70 feet;
Thence S 34 deg. 46 min. 41.4 sec. E (GN) to the Mean High Water Line of Blind Pass.
Recommence at P.R.M. 15-77-B-05A thence S 40 deg. 08 min. 54.9 sec. E (GN) a distance of 2131.10 feet to the point of beginning for that portion of the CCCL from Blind Pass south to Pass-A-Grille Channel;
Thence S 43 deg. 10 min. 22.8 sec. E (GN) a distance of 887.16 feet;
Thence S 45 deg. 23 min. 21.2 sec. E (GN) a distance of 1040.89 feet;
Thence S 45 deg. 48 min. 24.9 sec. E (GN) a distance of 803.35 feet;
Thence S 35 deg. 16 min. 08.0 sec. E (GN) a distance of 966.38 feet;
Thence S 30 deg. 41 min. 08.4 sec. E (GN) a distance of 1095.37 feet to a point on the CCCL said point being N 59 deg. 32 min. 36.2 sec. W (GN) a distance of 1028.66 feet from P.R.M. 15-77-B-04;
Thence S 24 deg. 45 min. 41.2 sec. E (GN) a distance of 2046.12 feet;
Thence S 18 deg. 36 min. 56.7 sec. E (GN) a distance of 1076.66 feet;
Thence S 15 deg. 58 min. 54.8 sec. E (GN) a distance of 1039.87 feet;
Thence S 13 deg. 38 min. 47.7 sec. E (GN) a distance of 1034.20 feet;
Thence S 11 deg. 55 min. 48.4 sec E (GN) a distance of 996.52 feet;
Thence S 7 deg. 59 min. 07.4 sec. E (GN) a distance of 1007.77 feet to a point on the CCCL said point being N 24 deg. 55 min. 49.3 sec. W (GN) a distance of 370.76 feet from P.R.M. N.G.S. NOAA;
Thence S 6 deg. 01 min. 03.6 sec. E (GN) a distance of 1039.73 feet;
Thence S 3 deg. 19 min. 04.0 sec. E (GN) a distance of 1036.74 feet;
Thence S 1 deg. 01 min. 41.3 sec. E (GN) a distance of 1003.16 feet;
Thence S 0 deg. 15 min. 20.4 sec. E (GN) a distance of 1020.52 feet to a point on the CCCL said point being N 83 deg. 52 min. 18.1 sec. W (GN) a distance of 72.09 feet from P.R.M. 15-77-B-03;
Thence S 3 deg. 41 min. 06.5 sec. W (GN) a distance of 3789.33 feet to [illegible] on the CCCL said

point being S 6 deg. 44 min. 42.2 sec. E (GN) a distance of 576.83 feet from P.R.M. N.G.S. NOAA-A;

Thence S 2 deg. 00 min. 58.7 sec. E (GN) a distance of 1615.50 feet;

Thence S 2 deg. 00 min. 58.7 sec. E (GN) to the Mean High Water Line of Pass-A-Grille Channel.

Recommence at P.R.M. N.G.S. DESOTO A thence S 79 deg. 24 min. 48.1 sec. W (GN) a distance of 661.79 feet to the point of beginning for that portion of the CCCL from Bunces Pass south to Egmont Channel;

Thence N 19 deg. 22 min. 01.4 sec. W (GN) a distance of 1088.60 feet;

Thence N 23 deg. 04 min. 56.2 sec. W (GN) a distance of 905.49 feet;

Thence N 26 deg. 22 min. 04.6 sec. E (GN) a distance of 1098.86 feet;

Thence Due East to the Mean High Water Line of Bunces Pass;

Thence return along the same courses to said point of beginning;

Thence S 31 deg. 24 min. 29.5 sec. E (GN) a distance of 1017.02 feet;

Thence S 20 deg. 18 min. 05.6 sec. E (GN) a distance of 1291.21 feet;

Thence S 6 deg. 18 min. 20.8 sec. E (GN) a distance of 959.81 feet;

Thence S 0 deg. 34 min. 45.8 sec. E (GN) a distance of 1050.25 feet;

Thence S 1 deg. 44 min. 55.1 sec. W (GN) a distance of 1013.78 feet;

Thence S 1 deg. 16 min. 35.3 sec. E (GN) a distance of 1027.75 feet;

Thence S 7 deg. 24 min. 14.6 sec. W (GN) a distance of 993.28 feet;

Thence S 9 deg. 50 min. 45.0 sec. W (GN) a distance of 982.47 feet to a point on the CCCL said point being N 65 deg. 47 min. 15.5 sec. W (GN) a distance of 184.86 feet from P.R.M. N.G.S. DESOTO C;

Thence S 3 deg. 38 min. 26.0 sec. W (GN) a distance of 834.68 feet;

Thence S 53 deg. 17 min. 54.1 sec. E (GN) a distance of 681.00 feet to a point on the CCCL said point being S 41 deg. 31 min. 57.8 sec. W (GN) a distance of 1894.08 feet from P.R.M. 15-77-B-02;

Thence S 53 deg. 17 min. 54.1 sec. E (GN) to the Mean High Water Line of Egmont Channel for a point of terminus.

16B-26.12 Description of the Dade County Coastal Construction Control Line.

(1) There is hereby established, pursuant to Section 161.053, Florida Statutes, the Dade County Coastal Construction Control Line. The legal description of said line is attached hereto.

(2) This rule shall take effect 20 days after filing with the Florida Department of State or on the date that it is duly recorded in the public records in the office of the Clerk of the Circuit Court, in and for Dade County, Florida, together with each affected municipality, whichever is later.

(3) After this rule becomes effective, a permit to alter, excavate or construct on property seaward of the established control line is required from the Department.

Specific Authority 370.021(1) FS. Law Implemented 161.053 FS. History—New 2-9-82.

METES AND BOUNDS DESCRIPTION FOR THE COASTAL CONSTRUCTION CONTROL LINE DADE COUNTY, FLORIDA

Description of the Coastal Construction Control Line (CCCL) is established in compliance with Section 161.053 of the Florida Statutes. Said Control Line lying along the Atlantic Coast from the Dade and Broward County Line south to the Mean High Water Line of Biscayne Bay.

Said Coastal Construction Control Line is related to a series of "Permanent Reference Monuments" (P.R.M.) designated and hereinafter referred to as "87-78-A-01" through "87-78-A-20" for monuments established by the Department of Natural Resources, State of Florida or referred to by station name for monuments established by the National Geodetic Survey (N.G.S.).

Commence at P.R.M. SPHERE (NGS) thence S 26 deg. 57 min. 54.1 sec. E (GN) a distance of 2028.93 feet to the point of beginning;

Thence N 2 deg. 06 min. 29.3 sec. E (GN) to the Dade and Broward County Line;

Thence return along same course to the point of beginning;

Thence S 2 deg. 06. min. 29.3 sec. W (GN) a distance of 1034.50 feet; Thence S 2 deg. 10 min. 24.1 sec. W (GN) a distance of 1104.45 feet to a point on the CCCL, said point being S 12 deg. 20 min. 49.7 sec. E (GN) a distance of 417.02 feet from P.R.M. 87-78-A-01 (DNR);

Thence S 1 deg. 49 min. 40.4 sec. W (GN) a distance of 1068.36 feet; Thence S 2 deg. 07 min. 44.0 sec. W (GN) a distance of 1077.45 feet; Thence S 1 deg. 22 min. 38.9 sec. W (GN) a distance of 1018.50 feet; Thence S 1 deg. 15 min. 47.9 sec. E (GN) a distance of 1199.00 feet; Thence S 1 deg. 55 min. 13.8 sec. W (GN) a distance of 910.92 feet to a point on the CCCL, said point being S 59 deg. 53 min. 10.8 sec. E (GN) a distance of 292.92 feet from P.R.M. 87-78-A-02 (DNR);

Thence S 4 deg. 10 min. 59.9 sec. W (GN) a distance of 789.33 feet; Thence S 1 deg. 36 min. 26.0 sec. W (GN) a distance of 1493.85 feet; Thence S 2 deg. 42 min. 58.9 sec. W (GN) a distance of 1061.11 feet to a point on the CCCL, said point being S 80 deg. 26. min. 35.8 sec. E (GN) a distance of 361.32 feet from P.R.M. 87-78-A-03 (DNR);

Thence S 2 deg. 26 min. 30.3 sec. W (GN) a distance of 1090.49 feet; Thence S 2 deg. 59 min. 24.5 sec. W (GN) a distance of 1021.92 feet; Thence S 6 deg. 04 min. 46.9 sec. W (GN) a distance of 1117.56 feet; Thence S 6 deg. 01 min. 31.0 sec. W (GN) a distance of 909.08 feet; Thence S 2 deg. 27 min. 28.0 sec. W (GN) a distance of 1106.59 feet to a point on the CCCL, said point being N 47 deg. 03 min. 56.5 sec. E (GN) a distance of 120.46 feet from P.R.M. NEWPORT (NGS);

Thence S 4 deg. 35 min. 09.4 sec. W (GN) a distance of 1141.72 feet; Thence S 2 deg. 16 min. 33.5 sec. W (GN) a distance of 1044.48 feet; Thence S 1 deg. 26 min. 38.1 sec. W (GN) a distance of 1114.38 feet; Thence S 1 deg. 26 min. 38.1 sec. W (GN) a distance of 309.00 feet; Thence N 90 deg. 00 min. 00.0 sec. W (GN) a distance of 129.00 feet to a point on the CCCL, said point being N 87 deg. 46 min. 00.8 sec. E (GN) a distance of 45.43 feet from P.R.M. 87-78-A-04 (DNR);

Thence S 0 deg. 59 min. 13.2 sec. W (GN) a

distance of 785.53 feet; Thence S 0 deg. 48 min. 03.3 sec. W (GN) a distance of 1002.14 feet; Thence S 1 deg. 21 min. 09.8 sec. W (GN) a distance of 989.45 feet; Thence S 0 deg. 09 min. 22.1 sec. W (GN) a distance of 983.41 feet to a point on the CCCL, said point being N 10 deg. 31 min. 17.6 sec. E (GN) a distance of 517.54 feet from P.R.M. 87-78-A-05 (DNR);
Thence S 0 deg. 06 min. 23.9 sec. E (GN) a distance of 1001.61 feet; Thence S 0 deg. 06 min. 23.9 sec. E (GN) a distance of 526.00 feet; Thence S 7 deg 34 min. 23.1 sec. W (GN) a distance of 452.01 feet; Thence S 7 deg. 41 min. 00.6 sec. W (GN) a distance of 1077.50 feet to a point on the CCCL, said point being N 7 deg. 49 min. 01.0 sec. E (GN) a distance of 1345.06 feet from P.R.M. HARBOUR (NGS);
Thence S 7 deg. 41 min. 00.6 sec. W (GN) to the Mean High Water Line of Bahem Haulover Cut.
Resumence at P.R.M. HARBOUR (NGS) thence N 40 deg. 40 min. 35.7 sec. E (GN) a distance of 254.97 feet to a point on the CCCL;
Thence N 4 deg. 51 min. 00.3 sec. W (GN) to the Mean High Water Line of Bahem Haulover Cut; Thence return along the same course to said point on the CCCL;
Thence S 4 deg. 51 min. 00.3 sec. E (GN) a distance of 1024.56 feet; Thence S 4 deg. 49 min. 47.3 sec. E (GN) a distance of 1014.06 feet; Thence S 5 deg. 03 min. 23.1 sec. E (GN) a distance of 972.34 feet; Thence S 4 deg. 53 min. 26.13 sec. E (GN) a distance of 1155.01 feet to a point on the CCCL, said point being N 39 deg. 15 min. 05.1 sec. W (GN) a distance of 391.11 feet from P.R.M. 87-78-A-06 (DNR);
Thence S 2 deg. 54 min. 30.5 sec. E (GN) a distance of 1014.37 feet; Thence S 4 deg. 19 min. 20.9 sec. E (GN) a distance of 971.64 feet; Thence S 4 deg. 31 min. 00.3 sec. E (GN) a distance of 1012.70 feet; Thence S 5 deg. 50 min. 46.6 sec. E (GN) a distance of 1235.60 feet; Thence S 8 deg. 09 min. 21.7 sec. E (GN) a distance of 1142.94 feet to a point on the CCCL, said point being N 45 deg. 20 min. 02.0 sec. E (GN) a distance of 714.66 feet from P.R.M. 87-78-A-07 (DNR);
Thence S 2 deg. 38 min. 37.5 sec. E (GN) a distance of 1050.59 feet; Thence S 2 deg. 31 min. 45.2 sec. E (GN) a distance of 1094.90 feet; Thence S 2 deg. 15 min. 35.6 sec. E (GN) a distance of 1145.21 feet; Thence S 3 deg. 01 min. 03.9 sec. E (GN) a distance of 1110.10 feet to a point on the CCCL, said point being N 67 deg. 20 min. 10.7 sec. E (GN) a distance of 614.74 feet from P.R.M. 87-78-A-08 (DNR);
Thence S 3 deg. 31 min. 25.2 sec. E (GN) a distance of 1006.6 feet; Thence S 3 deg. 29 min. 36.0 sec. E (GN) a distance of 1133.44 feet to a point on the CCCL, said point being N 77 deg. 13 min. 59.8 sec. E (GN) a distance of 789.34 feet from P.R.M. 87-78-A-09 (DNR);
Thence S 3 deg. 09 min. 24.7 sec. E (GN) a distance of 1113.90 feet; Thence S 2 deg. 19 min. 09.3 sec. E (GN) a distance of 893.92 feet; Thence S 0 deg. 44 min. 28.8 sec. W (GN) a distance of 992.26 feet; Thence S 1 deg. 23 min. 52.4 sec. W (GN) a distance of 876.20 feet; Thence S 10 deg. 03 min. 22.3 sec. W (GN) a distance of 1033.31 feet; Thence S 0 deg. 01 min. 51.2 sec. E (GN) a distance of 2043.30 feet to a point on the CCCL, said point being S 38 deg. 23 min. 51.2 sec. E (GN) a distance of 472.55 feet from P.R.M. FIFTY (NGS);
Thence S 3 deg. 21 min. 02.9 sec. E (GN) a distance of 961.34 feet; Thence S 6 deg. 01 min. 12.1 sec. W (GN) a distance of 971.80 feet; Thence S 2 deg. 07 min. 15.5 sec. W (GN) a distance of 1151.08 feet; Thence S 5 deg. 04 min. 39.1 sec. W (GN) a distance of 1151.19 feet; Thence S 5 deg. 40 min. 06.1 sec. W (GN) a distance of 1224.10 feet to a point on the CCCL, said point being N 85 deg. 03 min. 54.4 sec. E (GN) a distance of 355.75 feet from P.R.M. 87-78-A-10 (DNR);
Thence S 1 deg. 47 min. 05.2 sec. W (GN) a distance of 1052.06 feet; Thence S 7 deg. 16 min. 17.5 sec. W (GN) a distance of 1097.22 feet; Thence S 9 deg. 51 min. 51.2 sec. W (GN) a distance of 1059.03 feet to a point on the CCCL, said point being S 50 deg. 00 min. 32.1 sec. E (GN) a distance of 501.56 feet from P.R.M. 87-78-A-11 (DNR);
Thence S 8 deg. 04 min. 13.0 sec. W (GN) a distance of 960.02 feet; Thence S 5 deg. 03 min. 13.7 sec. W (GN) a distance of 1016.32 feet; Thence S 16 deg. 29 min. 53.2 sec. W (GN) a distance of 909.56 feet; Thence S 19 deg. 44 min. 27.3 sec. W (GN) a distance of 953.94 feet; Thence S 20 deg. 42 min. 54.9 sec. W (GN) a distance of 903.94 feet; Thence S 20 deg. 23 min. 13.9 sec. W (GN) a distance of 993.61 feet to a point on the CCCL, said point being N 71 deg. 57 min. 48.8 sec. W (GN) a distance of 251.12 feet from P.R.M. 87-78-A-12 (DNR);
Thence S 15 deg. 15 min. 07.9 sec. W (GN) a distance of 783.47 feet; Thence S 10 deg. 22 min. 48.8 sec. W (GN) a distance of 1061.16

feet; Thence S 9 deg. 56 min. 33.5 sec. W (GN) a distance of 1174.84 feet; Thence S 9 deg. 45 min. 05.4 sec. W (GN) a distance of 938.90 feet; Thence S 9 deg. 43 min. 50.2 sec. W (GN) a distance 1017.41 feet; Thence S 9 deg. 41 min. 18.5 sec. W (GN) a distance of 1083.50 feet to a point on the CCCL, said point being S 61 deg. 25 min. 09.3 sec. W (GN) a distance of 441.66 feet from P.R.M. 87-78-A-13 (DNR);
Thence S 10 deg. 57 min. 25.9 sec. W (GN) a distance of 1168.23 feet; Thence S 10 deg. 57 min. 31.3 sec. W (GN) a distance of 1068.93 feet; Thence S 80 deg. 00 min. 00.0 sec E (GN) a distance of 163.00 feet; Thence S 10 deg. 55 min. 43.3 sec. W (GN) a distance of 997.39 feet; Thence S 10 deg. 56 min. 34.0 sec. W (GN) a distance of 1106.35 feet; Thence S 10 deg. 23. min. 21.7 sec. W (GN) a distance of 1045.47 feet to a point on the CCCL, said point being N 39 deg. 19 min. 05.7 sec. E (GN) a distance of 219.05 feet from P.R.M. DINO RM # 1 (NGS);
Thence S 10 deg. 23 min. 21.7 sec. W (GN) to the Mean High Water Line of U. S. Government Cut.
Resumence at P.R.M. DINO RM # 1 (NGS) thence S 15 deg. 36 min. 49.8 sec. W (GN) a distance of 1125.70 feet to a point on the CCCL;
Thence N 38 deg. 07 min. 11.6 sec. E (GN) to the Mean High Water Line of U. S. Government Cut;
Thence return along the same course to said point on the CCCL;
Thence S 38 deg. 07 min. 11.6 sec. W (GN) a distance of 1000.16 feet; Thence S 24 deg. 40 min. 30.0 sec. W (GN) a distance of 1037.03 feet; Thence S 45 deg. 51 min. 37.1 sec. W (GN) a distance of 659.60 feet to a point on the CCCL, said point being N 19 deg. 34 min. 03.3 sec. E (GN) a distance of 2707.26 feet from P.R.M. 86-78-A-14 (DNR);
Thence S 45 deg. 51 min. 37.1 sec. W (GN) to the Mean High Water Line of Norris Cut.
Resumence at P.R.M. 87-78-A-14 (DNR) thence S 78 Deg. 32 min. 28.1 sec. W (GN) a distance of 208.64 feet to a point on the CCCL;
Thence N 4 deg. 48 min. 11.6 sec. E (GN) to the Mean High Water Line of Norris Cut; Thence return along the same course to said point on the CCCL;
Thence S 4 deg. 48 min. 11.6 sec. W (GN) a distance of 965.28 feet; Thence S 22 deg. 41 min. 55.9 sec. W (GN) a distance of 810.52 feet to a point on the CCCL, said point being N 14 deg. 16 min. 48.1 sec. W (GN) a distance of 625.63 feet from P.R.M. 87-78-A-15 (DNR);
Thence S 24 deg. 32 min. 54.7 sec. W (GN) a distance of 974.16 feet; Thence S 41 deg. 41 min. 32.0 sec. W (GN) a distance of 843.66 feet; Thence S 53 deg. 10 min. 15.5 sec. W (GN) a distance of 938.24 feet; Thence S 62 deg. 45 min. 58.1 sec. W (GN) a distance of 907.08 feet; Thence S 62 deg. 29 min. 19.8 sec. W (GN) a distance of 1019.97 feet; Thence S 54 deg. 59 min. 31.3 sec. W (GN) a distance of 1108.36 feet to a point on the CCCL, said point being N 82 deg. 56 min. 40.7 sec. W (GN) a distance of 517.71 feet from P.R.M. 87-78-A-16 (DNR);
Thence S 62 deg. 43 min. 19.9 sec. W (GN) a distance of 1322.46 feet to a point on the CCCL, said point being N 58 deg. 23 min. 27.3 sec. W (GN) a distance of 3105.64 feet from P.R.M. 87-78-A-17 (DNR);
Thence S 41 deg. 30 min. 00.0 sec. E (GN) to the Mean High Water Line of Bear Cut.
Resumence at P.R.M. 87-78-A-17 (DNR) thence S 57 deg. 03 min. 00.7 sec. W (GN) a distance of 923.73 feet to a point on the CCCL;
Thence N 41 deg. 15 min. 00.0 sec. W (GN) to the Mean High Water Line of Bear Cut; Thence return along same course to said point on the CCCL;
Thence N 70 deg. 39 min. 40.1 sec. E (GN) a distance of 934.28 feet; Thence S 61 deg. 59 min. 04.1 sec. E (GN) a distance of 1530.46 feet; Thence S 7 deg. 15 min. 58.0 sec. E (GN) a distance of 1117.38 feet; Thence S 9 deg. 28 min. 12.4 sec. W (GN) a distance of 923.65 feet; Thence S 16 deg. 20 min. 30.4 sec. W (GN) a distance of 1040.03 feet; Thence S 26 deg. 15 min. 09.0 sec. W (GN) a distance of 1042.09 feet to a point on the CCCL, said point being S 66 deg. 24 min. 39.7 sec. E (GN) a distance of 2522.69 feet from P.R.M. KEY BISCAYNE NORTH BASE (NGS);
Thence S 17 deg. 28 min. 10.4 sec. W (GN) a distance of 1040.31 feet to a point of the CCCL, said point being S 3 deg. 14 min. 54.1 sec. W (GN) a distance of 394.77 feet from P.R.M. 87-78-A-18 (DNR);
Thence S 18 deg. 03 min. 27.6 sec. W (GN) a distance of 995.58 feet; Thence S 18 deg. 51 min. 29.6 sec. W (GN) a distance of 1005.86 feet; Thence S 24 deg. 14 min. 54.0 sec. W (GN) a distance of 1052.39 feet; Thence S 14 deg. 13 min. 13.5 sec. W (GN) a distance of 1009.16 feet; Thence S 13 deg. 47 min. 29.9 sec. W (GN) a distance of 1121.77 feet; Thence S 4 deg. 28 min. 05.6 sec. W (GN) a distance of 963.57 feet to a point on the CCCL, said point being S 86 deg. 54 min.

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65.0 sec. W (GN) a distance of 311.17 feet from P.R.M. 87-78-A-19 (DNR);
Thence S 0 deg. 40 min. 42.2 sec. W (GN) a distance of 970.47 feet; Thence S 1 deg. 26 min. 38.9 sec. E (GN) a distance of 994.81 feet; Thence S 3 deg. 29 min. 20.6 sec. E (GN) a distance of 986.77 feet; Thence S 10 deg. 18 min. 57.6 sec. E (GN) a distance of 957.82 feet; Thence S 13 deg. 28 min. 24.9 sec. E (GN) a distance of 1018.23 feet; Thence S 6 deg. 23 min. 53.9 sec. E (GN) a distance of 984.35 feet to a point on the CCCL, said point being S 72 deg. 15 min. 12.2 sec. W (GN) a distance of 269.58 feet from P.R.M. 87-78-A-20 (DNR);
Thence S 7 deg. 13 min. 59.9 sec. E (GN) a distance of 1025.95 feet; Thence S 18 deg. 08 min. 23.8 sec. E (GN) a distance of 1136.40 feet; Thence S 1 deg. 33 min. 30.1 sec. E (GN) a distance of 977.88 feet; Thence S 32 deg. 22 min. 05.1 sec. W (GN) a distance of 1015.90 feet to a point on the CCCL, said point being N 20 deg. 17 min. 07.3 sec. E (GN) a distance of 1062.59 feet from P.R.M. CAPE (NGS);
Thence S 32 deg. 22 min. 05.1 sec. W (GN) to the Mean High Water Line of Biscayne Bay and the point of terminus.

16B-26.13 Description of the Broward County Coastal Construction Control Line.

(1) There is hereby established, pursuant to Section 161.053, Florida Statutes, the Broward County Coastal Construction Control Line. The legal description of said line is attached hereto.

(2) This rule shall take effect 20 days after filing with the Florida Department of State or on the date that it is duly recorded in the public records in the office of the Clerk of the Circuit Court, in and for Broward County, Florida, together with each affected municipality, whichever is later.

(3) After this rule becomes effective, a permit to alter, excavate or construct on property seaward of the established control line is required from the Department.

Specific Authority 370.021(1) FS. Law Implemented 161.053 FS. History—New 11-17-81.

METES AND BOUNDS DESCRIPTION FOR THE COASTAL CONSTRUCTION CONTROL LINE BROWARD COUNTY, FLORIDA

Description of the Coastal Construction Control Line (CCCL) is established in compliance with Section 161.053 of the Florida Statutes. Said Control Line lying along the Atlantic coast from the Broward and Palm Beach County Line south to the Broward and Dade County Line.

Said Coastal Construction Control Line is related to a series of "Permanent Reference Monuments" (P.R.M.) designated and hereinafter referred to as "R-1" through "R-128" for monuments established by the Department of Natural Resources, State of Florida or referred to by station name for monuments established by the National Geodetic Survey (NGS). In the case where an original monument or monuments established by the Department of Natural Resources have been lost or destroyed and replaced at a later date with a new monument, there will be a "T" instead of an "R" designation.

Commence at P.R.M. N.G.S. Station Cloister, 1929;

Thence S 7 deg. 24 min. 47.0 sec. W (GN) a distance of 16352.62 feet to P.R.M. R-1;

Thence N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 70.00 feet to a point on the CCCL for the point of beginning;

Thence N 4 deg. 43 min. 46.9 sec. E (GN) to the Broward and Palm Beach County Line;

Thence return along same course to the point of beginning;

Thence S 4 deg. 43 min. 46.9 sec. W (Gn) a distance of 951.01 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 110.00 feet from P.R.M. R-2;

Thence S 4 deg. 29 min. 44.9 sec. W (GN) a distance of 1016.87 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 131.00 feet from P.R.M. R-3;

Thence S 3 deg. 50 min. 50.0 sec. W (GN) a distance of 1018.64 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 150.00 feet from P.R.M. R-4;

Thence S 1 deg. 48 min. 11.4 sec. W (GN) a distance of 899.51 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 159.00 feet from P.R.M. R-5;

Thence S 5 deg. 28 min. 24.2 sec. W (GN) a distance of 1044.65 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 96.00 feet from P.R.M. R-6;

Thence S 4 deg. 08 min. 38.5 sec. W (GN) a distance of 1063.86 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 110.00 feet from P.R.M. R-7;

Thence S 6 deg. 26 min. 55.3 sec. W (GN) a distance of 883.52 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 130.00 feet from P.R.M. R-8;

Thence S 8 deg. 14 min. 15.0 sec. W (GN) a distance of 1047.11 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 80.00 feet from P.R.M. R-9;

Thence S 4 deg. 47 min. 56.1 sec. W (GN) a distance of 1010.62 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 95.00 feet from P.R.M. R-10;

Thence S 3 deg. 28 min. 23.7 sec. W (GN) a distance of 1000.14 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 65.00 feet from P.R.M. R-11;

Thence S 4 deg. 22 min. 33.0 sec. W (GN) a distance of 992.59 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 150.00 feet from P.R.M. R-12;

Thence S 5 deg. 30 min. 56.2 sec. W (GN) a distance of 1005.70 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 150.00 feet from P.R.M. R-13;

Thence S 2 deg. 48 min. 33.9 sec. W (GN) a distance of 1015.65 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 150.00 feet from P.R.M. R-14;

Thence S 3 deg. 01 min. 53.1 sec. W (GN) a distance of 973.19 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 100.00 feet from P.R.M. R-15;

Thence S 4 deg. 14 min. 15.5 sec. W (GN) a distance of 1013.49 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W. (GN) a distance of 100.00 feet from P.R.M. R-16;

Thence S 4 deg. 29 min. 47.9 sec. W (GN) a distance of 980.20 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 100.00 feet from P.R.M. R-17;

Thence S 2 deg. 17 min. 37.8 sec. W (GN) a distance of 1006.86 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 100.00 feet from P.R.M. R-18;

Thence S 3 deg. 14 min. 48.7 sec. W (GN) a distance of 1015.76 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 100.00 feet from P.R.M. R-19;

Thence S 2 deg. 05 min. 01.4 sec. W (GN) a distance of 1012.27 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 90.00 feet from P.R.M. R-20;

Thence S 2 deg. 36 min. 13.1 sec. W (GN) a distance of 985.48 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 70.00 feet from P.R.M. T-21;

Thence S 2 deg. 46 min. 03.5 sec. W (GN) a distance of 1378.88 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 45.00 feet from P.R.M. T-22;

Thence S 5 deg. 22 min. 50.6 sec. W (GN) a distance of 657.68 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 80.00 feet from P.R.M. R-23 and being N 1 deg. 04 min. 36.4 sec. E (GN) a distance of 561.27 feet from P.R.M. N.G.S Hillsboro Lighthouse Eccentric, 1934;

Thence S 5 deg. 52 min. 23.2 sec. W (GN) a distance of 594.97 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 100.00 feet from P.R.M. R-24;

Thence S 70 deg. 00 min. 00.0 sec. W (GN) to the Mean High Water Line of Hillsboro Inlet.

Recommence at P.R.M. T-26, said P.R.M. T-26 being S 41 deg. 25 min. 29.1 sec. W (GN) a distance of 1506.83 feet from P.R.M. R-24;

Thence N 70 deg. 00 min. 00.0 sec. W (GN) a distance of 290.00 to a point on the CCCL;

Thence N 32 deg. 54 min. 53.1 sec. E (GN) to the Mean High Water Line of Hillsboro Inlet; Thence return along the same course to said point on the CCCL;

Thence S 12 deg. 03 min. 53.7 sec. W (GN) a distance of 1022.33 feet to a point on the CCCL, said point being N 70 deg. 00 min. 00.0 sec. W (GN) a distance of 232.00 feet from P.R.M. R-27;

Thence S 5 deg. 29 min. 59.8 sec. W (GN) a distance of 1104.69 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 90.00 feet from P.R.M. R-28;

Thence S 12 deg. 51 min. 11.3 sec. W (GN) a distance of 841.01 feet to a point on the CCCL, said point being N 75 deg. 00 min. 00.0 sec. W (GN) a distance of 101.00 feet from P.R.M. R-29.

Thence S 13 deg. 12 min. 16.0 sec. W (GN) a distance of 1016.54 feet to a point on the CCCL, said point being N 75 deg. 00 min. 00.0 sec. W (GN) a distance of 104.00 feet from P.R.M. R-30;

Thence S 13 deg. 32 min. 54.1 sec. W (GN) a distance of 969.71 feet to a point on the CCCL, said point being N 75 deg. 00 min. 00.0 sec. W (GN) a distance of 94.00 feet from P.R.M. R-31;

Thence S 11 deg. 55 min. 12.8 sec. W (GN) a distance of 1221.25 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 18.00 feet from P.R.M. R-32;

Thence S 9 deg. 47 min. 05.8 sec. W (GN) a distance of 784.89 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 25.00 feet from P.R.M. T-33;

Thence S 8 deg. 53 min. 20.5 sec. W (GN) a distance of 1048.28 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 22.00 feet from P.R.M. R-34;

Thence S 8 deg. 56 min. 48.8 sec. W (GN) a distance of 1008.10 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 100.00 feet from P.R.M. R-35 and being N 62 deg. 18 min. 38.1 sec. W (GN) a distance of 86.55 feet from P.R.M. N.G.S. Pompano, 1928;

Thence S 2 deg. 39 min. 38.9 sec. W (GN) a distance of 1154.36 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 101.00 feet P.R.M. R-36;

Thence S 3 deg. 01 min. 19.8 sec. W (GN) a distance of 889.63 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 97.00 feet from P.R.M. R-37;

Thence S 0 deg. 48 min. 54.4 sec. W (GN) a distance of 941.06 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 110.00 feet from P.R.M. R-38;

Thence S 4 deg. 18 min. 24.0 sec. W (GN) a distance of 943.91 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 129.00 feet from P.R.M. R-39;

Thence S 8 deg. 59 min. 40.1 sec. W (GN) a distance of 1050.51 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 75.00 feet from P.R.M. R-40;

Thence S 8 deg. 41 min. 43.7 sec. W (GN) a distance of 890.21 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 107.00 feet from P.R.M. R-41;

Thence S 8 deg. 25 min. 56.3 sec. W (GN) a distance of 1015.81 feet to a point on the CCCL, said point being N 90 deg. 00 min. 00.0 sec. W (GN) a distance of 105.00 feet from P.R.M. T-42;

Thence S 10 deg. 42 min. 14.4 sec. W (GN) a distance of 1022.33 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 93.00 feet from P.R.M. R-43;

Thence S 10 deg. 53 min. 00.9 sec. W (GN) a distance of 826.07 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 95.00 feet from P.R.M. R-44;

Thence S 10 deg. 49 min. 01.2 sec. W (GN) a distance of 1174.75 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 75.00 feet from P.R.M. R-45;

Thence S 7 deg. 04 min. 24.2 sec. W (GN) a distance of 903.45 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 161.00 feet from P.R.M. R-46;

Thence S 9 deg. 00 min. 05.0 sec. W (GN) a distance of 677.55 feet to a point on the CCCL, said point being N 90 deg. 00 min. 00.0 sec. W (GN) a distance of 100.00 feet from P.R.M. R-47;

Thence S 6 deg. 48 min. 43.2 sec. W (GN) a distance of 1269.62 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 100.00 feet from P.R.M. R-48;

Thence S 6 deg. 23 min. 28.8 sec. W (GN) a distance of 1143.98 feet to a point on the CCCL, said point being N 90 deg. 00 min. 00.0 sec. W (GN) a distance of 128.00 feet from P.R.M. R-49;

Thence S 3 deg. 45 min. 42.5 sec. W (GN) a distance of 1113.03 feet to a point on the CCCL, said point being N 85 deg.

00 min. 00.0 sec. W (GN) a distance of 180.00 feet from P.R.M. R-50;

Thence S 4 deg. 53 min. 48.8 sec. W (GN) a distance of 872.12 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 197.00 feet from P.R.M. R-51;

Thence S 5 deg. 20 min. 59.8 sec. W (GN) a distance of 1071.89 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 122.00 feet from P.R.M. T-52;

Thence S 5 deg. 14 min. 49.2 sec. W (GN) a distance of 861.48 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 138.00 feet from P.R.M. R-53;

Thence S 5 Deg. 08 min. 30.9 sec. W (GN) a distance of 1071.01 feet to a point on the CCCL, said point being N 75 deg. 00 min. 00.0 sec. W (GN) a distance of 142.00 feet from P.R.M. R-54;

Thence S 7 deg. 48 min. 31.0 sec. W (GN) a distance of 1022.55 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 140.00 feet from P.R.M. R-55;

Thence S 9 deg. 33 min. 44.8 sec. W (GN) a distance of 958.26 feet to a point on the CCCL, said point being N 90 deg. 00 min. 00.0 sec. W (GN) a distance of 122.00 feet from P.R.M. R-56;

Thence S 7 deg. 17 min. 02.7 sec. W (GN) a distance of 989.83 feet to a point on the CCCL, said point being N 90 deg. 00 min. 00.0 sec. W (GN) a distance of 122.00 feet from P.R.M. R-57;

Thence S 5 deg. 31 min. 20.7 sec. W (GN) a distance of 1127.31 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 130.00 feet from P.R.M. R-58;

Thence S 5 deg. 48 min. 29.8 sec. W (GN) a distance of 876.27 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec W (GN) a distance of 145.00 feet from P.R.M. R-59;

Thence S 8 deg. 01 min. 49.3 sec. W (GN) a distance of 984.00 feet to a point on the CCCL, said point being N 75 deg. 00 min. 00.0 sec. W (GN) a distance of 161.00 feet from P.R.M. R-60;

Thence S 8 deg. 05 min. 52.3 sec. W (GN) a distance of 1020.01 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 115.00 feet from P.R.M. R-61;

Thence S 8 deg. 16 min 52.6 sec. W (GN) a distance of 1036.17 feet to a point on the CCCL, said point being N 75 deg. 00 min. 00.0 sec. W (GN) a distance of 20.00 feet from P.R.M. R-62;

Thence S 8 deg. 19 min. 21.8 sec. W (GN) a distance of 786.93 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 119.00 feet from P.R.M. T-63;

Thence S 8 deg. 32 min. 47.6 sec. W (GN) a distance of 1221.54 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 150.00 feet from P.R.M. R-64;

Thence S 13 Deg. 25 Min. 04.6 sec. W (GN) a distance of 953.79 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 162.00 feet from P.R.M. T-65;

Thence S 3 deg. 08 min. 34.2 sec. W (GN) a distance of 996.16 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 87.00 feet from P.R.M. R-66;

Thence S 9 deg. 34 min. 05.7 sec. W (GN) a distance of 991.43 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 167.00 feet from P.R.M. R-67;

Thence S 9 deg. 14 min. 26.3 sec. W (GN) a distance of 1083.37 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 88.00 feet from P.R.M. T-68;

Thence S 5 deg. 12 min. 40.8 sec. W (GN) a distance of 982.41 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 90.00 feet from P.R.M. T-69;

Thence S 5 deg. 00 min 10.9 sec. W (GN) a distance of 905.12 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 120.00 feet from P.R.M. R-70;

Thence S 2 deg. 56 min. 45.8 sec. W (GN) a distance of 1147.02 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 106.00 feet from P.R.M. R-71;

Thence S 2 deg. 34 min. 11.7 sec. W (GN) a distance of 914.17 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 152.00 feet from P.R.M. R-72;

Thence S 1 deg. 14 min. 53.0 sec. W (GN) a distance of 1149.02 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 145.00 feet from P.R.M. R-73;

Thence S 2 deg. 02 min. 45.9 sec. W (GN) a distance of 878.39 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 106.00 feet from P.R.M. R-74.

Thence S 7 deg. 34 min. 05.6 sec. W (GN) a distance of 1106.30 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec W (GN) a distance of 136.00 feet from P.R.M. R-75.

Thence S 6 deg. 07 min. 26.5 sec. W (GN) a distance of 970.51 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 168.00 feet from P.R.M. R-76;

Thence S 2 deg. 37 min. 58.3 sec. W (GN) a distance of 1183.22 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 165.00 feet from P.R.M. R-77;

Thence S 1 deg. 44 min. 06.4 sec. W (GN) a distance of 1026.88 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 129.00 feet from P.R.M. R-78;

Thence S 3 deg. 18 min. 00.9 sec. W (GN) a distance of 1073.83 feet to a point on the CCCL, said point being P.R.M. R-79;

Thence S 4 deg. 24 min. 44.2 sec. W (GN) a distance of 1095.20 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec W (GN) a distance of 128.00 feet from P.R.M. R-80;

Thence S 4 deg. 08 min. 40.4 sec. W (GN) a distance of 1096.23 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 118.00 feet from P.R.M. R-81;

Thence S 4 deg. 47 min. 42.8 sec. W (GN) a distance of 1056.98 feet to a point on the CCCL, said point being N 90 deg. 00 min. 00.0 sec. W (GN) a distance of 165.00 feet from P.R.M. R-82;

Thence S 4 deg. 24 min. 21.2 sec W (GN) a distance of 1022.16 feet to a point on the CCCL, said point being N 90 deg. 00 min. 00.0 sec. W (GN) a distance of 133.00 feet from P.R.M. R-83;

Thence S 0 deg. 36 min. 18.3 sec. W (GN) a distance of 889.83 feet to a point on the CCCL, said point being N 90 deg. 00 min. 00.0 sec. W (GN) a distance of 203.00 feet from P.R.M. R-84;

Thence S 6 deg. 45 min. 00.0 sec. W (GN) a distance to the Mean High Water Line of Port Everglades.

Recommence at P.R.M. R-86, said P.R.M. R-86 being S 23 deg. 33 min. 48.1 sec. W (GN) a distance of 1954.55 feet from P.R.M. R-84 and being S 5 deg. 25 min. 52.0 sec. W (GN) a distance of 164.00 feet from P.R.M. N.G.S. U. S. N. North Range; Thence N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 402.00 feet to a point on the CCCL;

Thence N 13 deg. 46 min. 36.3 sec. E (GN) to the Mean high Water Line of Port Everglades; thence return along the same course to said point on the CCCL;

Thence S 13 deg. 46 min. 36.3 sec W (GN) a distance of 928.92 feet to a point on the CCCL, said point being N 75 deg. 00 min. 00.0 sec. W (GN) a distance of 248.00 feet from P.R.M. T-87;

Thence S 2 deg. 58 min. 12.9 sec. W (GN) a distance of 1007.33 feet to a point on the CCCL, said point being P.R.M. T-88;

Thence S 1 deg. 48 min. 21.9 sec. E (GN) a distance of 1043.06 feet to a point on the CCCL, said point being P.R.M. T-89;

Thence S 1 deg. 43 min. 06.7 sec. W (GN) a distance of 977.08 feet to a point on the CCCL, said point being P.R.M. T-90;

Thence S 1 deg. 31 min. 08.1 sec. W (GN) a distance of 1017.93 feet to a point on the CCCL, said point being N 85 deg. 00 min 00.0 sec. W (GN) a distance of 53.00 feet from P.R.M. T-91;

Thence S 5 deg. 38 min. 50.5 sec W (GN) a distance of 1034.03 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 118.00 feet from P.R.M. R-92;

Thence S 5 deg. 28 min. 17.4 sec. W (GN) a distance of 1041.51 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 105.00 feet from P.R.M. R-93;

Thence S 7 deg. 38 min. 42.2 sec. W (GN) a distance of 968.47 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 153.00 feet from P.R.M. R-94;

Thence S 3 deg. 00 min. 53.8 sec. W (GN) a distance of 955.63 feet to a point on the CCCL, said point being N 85 deg 00 min. 00.0 sec. W (GN) a distance of 116.00 feet from P.R.M. R-95;

Thence S 4 deg. 03 min. 21.7 sec. W (GN) a distance of 986.95 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 160.00 feet from P.R.M. R-96;

Thence S 4 deg. 51 min. 27.5 sec. W (GN) a distance of 953.13 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 90.00 feet from P.R.M. T-97;

Thence S 0 deg. 22 min. 16.7 sec. E (GN) a distance of 1074.04 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 108.00 feet from P.R.M. T-98;

Thence S 3 deg. 51 min. 07.3 sec. W (GN) a distance of 931.75 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 218.00 feet from P.R.M. R-99;

Thence S 6 deg. 19 min. 32.2 sec. W (GN) a distance of 990.27 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 255.00 feet from P.R.M. R-100;

Thence S 4 deg. 33 min. 00.8 sec. W (GN) a distance of 1149.05 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 235.00 feet from P.R.M. T-101 and being S 13 deg. 21 min. 20.5 sec. W (GN) a distance of 485.85 feet from P.R.M. N.G.S. Dania 2,1934;

Thence S 6 deg. 00 min. 35.4 sec. W (GN) a distance of 1008.88 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 182.00 feet from P.R.M. T-102;

Thence S 6 deg. 22 min. 10.9 sec. W (GN) a distance of 1023.55 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 165.00 feet from P.R.M. R-103;

Thence S 2 deg. 41 min. 20.1 sec. W (GN) a distance of 1033.29 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 118.00 feet from P.R.M. R-104;

Thence S 3 deg. 55 min. 34.2 sec. W (GN) a distance of 992.13 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 102.00 feet from P.R.M. R-105;

Thence S 4 deg. 10 min. 57.7 sec. W (GN) a distance of 988.16 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 143.00 feet from P.R.M. R-106;

Thence S 4 deg. 02 min. 04.8 sec. W (GN) a distance of 968.48 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 131.00 feet from P.R.M. R-107;

Thence S 0 deg. 09 min. 21.9 sec. E (GN) a distance of 1036.69 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 95.00 feet from P.R.M. R-108;

Thence S 3 deg. 26 min. 22.5 sec. W (GN) a distance of 1040.87 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 93.00 feet from P.R.M. R-109;

Thence S 3 deg. 27 min. 48.7 sec. W (GN) a distance of 1068.63 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 93.00 feet from P.R.M. R-110;

Thence S 2 deg. 47 min. 57.4 sec. W (GN) a distance of 995.00 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 93.00 feet from P.R.M. T-111;

Thence S 2 deg. 39 min. 15.6 sec. W (GN) a distance of 1028.85 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 91.00 feet from P.R.M. T-112;

Thence S 3 deg. 18 min. 26.3 sec. W (GN) a distance of 927.11 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 122.00 feet from P.R.M. R-113;

Thence S 3 deg. 25 min. 29.5 sec. W (GN) a distance of 975.46 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 108.00 feet from P.R.M. T-114;

Thence S 3 deg. 29 min. 20.7 sec. W (GN) a distance of 1057.77 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 51.00 feet from P.R.M. T-115;

Thence S 2 deg. 57 min. 18.5 sec. W (GN) a distance of 1009.92 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 115.00 feet from P.R.M. R-116;

Thence S 2 deg. 54 min. 14.8 sec. W (GN) a distance of 993.27 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 80.00 feet from P.R.M. R-117;

Thence S 3 deg. 17 min. 26.2 sec. W (GN) a distance of 1081.97 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 52.00 feet from P.R.M. T-118;

Thence S 2 deg. 43 min. 03.0 sec. W (GN) a distance of 1000.67 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 130.00 feet from P.R.M. R-119;

Thence S 3 deg. 13 min. 28.6 sec. W (GN) a distance of 1103.21 feet to a point on the CCCL, said point being N 80 deg. 00 min. 00.0 sec. W (GN) a distance of 118.00 feet from P.R.M. R-120;

Thence S 3 deg. 10 min. 02.0 sec. W (GN) a distance of 1098.69 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 145.00 feet from P.R.M. R-121;

Thence S 3 deg. 34 min. 05.1 sec. W (GN) a distance of 1002.40 feet to a point on the CCCL, said point being N 86 deg. 00 min. 00.0 sec. W (GN) a distance of 145.00 feet from P.R.M. R-122;

Thence S 4 deg. 28 min. 55.5 sec. W (GN) a distance of 1019.13 feet to a point on the CCCL, said point being N 86 deg. 00 min. 00.0 sec. W (GN) a distance of 145.00 feet from P.R.M. R-123;

Thence S 9 deg. 00 min. 48.2 sec. W (GN) a distance of 1119.57 feet to a point on the CCCL, said point being N 90 deg. 00 min. 00.0 sec. W (GN) a distance of 100.00 feet from P.R.M. R-124 and being S 7 deg. 22 min. 52.0 sec. W (GN) a distance of 232.84 feet from P.R.M. N.G.S. Halland, 1928;

Thence S 5 deg. 36 min. 32.2 sec. W (GN) a distance of 1075.78 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 23.00 feet from P.R.M. R-125;

Thence S 1 deg. 17 min. 00.9 sec. E (GN) a distance of 1001.83 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 132.00 feet from P.R.M. T-126;

Thence S 2 deg. 21 min. 22.9 sec. W (GN) a distance of 1026.46 feet to a point on the CCCL, said point being N 90 deg. 00 min. 00.0 sec. W (GN) a distance of 94.00 feet from P.R.M. R-127;

Thence S 3 deg. 10 min. 54.4 sec. W (GN) a distance of 923.85 feet to a point on the CCCL, said point being N 85 deg. 00 min. 00.0 sec. W (GN) a distance of 114.00 feet from P.R.M. R-128;

Thence S 3 deg. 10 min. 54.4 sec. W (GN) to the Broward and Dade County line for the point of terminus.

16B-26.14 Description of the Franklin County Coastal Construction Control Line.

(1) There is hereby established, pursuant to Section 161.053, Florida Statutes, the Franklin County Coastal Construction Control Line. The legal description of said line is attached hereto.

(2) This rule shall take effect 20 days after filing with the Florida Department of State or on the date that it is duly recorded in the public records in the office of the Clerk of the Circuit Court, in and for Franklin County, Florida, together with each affected municipality, whichever is later.

(3) After this rule becomes effective, a permit to alter, excavate or construct on property seaward of the established control line is required from the Department of Natural Resources.

Specific Authority 370.021(1) FS. Law Implemented 161.053 FS. History—New 4-30-84.

METES AND BOUNDS DESCRIPTION FOR THE COASTAL CONSTRUCTION CONTROL LINE FRANKLIN COUNTY, FLORIDA

Description of the coastal construction control line is established in compliance with Section 161.053, Florida Statutes, said control line lying along the Gulf of Mexico coast from the mean high water line of the southeasterly bank of West Pass, easterly to the mean high water line of the southerly bank of Ochlockonee Bay.

Said coastal construction control line is related to a series of "Permanent Reference Monuments" (P. R. M.) designated and hereinafter referred to as "49-80-A01 through 49-80-A17", "49-80-B01 through 49-80-B34", "49-80-C01 through 49-80-C16" and "49-80-D01 through 49-80-D21" for monuments established by the Department of Natural Resources, State of Florida, or referenced to by station name for monuments established by the National Geodetic Survey (N. G. S.) or by the U. S. Corps of Engineers (U. S. C. E.).

METES AND BOUNDS DESCRIPTION OF THE COASTAL CONSTRUCTION CONTROL LINE FOR SAINT GEORGE ISLAND, FRANKLIN COUNTY, FLORIDA

Commence at P. R. M. 49-80-A01 thence S 22 deg. 55 min. 04 sec. E (all bearings in this description are grid) a distance of 211.502 feet to the point of beginning; Thence N 33 deg. 12 min. 30 sec. W to the point of intersection with the mean high water line of the southeasterly bank of West Pass, said point being the northwesterly terminus of the coastal construction control line for Saint George Island; Thence return along the same course to the point of beginning.

Thence S 33 deg. 12 min. 30 sec. E a distance of 910.37 feet to a point; said point being S 58 deg. 48 min. 36 sec. E a distance of 204.716 feet from P. R. M. 49-80-A02.

Thence S 44 deg. 08 min. 15 sec. E a distance of 1012.98 feet to a point; Thence S 59 deg. 58 min. 48 sec. E a distance of 925.84 feet to a point; Thence S 61 deg. 26 min. 40 sec. E a distance of 1087.15 feet to a point; said point being N 05 deg. 04 min. 09 sec. E a distance of 131.461 feet from P. R. M. 49-80-A03.

Thence S 61 deg. 08 min. 20 sec. E a distance of 952.31 feet to a point; Thence S 55 deg. 55 min. 38 sec. E a distance of 1065.66 feet to a point; Thence S 57 deg. 08 min. 50 sec. E a distance of 1037.34 feet to a point; Thence S 53 deg. 17 min. 57 sec. E a distance of 934.80 feet to a point; Thence S 52 deg. 27 min. 15 sec. E a distance of 1038.09 feet to a point; said point being N 45 deg. 14 min. 22 sec. W a distance of 94.267 feet from P. R. M. 49-80-A04.

Thence S 51 deg. 29 min. 58 sec. E a distance of 1084.66 feet to a point; Thence S 48 deg. 34 min. 17 sec. E a distance of 982.77 feet to a point; Thence S 50 deg. 12 min. 15 sec. E a distance of 964.70 feet to a point; said point being N 47 deg. 51 min. 46 sec. E a distance of 117.926 feet from P. R. M. 49-80-A05.

Thence S 45 deg. 15 min. 21 sec. E a distance of 1105.32 feet to a point; Thence S 41 deg. 29 min. 24 sec. E a distance of 990.46 feet to a point; Thence S 42 deg. 56 min. 07 sec. E a distance of 1013.81 feet to a point; Thence S 39 deg. 43 min. 26 sec. E a distance of 975.59 feet to a point; said point being N 17 deg. 00 min. 17 sec. W a distance of 585.175 feet from P. R. M. 49-80-A06.

Thence S 42 deg. 44 min. 12 sec. E a distance of 1008.69 feet to a point; said point being S 01 deg. 08 min. 46 sec. E a distance of 435.873 feet from P. R. M. 49-80-A07.

Thence S 42 deg. 40 min. 54 sec. E a distance of 1025.86 feet to a point; said point being N 85 deg. 06 min. 15 sec. W a distance of 301.596 feet from P. R. M. 49-80-A08.

Thence S 42 deg. 58 min. 20 sec. E a distance of 1145.80 feet to a point; said point being N 54 deg. 30 min. 10 sec. W a distance of 131.314 feet from P. R. M. 12 sec. E a distance of 1063.34 feet to a point; said point 49-80-A09.

Thence S 29 deg. 29 min. 52 sec. E a distance of 682.32 feet to a point; Thence S 56 deg. 21 min. 16 sec. E a distance of 458.39 feet to a point; Thence N 76 deg. 56 min. 40 sec. E a distance of 978.57 feet to a point; Thence N 73 deg. 51 min. 31 sec. E a distance of 964.75 feet to a point; Thence N 74 deg. 24 min. 15 sec. E a distance of 987.24 feet to a point; said point being N 52 deg. 35 min. 35 sec. W a distance of 283.208 feet from P. R. M. 49-80-A10.

Thence N 73 deg. 27 min. 29 sec. E a distance of 1040.30 feet to a point; Thence N 73 deg. 27 min. 52 sec. E a distance of 1012.75 feet to a point; Thence N 73 deg. 27 min. 54 sec. E a distance of 1043.41 feet to a point; said point being N 80 deg. 41 min. 15 sec. W a distance of 377.450 feet from P. R. M. 49-80-A11.

Thence N 69 deg. 33 min. 27 sec. E a distance of 1001.60 feet to a point; Thence N 68 deg. 41 min. 19 sec. E a distance of 1025.00 feet to a point; Thence N 72 deg. 27 min. 02 sec. E a distance of 1024.12 feet to a point; said point being N 42 deg. 55 min. 28 sec. W a distance of 242.494 feet from P. R. M. 49-80-A12.

Thence N 72 deg. 27 min. 19 sec. E a distance of 998.59 feet to a point; Thence N 73 deg. 11 min. 57 sec. E a distance of 998.81 feet to a point; Thence N 71 deg. 27 min. 12 sec. E a distance of 1063.34 feet to a point; said point being N 36 deg. 57 min. 11 sec. W a distance of 215.613 feet from P. R. M. 49-80-A13.

Thence N 72 deg. 26 min. 08 sec. E a distance of 992.97 feet to a point; Thence N 70 deg. 29 min. 33 sec. E a distance of 982.29 feet to a point; Thence N 70 deg. 49 min. 05 sec. E a distance of 1071.50 feet to a point; Thence N 77 deg. 06 min. 24 sec. E a distance of 849.14 feet to a point; said point being N 10 deg. 13 min. 02 sec. W a distance of 301.811 feet from P. R. M. 49-80-A14.

Thence N 69 deg. 17 min. 54 sec. E a distance of 1149.69 feet to a point; Thence N 70 deg. 10 min. 47 sec. E a distance of 957.63 feet to a point; Thence N 70 deg. 59 min. 43 sec. E a distance of 973.19 feet to a point; said point being N 24 deg. 04 min. 41 sec. W a distance of 142.355 feet from P. R. M. 49-80-A15.

Thence N 70 deg. 42 min. 34 sec. E a distance of 1096.24 feet to a point; Thence N 68 deg. 40 min. 00 sec. E a distance of 1008.98 feet to a point; Thence N 69 deg. 00 min. 58 sec. E a distance of 1009.50 feet to a point; Thence N 76 deg. 09 min. 16 sec. E a distance of 1008.42 feet to a point; Thence N 69 deg. 19 min. 14 sec. E a distance of 1021.63 feet to a point; said point being N 34 deg. 37 min. 57 sec. E a distance of 503.012 feet from P. R. M. 49-80-A16.

Thence N 68 deg. 51 min. 57 sec. E a

distance of 1021.34 feet to a point; Thence N 66 deg. 52 min. 29 sec. E a distance of 1030.18 feet to a point; Thence N 65 deg. 49 min. 40 sec. E a distance of 994.33 feet to a point; Thence N 67 deg. 02 min. 22 sec. E a distance of 1029.80 feet to a point; Thence N 64 deg. 51 min. 33 sec. E a distance of 770.08 feet to a point; said point being N 08 deg. 19 min. 46 sec. E a distance of 343.256 feet from P. R. M. 49-80-A17.

Thence N 64 deg. 51 min. 33 sec. E to the point of intersection with the mean high water line of the southwesterly bank of Saint George Island Channel (Bob Sikes Pass); Thence return along the same course to a point on the coastal construction control line, said point being N 08 deg. 19 min. 46 sec. E a distance of 343.256 feet from P. R. M. 49-80-A17.

Recommence at P. R. M. 49-80-B01 thence N 43 deg. 23 min. 46 sec. W a distance of 179.718 feet to a point on the coastal construction control line; Thence S 61 deg. 50 min. 23 sec. W to the point of intersection with the mean high water line of the northeasterly bank of Saint George Island Channel (Bob Sikes Pass); Thence return along the same course to a point on the coastal construction control line, said point being N 43 deg. 23 min. 46 sec. W a distance of 179.718 feet from P. R. M. 49-80-B01.

Thence N 61 deg. 50 min. 23 sec. E a distance of 1076.98 feet to a point; Thence N 61 deg. 58 min. 39 sec. E a distance of 1095.43 feet to a point; Thence N 62 deg. 00 min. 23 sec. E a distance of 1113.25 feet to a point; said point being N 69 deg. 34 min. 16 sec. W a distance of 346.572 feet from P. R. M. 49-80-B02.

Thence N 64 deg. 07 min. 33 sec. E a distance of 1115.30 feet to a point; Thence N 62 deg. 54 min. 49 sec. E a distance of 1077.70 feet to a point; Thence N 61 deg. 20 min. 09 sec. E a distance of 1101.49 feet to a point; Thence N 58 deg. 55 min. 45 sec. E a distance of 1162.27 feet to a point; said point being N 45 deg. 49 min. 52 sec. W a distance of 246.608 feet from P. R. M. 49-80-B03.

Thence N 59 deg. 19 min. 00 sec. E a distance of 1061.62 feet to a point; Thence N 57 deg. 21 min. 57 sec. E a distance of 1061.00 feet to a point; Thence N 57 deg. 25 min. 08 sec. E a distance of 1151.75 feet to a point; Thence N 59 deg. 00 min. 29 sec. E a distance of 1045.79 feet to a point; said point being N 34 deg. 10 min. 25 sec. E a distance of 465.142 feet from P. R. M. 49-80-B04.

Thence N 59 deg. 45 min. 52 sec. E a distance of 1133.73 feet to a point; Thence N 58 deg. 32 min. 07 sec. E a distance of 1347.66 feet to a point; Thence N 57 deg. 38 min. 56 sec. E a distance of 850.51 feet to a point; Thence N 58 deg. 50 min. 32 sec. E a distance of 1138.77 feet to a point; said point being S 88 deg. 19 min. 40 sec. W a distance of 62.506 feet from P. R. M. 49-80-B05.

Thence N 59 deg. 12 min. 58 sec. E a distance of 1105.68 feet to a point; said point being N 34 deg. 10 min. 45 sec. W a distance of 110.274 feet from P. R. M. 49-80-B06.

Thence N 56 deg. 15 min. 46 sec. E a distance of 1042.11 feet to a point; Thence N 56 deg. 30 min. 33 sec. E a distance of 1149.32 feet to a point; Thence N 58 deg. 16 min. 03 sec. E a distance of 1120.49 feet to a point; said point being N 69 deg. 59 min. 23 sec. E a distance of 319.047 feet from P. R. M. 49-80-B07.

Thence N 58 deg. 16 min. 09 sec. E a distance of 984.68 feet to a point; Thence N 58 deg. 09 min. 50 sec. E a distance of 1237.11 feet to a point; said point being S 37 deg. 04 min. 08 sec. W a distance of 330.841 feet from P. R. M. 49-80-B08.

Thence N 59 deg. 23 min. 59 sec. E a distance of 935.82 feet to a point; Thence N 58 deg. 31 min. 06 sec. E a distance of 1132.15 feet to a point; said point being N 86 deg. 18 min. 38 sec. E a distance of 756.574 feet from P. R. M. 49-80-B09.

Thence N 59 deg. 03 min. 15 sec. E a distance of 1075.61 feet to a point; Thence N 59 deg. 30 min. 40 sec. E a distance of 992.77 feet to a point; said point being S 30 deg. 05 min. 25 sec. E a distance of 414.564 feet from P. R. M. 49-80-B10.

Thence N 62 deg. 06 min. 12 sec. E a distance of 992.31 feet to a point; Thence N 62 deg. 23 min. 42 sec. E a distance of 1138.06 feet to a point; said point being S 10 deg. 33 min. 36 sec. W a distance of 367.090 feet from P. R. M. 49-80-B11.

Thence N 63 deg. 51 min. 56 sec. E a distance of 1003.05 feet to a point; Thence N 63 deg. 35 min. 31 sec. E a distance of 1073.52 feet to a point; Thence N 63 deg. 11 min. 07 sec. E a distance of 1131.13 feet to a point; Thence N 63 deg. 42 min. 26 sec. E a distance of 1066.32 feet to a point; said point being S 60 deg. 51 min. 46 sec. E a distance of 369.122 feet from P. R. M. 49-80-B12.

Thence N 64 deg. 42 min. 53 sec. E a distance of 968.27 feet to a point; Thence N 65 deg. 22 min. 40 sec. E a distance of 1130.82 feet to a point; Thence N 67 deg. 33 min. 16 sec. E a distance of 1090.62 feet to a point; said point being S 31 deg. 16 min. 54 sec. E a distance of 224.083 feet from P. R. M. 49-80-B13.

Thence N 67 deg. 51 min. 17 sec. E a distance of 1022.63 feet to a point; Thence N 69 deg. 01 min. 38 sec. E a distance of 1040.68 feet to a point; Thence N 69 deg. 45 min. 51 sec. E a distance of 1067.95 feet to a point; said point being S 38 deg. 45 min. 35 sec. W a distance of 584.003 feet from P. R. M. 49-80-B14.

Thence N 70 deg. 46 min. 31 sec. E a distance of 1024.25 feet to a point; Thence N 71 deg. 13 min. 04 sec. E a distance of 1006.91 feet to a point; Thence N 72 deg. 07 min. 49 sec. E a distance of 1045.85 feet to a point; Thence N 72 deg. 28 min. 03 sec. E a distance of 978.28 feet to a point; said point being S 17 deg. 01 min. 10 sec. W a distance of 403.148 feet from P. R. M. 49-80-B15.

Thence N 72 deg. 23 min. 21 sec. E a distance of 1153.51 feet to a point; Thence N 74 deg. 00 min. 04 sec. E a distance of 1039.10 feet to a point; Thence N 76 deg. 56 min. 26 sec. E a distance of 1120.21 feet to a point; said point being S 42 deg. 07 min. 24 sec. E a distance of 382.147 feet from P. R. M. 49-80-B16.

Thence N 73 deg. 25 min. 08 sec. E a distance of 1052.41 feet to a point; Thence N 68 deg. 25 min. 37 sec. E a distance of 1127.80 feet to a point; said point being S 47 deg. 00 min. 43 sec. E a distance of 108.255 feet from P. R. M. 49-80-B17.

Thence N 70 deg. 22 min. 36 sec. E a distance of 1208.83 feet to a point; Thence N 70 deg. 25 min. 08 sec. E a distance of 1080.19 feet to a point; Thence N 69 deg. 31 min. 12 sec. E a distance of 1020.05 feet to a point; said point being S 39 deg. 50 min. 55 sec. W a distance of 534.349 feet from P. R. M. 49-80-B18.

Thence N 67 deg. 42 min. 49 sec. E a distance of 1077.07 feet to a point; Thence N 67 deg. 39 min. 03 sec. E a distance of 1013.20 feet to a point; Thence N 64 deg. 54 min. 22 sec. E a distance of 1032.67 feet to a point; Thence N 64 deg. 51 min. 26 sec. E a distance of 1010.62 feet to a point; said point being S 37 deg. 45 min. 58 sec. W a distance of 98.942 feet from P. R. M. 49-80-B19.

Thence N 63 deg. 31 min. 04 sec. E a distance of 1039.76 feet to a point; Thence N 59 deg. 24 min. 09 sec. E a distance of 917.16 feet to a point; Thence N 57 deg. 55 min. 30 sec. E a distance of 1187.21 feet to a point; Thence N 59 deg. 22 min. 13 sec. E a distance of 1012.83 feet to a point; said point being N 04 deg. 46 min. 03 sec. W a distance of 227.649 feet from P. R. M. 49-80-B20.

Thence N 60 deg. 09 min. 26 sec. E a distance of 1179.83 feet to a point; Thence N 60 deg. 43 min. 43 sec. E a distance of 1067.35 feet to a point; Thence N 60 deg. 48 min. 29 sec. E a distance of 1056.66 feet to a point; Thence N 59 deg. 35 min. 12 sec. E a distance of 1189.47 feet to a point; said point being S 88 deg. 46 min. 56 sec. W a distance of 463.297 feet from P. R. M. 49-80-B21.

Thence N 52 deg. 11 min. 12 sec. E a distance of 990.36 feet to a point; Thence N 51 deg. 15 min. 14 sec. E a distance of 1092.41 feet to a point; said point being S 84 deg. 56 min. 43 sec. W a distance of 429.310 feet from P. R. M. 49-80-B22.

Thence N 50 deg. 45 min. 36 sec. E a distance of 1007.51 feet to a point; Thence N 42 deg. 44 min. 26 sec. E a distance of 1071.64 feet to a point; Thence N 44 deg. 35 min. 07 sec. E a distance of 1051.51 feet to a point; said point being S 85 deg. 54 min. 23 sec. W a distance of 327.298 feet from P. R. M. 49-80-B23.

Thence N 44 deg. 31 min. 52 sec. E a distance of 1103.67 feet to a point; Thence N 44 deg. 40 min. 31 sec. E a distance of 1004.04 feet to a point; Thence N 44 deg. 25 min. 20 sec. E a distance of 1013.96 feet to a point; said point being N 09 deg. 55 min. 29 sec. W a distance of 394.860 feet from P. R. M. 49-80-B24.

Thence N 44 deg. 34 min. 17 sec. E a distance of 1100.81 feet to a point; Thence N 44 deg. 29 min. 58 sec. E a distance of 1026.50 feet to a point; said point being N 43 deg. 11 min. 06 sec. W a distance of 334.506 feet from P. R. M. 49-80-B25.

Thence N 46 deg. 06 min. 40 sec. E a distance of 1021.72 feet to a point; Thence N 46 deg. 18 min. 38 sec. E a distance of 1027.73 feet to a point; Thence N 46 deg. 32 min. 44 sec. E a distance of 1012.80 feet to a point; Thence N 46 deg. 26 min. 33 sec. E a distance of 1054.55 feet to a point; Thence N 46 deg. 11 min. 03 sec. E a distance of 1038.40 feet to a point; said point being N 23 deg. 10 min. 12 sec. E a distance of 609.897 feet from P. R. M. 49-80-B26.

Thence N 46 deg. 13 min. 47 sec. E a distance of 1037.03 feet to a point; Thence N 46 deg. 12 min. 26 sec. E a distance of 1234.04 feet to a point; Thence N 46 deg. 25 min. 40 sec. E a distance of 860.28 feet to a point; said point being N 04 deg. 46 min. 09 sec. E a distance of 531.017 feet from P. R. M. 49-80-B27.

Thence N 46 deg. 12 min. 21 sec. E a distance of 1060.30 feet to a point; Thence N 46 deg. 43 min. 13 sec. E a distance of 1011.36 feet to a point; said point being N 22

deg. 34 min. 09 sec. W a distance of 495.339 feet from P. R. M. 49-80-B28.

Thence N 46 deg. 22 min. 05 sec. E a distance of 998.81 feet to a point; Thence N 46 deg. 28 min. 06 sec. E a distance of 1037.55 feet to a point; said point being N 55 deg. 30 min. 57 sec. W a distance of 349.368 feet from P. R. M. 49-80-B29.

Thence N 42 deg. 50 min. 53 sec. E a distance of 1007.58 feet to a point; Thence N 41 deg. 58 min. 41 sec. E a distance of 997.87 feet to a point; Thence N 41 deg. 56 min. 31 sec. E a distance of 1014.97 feet to a point; said point being N 30 deg. 11 min. 08 sec. W a distance of 318.187 feet from P. R. M. 49-80-B30.

Thence N 42 deg. 20 min. 48 sec. E a distance of 1069.03 feet to a point; Thence N 42 deg. 18 min. 06 sec. E a distance of 1033.07 feet to a point; said point being N 11 deg. 42 min. 23 sec. E a distance of 445.460 feet from P. R. M. 49-80-B31.

Thence N 37 deg. 46 min. 41 sec. E a distance of 987.10 feet to a point; Thence N 38 deg. 57 min. 59 sec. E a distance of 1060.33 feet to a point; Thence N 45 deg. 21 min. 28 sec. E a distance of 1010.92 feet to a point; said point being N 08 deg. 36 min. 41 sec. E a distance of 534.836 feet from P. R. M. 49-80-B32.

Thence N 45 deg. 37 min. 31 sec. E a distance of 1018.99 feet to a point; Thence N 45 deg. 23 min. 12 sec. E a distance of 1031.24 feet to a point; said point being N 26 deg. 08 min. 33 sec. W a distance of 384.675 feet from P. R. M. 49-80-B33.

Thence N 43 deg. 10 min. 56 sec. E a distance of 970.37 feet to a point; Thence N 27 deg. 47 min. 54 sec. E a distance of 987.28 feet to a point; Thence N 13 deg. 38 min. 35 sec. W a distance of 805.32 feet to a point; Thence N 13 deg. 27 min. 37 sec. W a distance of 388.28 feet to a point; said point being S 66 deg. 56 min. 12 sec. W a distance of 309.414 feet from P. R. M. 49-80-B34.

Thence N 13 deg. 27 min. 37 sec. W to the point of intersection with the mean high water line of the south bank of Saint George Sound, said point being the northeasterly terminus of the coastal construction control line for Saint George Island.

METES AND BOUNDS DESCRIPTION OF THE COASTAL CONSTRUCTION CONTROL LINE FOR DOG ISLAND, FRANKLIN COUNTY, FLORIDA

Commence at P. R. M. 49-80-C01 thence N 80 deg. 59 min. 30 sec. E (all bearings in this description are grid) a distance of 228.119 feet to the point of beginning; Thence N 32 deg. 11 min. 31 sec. E to the point of intersection with the mean high water line of the southeasterly bank of East Pass, said point being the northwesterly terminus of the coastal construction control line for Dog Island; Thence return along the same course to the point of beginning.

Thence S 00 deg. 09 min. 34 sec. W a distance of 493.36 feet to a point; Thence S 31 deg. 10 min. 25 sec. E a distance of 652.52 feet to a point; Thence S 62 deg. 03 min. 08 sec. E a distance of 1022.50 feet to a point; Thence S 74 deg. 16 min. 49 sec. E a distance of 475.84 feet to a point; said point being S 76 deg. 45 min. 55 sec. W a distance of 216.573 feet from P. R. M. 49-80-C02.

Thence N 84 deg. 20 min. 41 sec. E a distance of 1181.39 feet to a point; Thence N 80 deg. 04 min. 04 sec. E a distance of 924.03 feet to a point; Thence N 81 deg. 48 min. 01 sec. E a distance of 977.17 feet to a point; Thence N 76 deg. 44 min. 14 sec. E a distance of 980.15 feet to a point; said point being N 60 deg. 24 min. 05 sec. E a distance of 162.611 feet from P. R. M. 49-80-C03.

Thence N 75 deg. 08 min. 30 sec. E a distance of 982.11 feet to a point; Thence N 68 deg. 36 min. 32 sec. E a distance of 998.21 feet to a point; Thence N 62 deg. 07 min. 20 sec. E a distance of 984.21 feet to a point; said point being N 11 deg. 11 min. 56 sec. E a distance of 272.330 feet from P. R. M. 49-80-C04.

Thence N 72 deg. 52 min. 05 sec. E a distance of 1007.33 feet to a point; Thence N 74 deg. 17 min. 48 sec. E a distance of 996.24 feet to a point; Thence N 74 deg. 00 min. 38 sec. E a distance of 992.51 feet to a point; said point being N 09 deg. 39 min. 32 sec. E a distance of 355.230 feet from P. R. M. 49-80-C05.

Thence N 73 deg. 12 min. 04 sec. E a distance of 928.85 feet to a point; Thence N 82 deg. 50 min. 24 sec. E a distance of 1029.82 feet to a point; Thence N 73 deg. 45 min. 47 sec. E a distance of 935.94 feet to a point; Thence N 64 deg. 45 min. 52 sec. E a distance of 1010.16 feet to a point; said point being S 74 deg. 56 min. 25 sec. W a distance of 524.912 feet from P. R. M. 49-80-C06.

Thence N 64 deg. 32 min. 34 sec. E a distance of 947.92 feet to a point; Thence N 68 deg. 54 min. 12 sec. E a distance of 934.91 feet to a point; said point being N 55 deg. 59 min. 18 sec. W a distance of 226.050 feet from P. R. M. 49-80-C07.

Thence N 63 deg. 25 min. 13 sec. E a

distance of 963.17 feet to a point; Thence N 64 deg. 01 min. 08 sec. E a distance of 1096.45 feet to a point; said point being S 80 deg. 04 min. 57 sec. W a distance of 455.520 feet from P. R. M. 49-80-C08.

Thence N 62 deg. 31 min. 02 sec. E a distance of 966.56 feet to a point; Thence N 62 deg. 16 min. 43 sec. E a distance of 944.81 feet to a point; said point being S 71 deg. 45 min. 42 sec. W a distance of 398.607 feet from P. R. M. 49-80-C09.

Thence N 64 deg. 17 min. 00 sec. E a distance of 973.68 feet to a point; Thence N 66 deg. 48 min. 38 sec. E a distance of 1034.31 feet to a point; said point being N 88 deg. 12 min. 22 sec. E a distance of 612.215 feet from P. R. M. 49-80-C10.

Thence N 68 deg. 34 min. 29 sec. E a distance of 983.51 feet to a point; Thence N 68 deg. 47 min. 51 sec. E a distance of 997.35 feet to a point; said point being S 36 deg. 51 min. 42 sec. E a distance of 262.550 feet from P. R. M. 49-80-C11.

Thence N 62 deg. 26 min. 22 sec. E a distance of 964.74 feet to a point; Thence N 62 deg. 29 min. 48 sec. E a distance of 950.91 feet to a point; Thence N 62 deg. 53 min. 28 sec. E a distance of 987.94 feet to a point; said point being S 80 deg. 23 min. 33 sec. E a distance of 410.145 feet from P. R. M. 49-80-C12.

Thence N 60 deg. 25 min. 25 sec. E a distance of 933.35 feet to a point; Thence N 62 deg. 36 min. 43 sec. E a distance of 1041.24 feet to a point; said point being N 40 deg. 37 min. 51 sec. W a distance of 210.443 feet from P. R. M. 49-80-C13.

Thence N 62 deg. 57 min. 37 sec. E a distance of 907.05 feet to a point; Thence N 35 deg. 08 min. 14 sec. E a distance of 786.52 feet to a point; Thence N 34 deg. 16 min. 24 sec. E a distance of 913.68 feet to a point; said point being N 01 deg. 11 min. 36 sec. W a distance of 578.396 feet from P. R. M. 49-80-C14.

Thence N 28 deg. 45 min. 59 sec. E a distance of 911.88 feet to a point; Thence N 21 deg. 02 min. 34 sec. E a distance of 953.79 feet to a point; Thence N 13 deg. 06 min. 57 sec. E a distance of 916.74 feet to a point; said point being N 02 deg. 39 min. 30 sec. W a distance of 424.237 feet from P. R. M. 49-80-C15.

Thence N 02 deg. 20 min. 29 sec. E a distance of 802.90 feet to a point; Thence N 03 deg. 25 min. 45 sec. W a distance of 1006.80 feet to a point; said point being N 39 deg. 57 min. 58 sec. W a distance of 333.462 feet from P. R. M. 49-80-C16.

Thence N 10 deg. 19 min. 00 sec. W a distance of 751.30 feet to a point; Thence N 10 deg. 15 min. 01 sec. W to the point of intersection with the mean high water line of the south bank of Saint George Sound, said point being the northeasterly terminus of the coastal construction control line for Dog Island.

METES AND BOUNDS DESCRIPTION OF THE COASTAL CONSTRUCTION CONTROL LINE FOR ALLIGATOR POINT, FRANKLIN COUNTY, FLORIDA

Commence at P. R. M. 49-80-D01 thence N 61 deg. 11 min. 24 sec. W (all bearings in this description are grid) a distance of 321.812 feet to the point of beginning; Thence N 49 deg. 05 min. 26 sec. W a distance of 940.01 feet to a point; Thence N 63 deg. 14 min. 41 sec. W a distance of 1248.46 feet to a point.

Thence N 80 deg. 27 min. 52 sec. W a distance of 1349.73 feet to a point; Thence N 43 deg. 50 min. 58 sec. W to the point of intersection with the mean high water line of the south bank of Alligator Harbor, said point being the northwesterly terminus of the coastal construction control line for Alligator Point.

Recommence at P. R. M. 49-80-D01 thence N 61 deg. 11 min. 24 sec. W a distance of 321.812 feet to the point of beginning; Thence S 80 deg. 40 min. 20 sec. E a distance of 1069.25 feet to a point; Thence S 86 deg. 13 min. 10 sec. E a distance of 1085.25 feet to a point; said point being N 82 deg. 16 min. 42 sec. E a distance of 655.148 feet from P. R. M. 49-80-D02.

Thence S 86 deg. 30 min. 17 sec. E a distance of 945.20 feet to a point; Thence S 88 deg. 01 min. 31 sec. E a distance of 1001.27 feet to a point; Thence S 76 deg. 05 min. 33 sec. E a distance of 904.85 feet to a point; said point being S 75 deg. 43 min. 29 sec. E a distance of 505.923 feet from P. R. M. 49-80-D03.

Thence S 68 deg. 19 min. 42 sec. E a distance of 1062.99 feet to a point; said point being N 52 deg. 04 min. 02 sec. W a distance of 92.053 feet from P. R. M. 49-80-D04.

Thence S 76 deg. 04 min. 11 sec. E a distance of 938.34 feet to a point; said point being N 83 deg. 10 min. 49 sec. W a distance of 458.207 feet from P. R. M. 49-80-D05.

Thence S 65 deg. 39 min. 57 sec. E a distance of 1042.64 feet to a point; said point being N 68 deg. 17 min. 52 sec. W a distance of 90.524 feet from P. R. M. 49-80-D06.

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Thence S 66 deg. 17 min. 44 sec. E a distance of 1011.15 feet to a point; Thence S 70 deg. 54 min. 36 sec. E a distance of 1050.31 feet to a point; Thence S 75 deg. 27 min. 43 sec. E a distance of 988.30 feet to a point; Thence S 70 deg. 40 min. 45 sec. E a distance of 917.64 feet to a point; Thence S 68 deg. 07 min. 43 sec. E a distance of 1137.07 feet to a point; said point being S 54 deg. 52 min. 35 sec. E a distance of 359.692 feet from P. R. M. 49-80-D07.

Thence S 68 deg. 10 min. 35 sec. E a distance of 829.35 feet to a point; said point being S 50 deg. 51 min. 21 sec. W a distance of 597.483 feet from P. R. M. 49-80-D08.

Thence N 88 deg. 06 min. 01 sec. E a distance of 1238.99 feet to a point; said point being N 74 deg. 05 min. 26 sec. W a distance of 776.203 feet from P. R. M. 49-80-D09.

Thence N 79 deg. 35 min. 13 sec. E a distance of 847.39 feet to a point; Thence N 73 deg. 31 min. 57 sec. E a distance of 1001.54 feet to a point; Thence N 71 deg. 46 min. 12 sec. E a distance of 920.22 feet to a point; Thence N 77 deg. 39 min. 04 sec. E a distance of 1015.70 feet to a point; said point being N 51 deg. 21 min. 34 sec. E a distance of 331.288 feet from P. R. M. 49-80-D10.

Thence N 79 deg. 12 min. 48 sec. E a distance of 975.31 feet to a point; Thence N 81 deg. 42 min. 56 sec. E a distance of 986.37 feet to a point; said point being S 79 deg. 10 min. 35 sec. W a distance of 430.572 feet from P. R. M. 49-80-D11.

Thence N 86 deg. 29 min. 54 sec. E a distance of 972.74 feet to a point; Thence S 83 deg. 38 min. 20 sec. E a distance of 1056.00 feet to a point; Thence N 81 deg. 58 min. 43 sec. E a distance of 912.16 feet to a point; said point being N 43 deg. 30 min. 32 sec. W a distance of 87.195 feet from P. R. M. 49-80-D12.

Thence N 67 deg. 09 min. 58 sec. E a distance of 990.52 feet to a point; said point being N 87 deg. 13 min. 38 sec. W a distance of 349.420 feet from P. R. M. 49-80-D13.

Thence N 45 deg. 06 min. 04 sec. E a distance of 924.03 feet to a point; said point being S 84 deg. 28 min. 57 sec. W a distance of 452.608 feet from P. R. M. 49-80-D14.

Thence N 33 deg. 23 min. 25 sec. E a distance of 962.26 feet to a point; said point being S 78 deg. 22 min. 36 sec. W a distance of 450.647 feet from P. R. M. 49-80-D15.

Thence N 21 deg. 51 min. 48 sec. E a distance of 904.73 feet to a point; Thence N 25 deg. 46 min. 04 sec. E a distance of 994.46 feet to a point; said point being N 67 deg. 15 min. 51 sec. W a distance of 257.619 feet from P. R. M. 49-80-D16.

Thence N 24 deg. 26 min. 30 sec. E a distance of 1237.27 feet to a point; Thence N 19 deg. 52 min. 29 sec. E a distance of 829.12 feet to a point; Thence N 17 deg. 26 min. 52 sec. E a distance of 1378.27 feet to a point; Thence N 08 deg. 49 min. 42 sec. E a distance of 1153.56 feet to a point; said point being N 83 deg. 03 min. 49 sec. W a distance of 228.021 feet from P. R. M. 49-80-D17.

Thence N 13 deg. 14 min. 43 sec. E a distance of 1192.63 feet to a point; Thence N 01 deg. 15 min. 41 sec. W a distance of 1332.97 feet to a point; Thence N 07 deg. 51 min. 35 sec. W a distance of 1029.16 feet to a point; said point being S 02 deg. 23 min. 07 sec. E a distance of 47.481 feet from P. R. M. 49-80-D18.

Thence N 11 deg. 23 min. 24 sec. W a distance of 974.38 feet to a point; Thence N 12 deg. 35 min. 14 sec. W a distance of 964.74 feet to a point; said point being S 59 deg. 13 min. 50 sec. E a distance of 46.133 feet from P. R. M. 49-80-D19.

Thence N 12 deg. 59 min. 05 sec. W a distance of 966.35 feet to a point; Thence N 12 deg. 34 min. 27 sec. W a distance of 1028.57 feet to a point; said point being S 17 deg. 35 min. 42 sec. E a distance of 508.458 feet from P. R. M. 49-80-D20.

Thence N 17 deg. 19 min. 27 sec. W a distance of 1064.08 feet to a point; Thence N 23 deg. 28 min. 40 sec. W a distance of 860.14 feet to a point; Thence N 41 deg. 30 min. 21 sec. W a distance of 642.84 feet to a point; said point being S 59 deg. 49 min. 22 sec. W a distance of 178.372 feet from P. R. M. 49-80-D21.

Thence N 41 deg. 30 min. 21 sec. W to the point of intersection with the mean high water line of the southerly bank of the Ochlockonee Bay, said point being the northeasterly terminus of the coastal construction control line for Alligator Point.

CHAPTER 16B-33
RULES AND PROCEDURES FOR COASTAL CONSTRUCTION AND EVACUATION (PERMITS FOR CONSTRUCTION SEAWARD OF THE COASTAL CONSTRUCTION CONTROL LINE AND FIFTY-FOOT SETBACK)

16B-33.05 Department Policy Statement on Permits.

ANNOTATIONS

Adjacent properties

Department's issuance of final order granting construction control line permit to condominium builders was declared ineffective until formal F. S. A. § 120.57 proceedings were concluded and F. S. A. § 120.59 order entered, where petition for hearing by association of adjacent property owners was timely filed and association had standing to request hearing; property owners showed substantial interest by alleging that if condominium builders' substitute construction control line permit was granted, association's property would be eroded and destroyed. Hillsboro-Windsor Condominium Association v. Department of Natural Resources, App., (1st) 418 So. 2d 359 (1982).

Necessity of development

Builder petitioned for hearing to contest city's application for permit for construction of improvements seaward of coastal construction control or setback line. Department of Natural Resources properly granted permit, as city carried its burden of proving necessity and justification for construction of improvements. Builder presented no evidence to contradict prima facie showing established by permit application, supporting documentation and testimony of witness. Woodholly Assoc. v. Department of Natural Resources, App. (1st), 451 So. 2d 1002 (1984).

Validity

Rule 16B-33.05(1), F. A. C., and Rule 16B-33.07(2), F. A. C., either track language of F. S. A. § 161.053 or otherwise constitute logical and reasonable requirements in implementation of that statutory provision concerning need for special structural and design considerations to minimize any adverse impact on beach system. Coley v. Department of Natural Resources, (DOAH 84-2053R), 6 FALR 6652 (1984).

16B-33.06 Coastal Construction Control Line and 50-foot Setback.

ANNOTATIONS

Validity

Although requirement in Rule 16B-33.06(2), F. A. C., that construction on property of applicant be located as far landward of coastal construction line as possible appears to be of questionable legality, evidence did not show that it was applied to petitioners' application for permit to construct dwelling on property seaward of existing coastal construction control line. Thus, petitioners lacked standing to challenge rule. Coley v. Department of Natural Resources, (DOAH 84-2053R), 6 FALR 6652 (1984).

16B-33.07 Structural and Other Requirements Necessary for Permit Approval.

ANNOTATIONS

Validity

Rule 16B-33.05(1), F. A. C., and Rule 16B-33.07(2), F. A. C., either track language of F. S. A. § 161.053 or otherwise constitute logical and reasonable requirements in implementation of that statutory provision concerning need for special structural and design considerations to minimize any adverse impact on beach system. Coley v. Department of Natural Resources, (DOAH 84-2053R), 6 FALR 6652 (1984).

16B-33.21 Civil Penalties.

ANNOTATIONS

Knowing violation

Court affirmed $5,000 civil penalty imposed by Department of Natural Resources against builder, where builder had actual notice of conditions he was to comply with in constructing residences seaward of coastal construction control line; his failure to comply under these circumstances subjected him to penalties provided for in F. S. A. § 161.054(1). McDonough v. Department of Natural Resources, App., (1st) 414 So. 2d 583 (1982).

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF BEACHES AND SHORES

Editorial Note: The 3-17-85 amendment created a new division under which Chapter 16B-33 is subsumed.

CHAPTER 16B-33
RULES AND PROCEDURES FOR COASTAL CONSTRUCTION AND EXCAVATION (PERMITS FOR CONSTRUCTION SEAWARD OF THE COASTAL CONSTRUCTION CONTROL LINE AND FIFTY-FOOT SETBACK)

16B-33.01 Scope. The scope of this rule is to implement Sections 370.02, 161.052, 161.053, 161.054 and 161.071, Florida Statutes. The rule sets forth the requirements and procedures relating to coastal construction, excavation and alteration seaward of established coastal construction control lines and 50-foot setbacks, except for structures and works which are separately regulated by Section 161.041, Florida Statutes; procedures for surveying and reviewing control lines; the procedures for local program delegations and reporting requirements; the procedures for processing applications for control line permits; and the conditions placed upon such permits pursuant to the general authority contained in Subsection 370.021(1), Florida Statutes.
Specific Authority 370.021(1) FS. Law Implemented 370.02(5), 161.052, 161.053, 161.054, 161.071 FS. History—New 11-18-80, Amended 3-17-85.

16B-33.02 Definitions.

* * *

(5) "Building support structure" is any shore-parallel structure which supports floor, wall or column loads and transmits them to the foundation (e.g., beams, grade beams, joists, etc.).

(6) "Bureau" is the Bureau of Coastal Engineering and Regulation of the Division of Beaches and Shores of the Department of Natural Resources.

(7) "Coastal" relates to areas upon which weather events from the open ocean may make essentially unattenuated impact, wherein the coast extends from the beach landward to the first major change in terrain features and may be several miles in width. (Note: This definition has no bearing on the jurisdictional limits of the Department.)

(8) [Renumbered from former (7)]

(9) "Column Action" is the elastic instability in piles or columns resulting from stresses due to axial and/or lateral loads.

(10) [Renumbered from former (8)]

(11) "Division" is the Division of Beaches and Shores of the Department of Natural Resources.

(12) "Dune" is a mound or ridge of loose sediment usually sand-sized sediment, lying upland of the beach or shore, and deposited by any natural or artificial mechanism (e.g., dune may also include a beach ridge, dune ridge, chenier, etc.).

(13)—(14) [Renumbered from former (10)—(11)]

(15) "Excavation" is any mechanical or manual removal of rock, consolidated or unconsolidated soil material from any location seaward of the coastal construction control line or 50-foot setback. Excavation includes but is not limited to dredging, draglining, bulldozing, scraping and grading.

(16)—(17) [Renumbered from former (13)—(14)]

(18) "Hydrodynamic loads" are those forces resulting from a mass of water in motion, e.g., the flow accompanying a storm surge. Hydrodynamic loads are generally lateral forces, but also include uplift pressures and the effects of the turbulence resulting from interaction of the flowing water mass with a rigid structure. Hydrodynamic load computations for construction seaward of the coastal construction control line consider all predominant forcing functions responsible for the motion of the aquatic mass, which are the astronomical tide and the storm waves (including the orbital particle transport, longshore mass transport, and shore-normal mass transport), as well as the storm surge. Gravity and forced flow resulting from the inundation accompanying the storm surge of a 100-year storm event are considered. Hydrodynamic load computations consider the processes of mass transport, heat transport, and momentum transport, along with the corresponding natural laws which are the conservation of matter, the conservation of energy (first law of thermodynamics), and Newton's second law (the equation of motion). Hydrodynamic load computations also consider the various flow forms including forms referring to spatial variation (uniform and nonuniform flow), forms referring to variation to time (steady, quasi-steady and nonsteady flow), forms referring to the nature of flow (laminar and turbulent flow), and forms referring to the type of flow energy (subcritical, critical, and supercritical flow). In addition, hydrodynamic load computations include the transformation of flow energy form from supercritical flow to subcritical flow, and vice versa, including all classifications of hydraulic jump. Hydrodynamic load computations consider hydraulic flow across both a fixed bed and a movable bed where applicable.

(19) "Hydrostatic Loads" are those lateral and vertical (including unlift) forces resulting from a mass of water standing either above or below the soil surface. These loads are equal to the product of the water pressure at the centroid of the plane surface area on which the pressure acts times the area of that surface. The hydrostatic pressure is equal to the product of the unit weight of the water times the elevation of the water above the point of measurement. Hydrostatic loads which are confined may be determined using the elevation to which the confined water would freely rise if unconfined. Hydrostatic pressures at any point are equal in all directions and act normal to the applied surface and are passive in nature.

(20) "Inundate" is to cover or overflow as with a flood.

(21) "Landward" is the direction inland from the Atlantic Ocean or Gulf of Mexico.

(22) "Mean High Water Line" is the intersection of the plane of mean high water with the shore. Mean high water is the average height of the high waters over an approximate 19-year period. (Reference: Chapter 177, Florida Statutes.)

(23) "N.G.V.D." is National Geodetic Vertical Datum, as established by the National Ocean Survey (formerly called "mean sea level datum, 1929").

(24) "One-hundred-year storm" or "100-year storm" is a shore-incident hurricane or any other storm with accompanying wind, wave, and storm surge intensity having a one percent chance of being equaled or exceeded in any given year, during any 100-year interval.

(25) "Permit" is the authorization by the Department to allow certain specified construction, excavation or alteration in a specified location seaward of a coastal construction control line (161.053). Permit, by definition, also includes variances of the 50-foot setback requirements

(Section 161.052, Florida Statutes).

(26) "Permit Condition" is a statement or stipulation issued with, and appearing on a permit; compliance with which is necessary for the validity of the permit.

(27) "Person" is any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation, group, state officer, or unit of federal, state, county, or municipal government.

(28) "Pile Foundation" is a system of piles providing the support of a structure, including those piles terminating below grade at pile caps and those piles extending above grade to superelevate a structure.

(29) "Scour", see Erosion.

(30) "Seaward" is a direction toward the Atlantic Ocean or Gulf of Mexico.

(31) "Staff" is the staff of the Division of Beaches and Shores.

(32) "Storm surge" is the rise above normal water level on the open coast due to a number of factors, including but not limited to the action of wind stress on the water surface and the rise in level due to atmosphere pressure reduction.

(33) "Structure" is the composite result of putting together, or building related components in an ordered scheme and includes the following:

(a) Habitable major structures shall include houses, mobile homes, apartment buildings, condominiums, motels, hotels, restaurants, towers, and other types of residential, commercial, or public buildings.

(b) Nonhabitable major structures shall include swimming pools, bathhouses, detached garages, cabanas, pipelines, piers, canals, lakes, ditches, drainage structures, and other water retention structures; roads, streets, highways, parking areas and other paved areas exceeding 144 square feet in area, underground storage tanks, and similar structures.

(c) Minor structures shall include pile-supported, elevated dune and beach walkover structures, beach access ramps and walkways; stairways; viewing platforms, gazebos, boardwalks, slab patios, and other paved areas not exceeding 144 square feet in area; lifeguard support stands; cantilevered decks or porches on new or existing structures; slab porches on new or existing structures, sidewalks, driveways, earth retaining walls, sand fences, privacy fences, ornamental walls, ornamental garden structures, aviaries, subgrade utilities (e.g., wells, septic tanks, and drain fields) which require material alteration of topography; ornamental projects; and other similar structures and projects. Usage will not be the only criterion used to classify structures as minor, but it shall also be a characteristic of minor structures that they are considered to be expendable under design wind, wave, and storm forces.

(d) Coastal and shore protection structures shall include rigid structures such as seawalls, bulkheads, revetments, mound structures, groins, breakwaters, as well as, nonrigid or flexible structures which include beach and dune restoration to include sand fencing and stabilization with beach and dune plants, and other structures which are intended to prevent erosion or protect other structures from wave and hydrodynamics forces. These structures shall be considered as a separate classification for design purposes.

(e) The enumeration of types of structures in this Subsection shall not be construed as excluding from the operation of this Chapter any other structure which by its usage, design, dimensions, or structural configuration would require engineering considerations similar to the above listed structures.

(34) "Under construction" is the continuous physical activity of placing the foundation or continuation of construction above the foundation of any structure seaward of the established coastal construction control or setback line. Under construction does not include application for or obtaining a building permit, a site plan approval or zoning approval from the appropriate local government agency having jurisdiction over the activity, purchasing construction materials, placing such construction materials on the site, clearing or grading the site in anticipation of construction, site surveying, continuation of site work beyond the limits of the foundation including landscape work or construction of nonhabitable major structures or rigid coastal or shore protection structures, or reactivating construction after substantially all construction activity has remained stopped for a period of six months or more.

(35) "Understructure" is any wall, partition or other solid fabrication not comprising a part of the structural support system and located below the first floor support structure.

(36) "Uplift pressure" is any upward hydrostatic, hydrodynamic, or wind pressure on the base, deck or floor of a structure.

(37) [Renumbered from former (25)]

Specific Authority 370.021(1) FS. Law Implemented 370.02(5), 161.053 FS. History—New 11-18-80, Amended 3-17-85.

16B-33.04 Exemptions from Permit Requirements.

(1) Any structures under construction prior to the establishment of a coastal construction control line in a particular county are exempt from the provisions of Section 161.053, Florida Statutes, and this Chapter, except as noted in Subsection 161.053(10), Florida Statutes.

* * *

(3) Construction or excavation, which is regulated by Section 161.041, Florida Statutes, and Chapter 16B-24, Florida Administrative Code, and which is totally on or partially encroaches upon sovereignty land of Florida, below the mean high water line and seaward of coastal construction control lines or 50-foot setback lines, is exempt from the provisions of Section 161.053, Florida Statutes, and this Chapter.

(4) The coastal construction control line permitting requirements do not apply to any modification, maintenance, or repair to any existing structure within the limits of the existing foundation which does not require, involve, or include any additions to, or repair or modification of, the existing foundation of that structure. Specifically excluded from this exemption are seawalls (or other rigid coastal or shore protection structures) and any additions or enclosures added, constructed, or installed below the first dwelling floor or lowest deck of the existing structure. For the purposes of this exemption, major structures and additions to major structures proposed above existing patio slabs, decks, or similar unenclosed areas are considered as new structures separate and independent of the existing patio slab, deck, or other unenclosed area and shall comply with the regulatory requirements set forth in this chapter.

(5) The construction of offshore structures, such as, drilling platforms, gas and oil rigs, towers, or navigation aides, located beyond the effective limits of littoral sediment transport, are exempted from the provisions of Section 161.052 and 161.053, Florida Statutes.

(6) At the discretion of the staff, utilizing applicable criteria, the following may be considered not to fall within the meaning and intent of Sections 161.052 and 161.053, Florida Statutes:

(a) Beach or deck furniture and awnings;

(b) Boat moorings;

(c) Tie-downs, moorings, or anchors to existing minor structures or trees;

(d) Portable public life guard stands or light portable access stairs;

(e) Mono-post umbrellas, antennaes or light posts provided there is minimal disturbance, no damaged vegetation and the grade is restored;

(f) Maintenance of existing beach/dune vegetation following staff guidelines;

(g) The burial of seaweed, dead fish, whales, or other marine animals on the unvegetated beach;

(h) The removal of piers or other derelict structures from the unvegetated beach or seaward of mean high water;

(i) Minor recreational diggings and other forms of art on the unvegetated beach provided no removal or filling of sand at the site;

(j) Temporary emergency vehicular access provided any impacted area is immediately restored;

(k) The minor removal of sand from roads (but not right-of-way areas), parking areas, beach access ramps, pools, patios, walkways or decks, not involving a change in the general grade;

(l) The removal of any existing structures or debris from the upland provided there is no excavation or disturbance to the existing topography or beach/dune vegetation; and

(m) The minor maintenance of concrete bulkheads and seawalls specifically involving scraping, chipping, sandblasting, guniting and painting.

Specific Authority 370.021(1) FS. Law Implemented 161.053(1), (7), (10), 161.052(3), (6) FS. History—New 11-18-80, Amended 3-17-85.

16B-33.05 Department Policy Statement on Permits.

(1) A coastal construction control line (Section 161.053, Florida Statutes) is intended to define that portion of the beach-dune system which is subject to severe fluctuations based on one-hundred-year storm surge, storm waves, or other predictable weather conditions. The coastal construction control and 50-foot setback lines call attention to the special hazards and impact associated with the use of such property. Establishment of a coastal construction control line or the 50-foot setback requirement (Section 161.052, Florida Statutes) does not preclude all development of or alteration of coastal property seaward of such lines. However, activities seaward of a coastal construction control line or 50-foot setback shall be limited and the necessity of such development, construction or alteration shall be stated and clearly justified by the applicant.

(2) Seaward of the coastal construction control line and 50-foot setback, special siting, structural and other design considerations are required:

(a) for the protection of the beach-dune system;

(b) for the protection of any proposed or existing structures; and

(c) for the protection of adjacent properties.

(3) The construction or rehabilitation of adequately designed, flexible coastal and shore protection structures such as beach nourishment, dune construction and stabilization, and sand fencing is encouraged over the construction of rigid coastal and shore protection structures (seawalls, bulkheads, revetments, mounds, groins, etc.). Rigid coastal protection structures do not protect the beach. In most cases, they may be expected to have a long-term adverse effect on the beach in their immediate vicinity. Policy on the construction of rigid coastal and shore protection structures is as follows:

(a) Construction of rigid coastal protection structures on undeveloped property is not recommended.

(b) Construction of rigid coastal or shore protection structures designed primarily to protect minor structures or nonhabitable major structures shall not be permitted. Excluded from this prohibition are rigid coastal or shore protection structures which are designed to protect major public roads, highways, water or sewage treatment plants, or public power facilities.

(c) In those instances in which a rigid coastal protection structure is the only feasible means of protecting an existing habitable major structure, major public road, highway, water or sewage treatment plant, or public power facility then that rigid coastal protection structure shall be located as far landward as possible, consistent with design and construction requirements.

(d) Where there exists a continuous and uniform line of rigid coastal or shore protection structures adjoining the proposed rigid coastal or shore protection structure, then the proposed structure may be authorized along an alignment which closes the gap between the adjoining rigid coastal or shore protection structures to the limit of physical impact to the property from those structures.

(e) Where a rigid coastal or shore protection structure is not justified, then coastal or shore protection in the form of beach or dune restoration may be authorized to protect any upland structure or property.

(f) In those instances in which development is proposed upland of an existing rigid coastal or shore protection structure, the development shall be located a sufficient distance landward from the rigid coastal or shore protection structure to allow for the containment of partial failures and to provide adequate room for routine maintenance and reasonably anticipated repair work to the rigid coastal or shore protection structure.

(g) Any proposed rigid coastal protection structure shall be designed to minimize erosive and scour effects. Where justified and properly designed and constructed, they will provide some measure of protection for the upland structures. Sloping rock revetments, rubble mound structures, and toe-scour protection with rock in front of vertical bulkheads and seawalls are recommended over vertical or sloping solid walls and revetments which, because of their reflective surface, cause substantially greater erosion losses to the adjacent beach.

(4) In many areas of the State, sand dunes provide a significant amount of protection to the upland structures and property, to upland development, and to adjacent beach areas. The Department, therefore, encourages the construction of elevated dune walkover structures which are designed to protect the dune topography and dune vegetation from pedestrian traffic and which encourage the natural reconstruction and revegetation of damaged or eroded dunes.

(5) * * *

These prohibitions shall apply regardless of whether there is an existing coastal or shore protection structure.

(6) The Department will consider the location of all proposed construction and excavation in reference to county and municipal zoning and building codes providing for local setback and other related requirements which are more stringent than the Department's requirements for the purposes of Chapter 161, Florida Statutes. However, the Department will not consider as binding county and municipal zoning and building codes, or proper covenants or deed restrictions, which are contrary to the purposes of Chapter 161, Florida Statutes. The Department encourages all applicants for permits as

provided herein to design proposed structures and excavation in a manner to effectively utilize all property landward of the 50-foot setback or coastal construction control line so that such proposed structures or excavations shall extend as little a distance seaward of such established lines as possible.

(7) An individual structure or activity may not have an adverse impact on the beach or dune system at a specific site; however, a number of similar structures or activities along the coast may have a significant cumulative impact resulting in the general degradation of the beach or dune system along that segment of shoreline. The Department may not authorize any construction or activity whose cumulative impact will threaten the beach or dune system or its recovery potential following a major storm event. An exception to this policy may be made with regard to those activities undertaken pursuant to Subsections 16B-33.05(3)(d) and 16B-33.06(2), Florida Administrative Code.

(8) In keeping with the intent of Paragraph 161.053(4)(c), Florida Statutes, it is the Department's policy to protect native salt resistant vegetation and endangered plant communities. Special conditions may be placed on permitted activities so as to limit the nature, timing, and sequence of construction. Construction activity, when justified and with physical impact minimized, may be recommended in previously disturbed areas or areas with exotic vegetation in lieu of areas of native plant communities. Protection to native dune plant communities of the scrub or woody varieties will generally hold precedence over protection to plant communities which are comprised predominantly of grasses or sea oats or other pioneer beach species. A construction fence shall generally be required to assist in the protection to the existing native beach or dune vegetation during the entire sequence of construction. Where major structures are being constructed immediately landward of the control line, the staff may require a construction fence on the control line to insure that construction activities do not encroach on areas of native dune vegetation.

(9) In keeping with the intent of Paragraph 161.053(4)(c), Florida Statutes, it is the Department's policy to protect nesting sea turtles and hatchlings and their habitat pursuant to Section 370.12, Florida Statutes. Special conditions may be placed on permitted activities so as to limit the nature, timing, and sequence of construction. In prime sea turtle nesting areas, all forms of lighting, including balcony lights, parking lot lights, and walkway or deck lights, should be shielded or otherwise designed so as not to disturb nesting turtles or hatchlings. Tinted glass is generally recommended for windows and doors which front directly on the nesting areas of the beach. The Department may not authorize any proposed activity or may suspend any permitted construction activity on the active beach, such as, beach cleaning, excavation or fill placement, and the construction of rigid coastal or shore protection structures, when the applicant or permittee has not provided reasonable assurance that nesting sea turtles and hatchlings will be protected.

Specific Authority 370.021(1) FS. Law Implemented 161.053(4), 161.052 FS. History—New 11-18-80, Amended 3-17-85.

16B-33.06 Coastal Construction Control Line and 50-foot Setback. A permit to alter, excavate, or construct on property seaward of an established coastal construction control line or 50-foot setback is required from the Department except in those areas where the permitting authority has been delegated to a county or municipal governmental authority, pursuant to Subsections 161.053(3) and (13), Florida Statutes.

(1) The Governor and Cabinet, the Executive Director, or the Division Director pursuant to Subsections 16B-33.12(9) and (10), Florida Administrative Code, may issue a permit for an excavation or construction of a structure at any coastal location, as described in Subsections 161.053(4) and 161.052(2), Florida Statutes, upon receipt of a complete application and upon the determination that the facts and circumstances, including adequate engineering data concerning construction design, evidenced shoreline stability, current littoral trends, expected wind, wave, hydrostatic, and hydrodynamic forces associated with the design storm event, the design features of the proposed structures or activities, and potential impacts of the location of such structures or activities including potential cumulative effects of any proposed structures or activities upon such beach-dune systems, which in the opinion of the Department, clearly justify a permit.

(2) If in the immediate area a number of existing structures have established a reasonably continuous and uniform construction line closer to the line of mean high water than the coastal construction control line, and if the existing structures have not been unduly affected by erosion, the Governor and Cabinet, Executive Director, or the Division Director pursuant to Subsections 16B-33.12(9) and (10), Florida Administrative Code, at their discretion, may issue a permit for the activity. However, if such existing structures are threatened by or have been affected by erosion, the Governor and Cabinet or the Executive Director, as appropriate, shall require all proposed construction or excavation to be designed and located as far landward (relative to the 50-foot setback or coastal construction control line) as possible on the applicant's property. Furthermore, if the property of the applicant lies on a relatively undeveloped area of beach, or dunes, the Governor and Cabinet or the Executive Director, as appropriate, shall require all proposed construction or excavation to be located as far landward as possible. In no instance, however, shall the Department contravene setback requirements or zoning and building codes established by a county or municipality which are equal to, or more stringent than, the requirements provided herein.

(3) [Deleted]

Specific Authority 370.021(1) FS. Law Implemented 370.02(5), 161.053(4), 161.052(2) FS. History—New 11-18-80, Amended 3-17-85.

16B-33.07 Structural and Other Requirements Necessary for Permit Approval. The following requirements must be met before a permit is approved by the Governor and Cabinet, the Executive Director, or the Division Director:

(1) The proposed structure or other activity shall be located a sufficient distance landward of the beach-dune system to permit natural shoreline fluctuations and to preserve the dune stability and natural recovery following storm induced erosion. Where a seawall or other coastal or shore protection structure exists, proposed major structures shall be located a sufficient distance landward of the coastal or shore protection structure to allow for future maintenance or repair of the coastal or shore protection structure and seawall or bulkhead tie-backs. Although fishing piers shall be exempt from this provision, their foundation piles should be located so as to allow for the maintenance and repair of any coastal or shore protection structure that may be intersected.

(2) All structures shall be designed so as to minimize any expected adverse impact on the beach-dune system or adjacent properties and structures and shall be designed consistent with Section 16B-33.05, Florida Administrative Code.

(3) Habitable major structures which extend wholly or partially seaward of the coastal construction control line or 50-foot setback shall be designed to resist the predicted forces associated with a one-hundred-year storm event. Assistance for determining design parameters and for minimizing adverse impact may be found in the latest editions of such documents as the Shore Protection Manual, U. S. Army Coastal Engineering Research Center; Department of the Army Coastal Engineering Research Center Technical Papers and Reports; and Division Technical and Design Memoranda.

(4) * * *

(a) Habitable major structures shall be designed in accordance with the minimum building code adopted for the area pursuant to Section 553.70-553.895, Florida Statutes, the Florida Building Codes Act. In the event of conflict between the requirements of this Chapter and the above building codes or other state or federal laws, the requirements resulting in the more restrictive design for wind, wave, hydrostatic and hydrodynamic loads and erosion conditions shall apply.

(b) The design wind velocity for load computations for habitable major structures shall be a minimum of 140 mph at a height of 30 feet above the average surrounding ground level. Velocity pressures in pounds per square foot, based on height above grade, shall be determined from the relationship:

$$P = 0.00256 \times V^2 \times \left(\frac{H}{30}\right)^{1/7}$$

Where:

V = 140 miles per hour

H = the height above grade (ft.)

Appropriate shape factors shall be applied in accordance with standard building code practice. Alternative design procedures which appropriately consider the predictable natural forces may be approved by the Bureau. The designer and applicant should be aware that localized wind forces under design hurricane conditions and strong tornado conditions will exceed this minimum wind load requirement. These required pressures do not consider vortex shedding or instability due to flutter or galloping. A detailed analysis may be required of structures whose dynamic properties allow for wind sensitivity. Load design shall consider the frictional effects and induced vortices due to the influence of topographic roughness and other existing structures. Internal pressures on interior walls, ceilings, and floors resulting from damaged windows or doors shall also be considered in design.

(c) All habitable major structures shall be elevated on, and securely anchored to, an adequate pile foundation in such a manner as to locate the building support structure above the design breaking wave crests or wave uprush as superimposed on the storm surge with dynamic wave setup of a one-hundred-year storm. The storm surge with dynamic wave setup of a one-hundred-year storm shall be the elevation determined by the Department of Natural Resources study performed for the establishment of the coastal construction control line. This elevation is subject to review and revision by the Department of Natural Resources. If an elevation has not been determined by a coastal construction control line study, the elevation for the storm surge of a one-hundred-year storm shall be the higher of either the federal base flood elevation for the specific area as recommended by the Federal Emergency Management Agency, or the National Oceanic and Atmospheric Administration. The Bureau will evaluate the applicant's proposed structural elevation based upon available scientific and coastal engineering data and will advise the applicant of the specific elevation requirement for the site. Additions to existing nonconforming habitable major structures may be considered by the Bureau for a waiver of these elevation or foundation requirements, provided that the addition does not advance the seaward limits of construction at the site. Staff evaluation in such cases will be based on engineering data, site elevations, any impact on the beach and dune system, and design life of the structure.

(d) Pile foundations for habitable major structures shall be designed to withstand all reasonable anticipated erosion, scour, and loads resulting from a one-hundred-year storm including at least wind, wave, hydrostatic, and hydrodynamic forces acting simultaneously with typical structural (live and dead) loads. All major habitable structures should be anchored to their pile foundation in such a manner as to prevent flotation, collapse or lateral displacement.

(e) The elevation of the soil surface to be used in the calculation of pile reactions and bearing capacities for habitable major structures shall not be greater than that which would result from the reasonable anticipated beach and dune erosion due to the one-hundred-year storm event or of a number of storm events having an equivalent cumulative probability of occurrence. Calculation of the design grade should account for localized scour due to the presence of structural components. Erosion computations for foundation design should account for all vertical and lateral erosion and scour producing forces. Design ratio of pile spacing to pile diameter is not recommended to be less than 8:1 for individual piles; however, this would not apply to pile clusters located below the design grade. Pile caps should be set below the design grade (which includes localized scour). The piles should be driven to a penetration which achieves adequate bearing capacity taking into consideration the anticipated loss of soil above the design grade. In addition to normal foundation analysis, pile foundation analysis should consider piles in column action from the bottom of the supported structure to the design grade. Consideration should also be given to the degree of exposure to wave attack and the resulting impact loads on lateral or diagonal bracing between piles.

(f) No substantial walls or partitions shall be constructed below the level of the first finished floor of habitable major structures and seaward of the coastal construction control line or 50-foot setback. This does not preclude, subject to Department permit and applicable federal, county, and municipal regulations, the construction of:

1. Stairways;
2. Shearwalls perpendicular to the shoreline;
3. Shearwalls parallel to the shoreline, which are limited to a maximum of twenty percent of the building length;
4. Wind or sand screens constructed of fiber or wire mesh;
5. Light, open lattice partitions with individual, wooden lattice strips not greater than 3/4 inch thick and 3 inches wide;
6. Elevator shafts;
7. Small mechanical and electrical equipment rooms;
8. Break-away or frangible walls.

(g) Structural design shall consider all design wave forces. Habitable major structures shall be designed in

consideration of a one-hundred-year storm event. Calculations for wave forces on building foundations and building superstructures may be based on minimum criteria and methods given in professionally recognized documents, accepted by the Bureau. Acceptable criteria and methods may be found in the Department of Navy, Naval Facilities Engineering Command Design Manual NAVFAC DM-26; the Department of the Army Corps of Engineers' Shore Protection Manual; Department of the Army Coastal Engineering Research Center Technical Papers and Reports; or Division of Beaches and Shores' Technical and Design Memoranda, and other professionally recognized documents accepted by the Bureau. Breaking, broken, and nonbreaking waves shall be considered as applicable. Design wave loading analysis shall consider vertical uplift pressures and all lateral pressures to include impact, as well as, dynamic loading and the harmonic intensification resulting from repetitive waves.

(h) Structural design shall consider all applicable hydrostatic loads. Habitable major structures shall be designed in consideration of the hydrostatic loads which would be expected under the conditions of maximum inundation associated with a one-hundred-year storm event. Calculations for hydrostatic loads shall consider the maximum water pressure resulting from a fully peaked, breaking wave superimposed on the design storm surge with dynamic wave setup. Both free and confined hydrostatic loads shall be considered. Hydrostatic loads which are confined shall be determined using the maximum elevation to which the confined water would freely rise if unconfined. Vertical hydrostatic loads shall be considered as forces acting both vertically downward and upward on horizontal or inclined surfaces of major structures (e.g., floors, slabs, roofs, walls). Lateral hydrostatic loads shall be considered as forces acting horizontally above and below grade on vertical or inclined surfaces of major structures and coastal or shore protection structures. Hydrostatic loads on irregular or curving geometric surfaces may be determined in consideration of separate vertical and horizontal components acting simultaneously under the distribution of the hydrostatic pressure.

(i) Structural design shall consider all applicable hydrodynamic loads. Habitable major structures shall be designed in consideration of the hydrodynamic loads which would be expected under the conditions of a one-hundred-year storm event. Calculations for hydrodynamic loads shall consider the maximum water pressures resulting from the motion of the water mass associated with a one-hundred-year storm event. Full intensity loading shall be applied on all structural surfaces above the design grade which would effect the flow velocities.

(j) Fishing piers or ocean piers constructed for scientific purposes need not be designed for the conditions associated with a one-hundred-year storm event. New piers or the extension of existing piers shall be designed for the minimum erosion, scour, and loads accompanying a 20-year storm event. Pier decking and rails may be designed to be expendable. Design guidance may be provided by the Bureau for the conditions expected at the specific site. Habitable or covered facilities constructed on the pier shall be designed for the minimum wind loads as set forth in this Chapter. Pile foundation design shall not obstruct the longshore sediment transport and shall be designed to minimize any impact to the shoreline or coastal processes. Because of the critical need for shoreline and littoral monitoring data, all permitted piers are encouraged to include limited space for the installation of a tide or wave recording instrument.

(k) Pipelines or ocean outfalls crossing the beach need not be designed for the conditions associated with a one-hundred-year storm event. New pipelines and ocean outfalls crossing the beach and littoral zone or the extension of existing pipelines or ocean outfalls shall be designed for the minimum erosion, scour, and loads accompanying a 20-year storm event. Design guidance may be provided by the Bureau for the conditions expected at the specific site. Pipelines or ocean outfalls shall be constructed below grade across the beach and littoral zone and shall not be designed to adversely affect the beach or coastal processes at the site.

(l) Swimming pools, wading pools, and water retention structures are considered expendable structures and need not be designed for the erosion, scour, and loads accompanying a one-hundred-year storm event. Because of the expendable nature of these structures, pools should be sited so that their failure does not adversely affect an adjoining major structure or coastal protection structure. If due to limited site availability the pool needs to be located in close proximity to any existing major structure or coastal protection structure, the pool shall be designed with an adequate pile foundation for the erosion and scour conditions of a one-hundred-year storm event. A pool need not be designed with an adequate pile foundation if its anticipated failure would not jeopardize a major structure constructed on an adequate pile foundation. All pools shall be designed to minimize any permanent excavation seaward of the coastal construction control line. There shall not be any net loss of material from the immediate area of the pool and the pool shall generally be elevated either partially or totally above original grade to minimize excavation.

(m) All other nonhabitable major structures need not be designed for the erosion, scour, and loads associated with a one-hundred-year storm event; however, they shall be designed to minimize the impact resulting from their structural failure.

(n)—(o) [Relettered from former (g)—(h)]

* * *

(6) Coastal or shore protection structures which extend wholly or partially seaward of the control line or 50-foot setback shall be designed for the predicted natural forces and conditions consistent with the proposed usage and design life of the structure.

(a) All flexible coastal or shore protection structures shall be compatible with the existing coastal environment.

(b) Design considerations for rigid coastal and shore protection structures shall include structural siting, foundation (e.g., geotextiles), crest (or cap) elevation, toe elevation, structural slope(s), components as impacted by waves superimposed upon the design storm surge, expected scour, and impact on the beach and dune system and the adjacent properties and other site specific considerations. Coastal and shore protection structures should be designed for the minimum wave loads which are applicable for the design storm conditions which justify the structures. Wave and runoff induced seepage in fill behind rigid coastal protection structures should be considered to avoid partial or complete failure due to piping of fill material under the structures. Seawalls, revetments, and rubble mound structures are generally designed for a 20 to 50-year storm event. Design procedures are available in the latest editions of the Department of the Army Corps of Engineers' Shore Protection Manual, the Department of the Army Coastal Engineering Research Center Technical Papers and Reports, the Department of the Navy, Naval

Facilities Engineering Command Design Manual NAVFAC DM-26 and DM-7, and Department of Natural Resources, Division of Beaches and Shores' Technical and Design Memoranda, and other professionally recognized guidelines, as accepted by the Bureau.

(c) The applicant shall provide the Department with certification by a professional engineer registered in the State of Florida that the design plans and specifications submitted as part of the permit application for rigid coastal or shore protection structures are in compliance with the standards established in this Chapter.

(7) The necessity for activities seaward of the control line or setback line shall be stated and clearly justified by the applicant in accordance with the requirements of this Chapter. In analyzing the information submitted by the applicant, the Department shall consider the following types of information and concerns:

* * *

(e) County and municipal zoning regulations applicable to both the applicant's property and its use and other properties in the general area which are more stringent than the Department's requirements for the purposes of Chapter 161, Florida Statutes;

(f) Existing county and municipal governmental ordinances and regulations prescribing setback limitations applicable to existing structures which are more stringent than the Department's requirements;

* * *

(h) The location of structures in the area of the applicant's property that have established a reasonably continuous and uniform line of construction closer to the line of mean high water than the established control line on a map or pictorial diagram or representation, if the permit is requested under the provisions of Paragraphs 161.053(4)(b) or 161.052(2)(b), Florida Statutes;

* * *

Specific Authority 370.021(1) FS. Law Implemented 161.053(4), 161.052(2) FS. History—New 11-18-80, Amended 3-17-85.

16B-33.08 Permit Application Requirements and Procedures.

(1) Any person desiring to obtain a permit for construction seaward of the coastal construction control line or fifty-foot setback from the Department, shall submit a completed standard application form to the Bureau. This application, which is entitled "Application for a Permit for Construction or Other Activities Seaward of the Coastal Construction Control Line or Fifty-Foot Setback" — DNR Form 73-100(1-85), is incorporated by this reference. Copies of the application form are available free of charge and may be obtained by writing to the Department of Natural Resources, Division of Beaches and Shores, Bureau of Coastal Engineering and Regulation, 3900 Commonwealth Boulevard, Tallahassee, Florida 32303; or by telephone at (904) 488-3180.

(2) The following information shall be submitted on or attached to the standard application form:

(a) The name, mailing address, telephone number, and signature of the property owner and of any duly authorized agent making the application on behalf of the owner.

(b) Sufficient evidence of ownership including the legal description of the property for which the permit is requested. Sufficient evidence of ownership may include a copy of an executed warranty deed bearing evidence of appropriate recordation; a copy of a long term lease, lease purchase agreement, or contract for deed; a copy of a property tax receipt bearing the name and address of the current owner; articles of condominium bearing evidence of appropriate recordation (for condominiums); or the cooperative documents defined in paragraph 719.103(9)(a), Florida Statutes (for residential cooperatives). Other documents submitted as evidence of ownership will be reviewed by the staff and may be rejected if found not to be sufficient. A copy of a purchase contract or an affidavit from the owner are not sufficient evidence of ownership. If the applicant is not the property owner, the applicant shall submit an affidavit on the form provided by the Department as part of the permit application form, authorizing the applicant to act as the owner's agent for the purpose of applying for a permit, and to act on behalf of the owner in other matters pertaining to the permit.

(c) Written evidence, provided by the appropriate local governmental agency having jurisdiction over the activity, that the proposed activity, as submitted to the Bureau, does not contravene local setback requirements or zoning or building codes.

(d) A statement describing the proposed work, activity, or construction.

(e) A statement, as provided for in Subsection 16B-33.07(7), Florida Administrative Code, giving specific reasons why the applicant feels that the permit should be approved and why construction seaward of the coastal construction line or 50-foot setback is necessary for the reasonable use of the property.

(f) Two copies of a topographic survey of the subject property, prepared or verified for accuracy not more than six months prior to the date of application, and certified by a land surveyor registered in the State of Florida. The topographic survey shall include the following specific information.

1. The location of the contour line corresponding to elevation 0 NGVD.

2. The location of any existing vegetation line on the subject property.

3. The location of the coastal construction control line or, if not established, the mean high water line and the 50-foot setback for the full width of the subject property including the location and number of the two nearest Department baseline monuments. The procedure for surveying the control line or 50-foot setback shall be in compliance with Section 16B-33.09, Florida Administrative Code.

4. The location of any existing structures on the subject property and the location of any proposed construction or activity, showing their relationship to the control line or 50-foot setback.

5. Any existing structures in the immediate contiguous or adjacent areas that the applicant contends have established a reasonably continuous and uniform construction line if the permit is requested under the provisions of Paragraphs 161.053(4)(b), or 161.052(2)(b), Florida Statutes.

(g) For habitable major, and rigid coastal and shore protection structures only, one copy of a dimensioned site plan drawing(s) to an appropriate scale, on 8 1/2-inch by 14-inch size paper showing:

1. The location of the contour line corresponding to elevation 0 NGVD at the date and time that the site survey was performed.

2. The location of the vegetation line, if existing.

3. The location of the proposed structure or excavation and any existing structures.

4. The location of the coastal construction control line or, if not established, the mean high water line and the 50-foot setback and the distance and direction to the two

nearest Department baseline monuments and the numbers of those monuments.

(g) All distances of the locations required in Paragraph 16B-33.08(1)(f), Florida Administrative Code, from the coastal construction control or setback line.

(h) For habitable major, and rigid coastal and shore protection structures only one copy of a dimensioned cross-sectional drawing to an appropriate scale, on 8 1/2-inch by 14-inch paper, showing:

1. All subgrade construction or excavation with elevations referenced to the National Geodetic Vertical Datum.

2. Typical cross-section view of the structural components above grade with elevations for the underside of the building support structure and crest elevations for any proposed coastal or shore protection structure.

3. Location of the control line or, if not established, the mean high water line and the 50-foot setback.

4. Typical profile of existing and proposed grade at the site.

5. The location of the contour line corresponding to elevation 0 NGVD.

6. The street address of the property, if such address is available. If no street address is available, then directions shall be given relative to the nearest readily identifiable address or landmark.

(i) In addition to the 8 1/2 inch by 14-inch plan drawings specified previously, the applicant shall also submit two copies of detailed final construction plans and specifications for all proposed structures or excavation including all planned appurtenant structures and utilities. For major structures and rigid coastal and shore protection structures these documents shall be signed and sealed by the design engineer or architect (as appropriate), who must be registered in the State of Florida, and shall bear the certification specified in Paragraphs 16B-33.07(4)(o) or 16B-33.07(6)(c), Florida Administrative Code.

(j) Details and justification, including engineering design computations, for any proposed waste or storm water discharge onto, over, under or across the beach and dune system, including but not limited to, storm water runoff, swimming pool drainage, air conditioner cooling water discharge, well discharge, domestic waste systems, or outfalls.

(k) The name and mailing address of the owners of the immediately adjacent properties, exclusive of street-ends or easements.

(3) The staff may require the applicant to provide other site specific information or calculations as is necessary for proper evaluation of the application.

(4) The Chief of the Bureau may waive any of the requirements specified in paragraph (f), (g), (h), (j), (k); and except for major structures and rigid coastal or shore protection structures, (i) above. Use of a standard application form as specified in Subsection (2) above, and all other application requirements including submittal of evidence of ownership of the property, may also be waived by the Chief of the Bureau, but only when the Chief of the Bureau has determined that an emergency situation exists and that undue hardship would result from enforcement of this requirement. In cases where an emergency situation exists, the applicant may be required to submit a telegram or letter applying for the permit, in lieu of submitting the standard application form, and may be required to submit other standard application information after the permit is issued, as a condition of the permit.

(a) A waiver may be granted when:

1. The information is not necessary for a proper evaluation of a proposed project or activity, and/or

2. The proposed project or activity is a minor structure, a sand bypassing, transfer or placement operation, or necessary to meet an emergency situation.

(b) An applicant may request a waiver using the Department's waiver form. The form must be accompanied by a statement of the specific reasons why the waiver should be granted. The Chief of the Bureau may waive application requirements without a written request for waiver from the applicant, provided that the requirements so waived are limited as specified above in this subsection.

(c) No waiver shall be effective unless it is in writing and signed by the Chief of the Bureau.

(5) Each application for a permit shall be accompanied by a processing fee, except for applications filed by agencies of government of the United States or the State of Florida, including the counties and municipalities of the state. The processing fee is nonrefundable except as provided in Section 120.60, Florida Statutes, and in this Chapter. Processing fees are as set forth in Section 16B-33.085, Florida Administrative Code.

(6) The staff may require submittal of a new application by any applicant who has not responded within six (6) months after a notice of incompleteness is sent, if the applicant subsequently provides the information required to complete the application.

Specific Authority 370.021(1) FS. Law Implemented 370.02, 161.053(4), 161.052 FS. History—New 11-18-80, Amended 7-7-81, 3-17-85.

***Editorial Note:** The 3-17-85 amendment entirely superseded the former rule.*

16B-33.085 Permit Fees (Reserved).

16B-33.09 Procedures for Surveying the Coastal Construction Control or Setback Line.

* * *

(2) Persons locating the line are responsible for familiarizing themselves with the most recent legal description of the line on file in the public records of the county in which the control line is located.

(3) Only that location information which is given in the most current recorded legal description of the line shall be used in locating the control line. The 50-foot setback line shall be measured from the line of mean high water as located pursuant to Chapter 177, Florida Statutes.

(4) Only those control markers, (permanent reference monuments) designated on the most recently recorded legal description of the line are to be used in location surveys, except that any First or Second Order Federal or State horizontal control marker may be used to establish or confirm position or direction.

(5) Location surveys shall begin on one control marker and close on a different control marker unless an exception is authorized in writing by the Bureau of Coastal Data Acquisition, Division of Beaches and Shores.

(6) Where control markers have been lost or disturbed, or where a conflict arises between measured distances and directions and the recorded distances and directions, the Bureau of Coastal Data Acquisition, Division of Beaches and Shores shall be contacted for assistance in locating the line.

(7) The object of a location survey is to locate the exact place or point where the control or setback line crosses a given parcel or given parcels of property.

(8) Location surveys shall meet the minimum technical standards in accordance with Chapter 21HH-6, Florida Administrative Code.

(9) Traverse lines and angles should be adjusted by the Compass Method, the Crandall Method, or the

Least-Squares Method.

* * *

(11) The survey drawing submitted to the Department in accordance with Paragraphs 16B-33.08(1)(f) and (g), Florida Administrative Code, shall include:

* * *

(c) Date that the legal description used was recorded in the county records;

* * *

(f) Location of the property in relation to bordering roads and streets;

* * *

(i) Accurately scaled and dimensioned locations of existing and proposed structures which are located partially or wholly seaward of the line, showing the foundation outlines;

* * *

Specific Authority 370.021(1) FS. Law Implemented 370.02(5), 161.053(2), 161.052 FS. History—New 11-18-80, Amended 3-17-85.

16B-33.10 Policies and Procedures for Reviewing Established Coastal Construction Control Lines.

(1) Pursuant to Section 161.053, Florida Statutes, any riparian upland owner who feels the coastal construction control line as established is unduly restrictive or prevents a legitimate use of property shall be granted a review of the line upon written request. Such request shall be accompanied by evidence of ownership of the affected property. The Division of Beaches and Shores shall review the location of the line on the affected property based upon the most recent coastal data available for that location in the Department's files. It shall also consider any data furnished by the property owner. If the Division finds it necessary to consider additional data, such other data may be reviewed. The Division shall render its opinion within 30 days of receipt of the written request for review in the form of a staff recommendation for consideration by the Governor and Cabinet.

* * *

(4) Where possible, coastal construction control line review requests shall be coordinated with scheduled county control line reviews. Upon completion of a line review, the staff shall prepare an evaluation for the Governor and Cabinet for final agency action. At the time the Executive Director submits his recommendations to the Governor and Cabinet, the staff shall notify the applicant of the staff recommendation. A request for a hearing pursuant to Section 120.57, Florida Statutes, shall be made within 21 days of receipt of notice. If the decision of the Governor and Cabinet is different from the staff recommendation as noticed pursuant to this subsection, then the riparian owner shall have 21 days from the date of the Governor and Cabinet's announcement of their decision in which to petition the agency for a hearing.

Specific Authority 370.021(1) FS. Law Implemented 370.02(5), 161.053(2) FS. History—New 11-18-80, Amended 3-17-85.

16B-33.11 Consultation. An applicant may consult with the staff at any time concerning any construction, excavation, modification of an approved project, or other activity seaward of the control line or 50-foot setback. Prior to the time of submitting an application for a permit, a permit applicant, property owner, county or municipality may request that the staff review the proposed work, activity, line or code or conduct an on-site inspection. Following such review, the staff may consult with the applicant, property owner, county or municipality and advise the applicant of the potential desirability and appropriateness of the information provided. Any assistance or other representation by any member of the staff during consultation shall not constitute the approval of the Department, shall not bind the staff, the Bureau, the Division, the Executive Director, or the Governor and Cabinet; and shall not relieve any person of any requirements of the Act, this Chapter, or other applicable provisions of federal or state law or local ordinance. If there exists a conflict between any staff representation and the Act, laws, rules, codes or ordinances, then the Act, laws, rules, codes or ordinances shall prevail.

Property owners affected by the coastal construction control line or 50-foot setback may consult with the staff at any time concerning surveying the control line or 50-foot setback. County and municipal officials may consult with the staff in reviewing existing or proposed coastal construction building codes or ordinances. The staff may also be consulted on predicting coastal processes, design force guidance, and appropriate engineering solutions, and coastal data acquisition.

Specific Authority 370.021(1) FS. Law Implemented 370.02(5), 161.053, 161.052 FS. History—New 11-18-80, Amended 3-17-85.

16B-33.12 Processing Procedures.

(1) All applications shall be processed and reviewed in accordance with time requirements specified by Section 120.60, Florida Statutes. The Governor and Cabinet shall take final agency action on all coastal construction control line permit applications submitted pursuant to this chapter except as specified in (9) and (10) below or as specified in Section 16B-33.14, Florida Administrative Code.

(2) Within 30 days after an application for a permit is received, the staff shall examine the application for completeness, and shall notify the applicant of any apparent errors or omissions and request any additional information required to make the application complete.

(3) For those permit applications to be considered by the Governor and Cabinet, upon receipt of the information set forth in Paragraphs 16B-33.08(1)(g), (h), and (k), Florida Administrative Code, the Bureau shall send public notices of the application.

(4) When the staff has determined that the application for a permit is complete, the staff shall review the application and all information submitted regarding the application and shall prepare an evaluation for the Division Director, the Executive Director or the Governor and Cabinet, as appropriate, for final agency action.

(5) All persons interested in obtaining information concerning applications made to the Department pursuant to the Act and this Chapter shall request such information in writing from the Division.

(6) Subsequent to review of an application, the staff shall make an evaluation to the Division Director or the Executive Director, as appropriate, stating whether the permit should be approved or denied. This evaluation is not binding upon the Division Director or the Executive Director.

(7) [Renumbered from former (6)]

(8) For those permit applications to be considered by the Governor and Cabinet, at the time the Executive Director submits his recommendation the staff shall notify the applicant and all persons requesting information of intent to approve or deny. Such notifications shall include:

(a) The name and address of the applicant;

(b) The nature and location of the proposed activity;

(c) The staff evaluation;

(d) A statement that a request of the Department for a hearing pursuant to Section 120.57, Florida Statutes, shall be made within 21 days of the receipt of notice or the right

such hearing shall be waived (If the decision of the rnor and Cabinet is different from the staff recommendation as noticed pursuant to this subsection, then the applicant or any substantially affected person shall have 21 days from the date of the Governor and Cabinet's announcement of their decision in which to petition the agency for a hearing); and

(e) The time and place that the permit application will be heard by the Cabinet aides and the Governor and Cabinet, and the fact that the applicant and any interested persons may appear or be represented to make their position known. Prior notification shall not be given for projects not considered by the Governor and Cabinet.

(9) The Division Director shall take final agency action by issuing or denying permits for the following projects:

(a) Minor structures;

(b) Beach nourishment above mean high water or on privately-owned land;

(c) Dune nourishment, dune restoration or construction, including revegetation;

(d) Landscaping and beach or dune stabilization projects;

(e) Limited grading not to exceed 1 vertical foot from existing average grade elevation, and the removal and relocation of wind blown sediment;

(f) Beach vehicular ramp maintenance;

(g) Beach cleaning operations;

(h) Removal of any rigid structure or loose debris not to include the permanent removal of beach and dune sediment;

(i) Placement of temporary sand bag structures;

(j) Emergency construction for the protection of existing upland structures in danger of collapse from anticipated high frequency storm conditions or where a structure is undergoing progressive structural failure;

(k) Oil spill cleanup operations;

(l) Discharges across the beach or dune system;

(m) Any other minor activity seaward of the control line, whose impacts would be similar in nature to the projects listed in (a)—(l) above.

(10) The Executive Director shall take final agency action by issuing or denying permits for the following projects:

(a) Nonhabitable major structures, excluding below grade swimming pools, piers, canals, lakes, roads, streets, highways, and parking lots;

(b) Additions to existing habitable major structures which do not extend the seaward limits of the structures;

(c) Repair, maintenance and modification of existing building foundations;

(d) Repair, maintenance and modification of existing rigid coastal or shore protection structures not involving major reconstruction.

(e) Toe-scour protection or revetment construction seaward of existing bulkheads and seawalls.

(f) Construction of structural returns to existing rigid coastal protection structures.

(g) Single-family dwellings which do not advance the existing line of construction established by structures in the immediate area permitted under laws and rules in effect at that time and which do not adversely impact the beach/dune system or natural coastal processes.

Specific Authority 370.021(7) FS. Law Implemented 370.02(5), 161.053, 161.052 FS. History—New 11-18-80, Amended 3-17-85.

16B-33.13 Revisions or Modifications of Approved Permits.

(1) Applications for additions, revisions, or structural modifications of permitted projects or activities shall be reviewed in the same manner as the initial application.

(a) * * *

1. Increases in extension of construction laterally or seaward of previously approved limits;

* * *

3. Reduction in the depth of foundation penetration;

4. Change in the type, alignment, length, or method of construction of a coastal or shore protection structure;

* * *

(b) An application for a major revision or structural modification shall be acted upon by the Executive Director when the initial permit was approved by the Governor and Cabinet or when approved by the Executive Director. However, if the request is for a modification to a project approved by the Governor and Cabinet which changes the fundamental character of the project, then the request shall be considered as a new application. When the addition, revision or modification is a type of project or activity which could be approved by the Executive Director if submitted separately, but the original authorization was granted by the Governor and Cabinet, the Executive Director may act upon the application. Any revisions or modifications to permits authorized by the Division Director shall be acted upon by the Division Director when the addition, revision, or modification is a type of project or activity which may be approved by the Division Director.

(2) Applications for minor additions, revisions or structural modifications of permitted projects or activities shall be acted upon by the Division Director. Minor additions, revisions or structural modifications are those changes which will not increase the risk of adverse impacts and include only:

* * *

(b) Changes which add projects or activities which could separately be acted upon by the Division Director;

(c) Changes which do not increase the approved lateral or seaward location of excavation or construction; and

(d) Changes which do not reduce the permitted structural elevation, reduce structural soundness, or increase beach or dune erosion.

Specific Authority 370.021(1) FS. Law Implemented 370.02(5), 161.053, 161.052 FS. History—New 11-18-80, Amended 3-17-85.

16B-33.14 Emergency Permits.

(1) In the event of a shoreline emergency arising from the impact of a storm or other phenomena which results in critical erosion, beach or coastal damage, or damage to upland or coastal or shore protection structures, the Executive Director may authorize emergency permitting procedures.

(2) In no event shall emergency permit procedures be designated for longer than 30 days as the result of a single storm event. However, the Executive Director may authorize one or more extensions of up to 30 days if he determines that such extensions are required for the immediate protection of damaged or threatened structures in danger of imminent collapse or to address critical erosion problems.

* * *

(6) Emergency permits shall be issued by the Division Director or staff designee only under the following conditions:

* * *

(c) Where the proposed construction is for placement of sand fill and/or sand-filled bags, repair or maintenance to an existing structure, or replacement or construction of

new access steps to the beach where erosion has impaired normal access or destroyed existing access structures the staff is authorized to issue a permit describing the specific activity to be conducted and the specific conditions or procedures to be followed.

(d) Where the proposed activity is not for placement of sand fill and/or sand-filled bags, repair or maintenance of an existing structure, or replacement or construction of new access stairs to the beach, or if structural failure is not imminent, the applicant will be advised to follow the normal permitting procedure set forth in this Chapter.

* * *

(7) All emergency permits issued shall expire on the date indicated on the permit, but in no event may they be effective for more than ninety days from the date of issuance. An applicant may request, and the Division Director may grant, an extension of no more than thirty days, provided the applicant demonstrates sufficient reasons to justify the requested extension. No more than one extension may be granted. If additional work is to be done, an applicant must submit an application under the regular permit application procedures.

* * *

Specific Authority 370.021(1) FS. Law Implemented 370.02(5), 161.053, 161.052, 161.041 FS. History—New 11-18-80, Amended 3-17-85.

16B-33.15 Permit Conditions.

(1) Upon final agency actions, whether by the Governor and Cabinet, the Executive Director, or the Division Director, the staff shall prepare and mail to the applicant, local governments, and all persons requesting it, the final agency order.

(2) If a permit application is approved, the final agency order shall include or incorporate a permit placard and one set of plans bearing the stamp of approval by the staff and the signature of the appropriate staff member.

(a) The placard must remain conspicuously displayed on the construction site and the approved plans must be available at the site for inspection by representatives of the Department during ordinary working hours and at any other time that construction work proceeds on the site for the duration of construction, and for up to 90 days after the final certification is received by the Department.

(b) Failure to display the placard or to make the approved plans available for inspection during construction may result in the staff suspending or halting work until the placard is displayed, and/or the approved plans are made available for inspection at the construction site, and may result in assessment of civil fines pursuant to Section 161.054, Florida Statutes.

(3) By accepting the permit, the applicant agrees to the following conditions:

(a) The permittee shall carry out the work or activity for which the permit was granted in accordance with the plans and specifications which were approved by the Department. Any deviation therefrom shall be grounds for suspension of the work and revocation of the permit.

(b) The permittee shall conduct the work or activity authorized under the permit in such a way as to minimize the adverse impact upon the beach and dune system or adjacent property and structures;

(c) The permittee shall use extreme care to prevent any adverse or undesirable effects from authorized work or activity on the property of others. A permit authorizes no invasion of the property rights of others;

(d) The permittee shall allow any duly authorized member of the staff or duly empowered law enforcement officer to enter upon the premises associated with the project authorized by the permit for the purpose of ascertaining compliance with the terms of the permit and with rules of the Department;

(e) The permittee shall hold and save the State of Florida, the Department, its officers and employees harmless from any damage, no matter how occasioned and no matter what the amount, to persons or property which might result from the work, activity, or structures authorized under the permit and from any and all claims and judgment resulting from such damage;

(f) The permittee shall allow all records, notes, monitoring data and other information relating to construction or any operation under the permit, which are submitted to the Department, to be used by the Department in any case arising under the Florida Statutes or Department rules, except where such use is otherwise specifically prescribed by law;

(g) The permittee shall provide the Department with a final certification of actual work performed no later than 30 days following completion of the construction authorized or required by the permit. This certification shall state that all locations and elevations specified by the permit have been verified, that the construction and any other activities authorized or required by the permit have been performed in compliance with both the plans and project description approved as a part of the permit, and that construction and other activities have complied with all conditions of the permit. Any deviations from the approved plans, project description, or permit conditions shall be specifically described as a part of the final certification. If any portion of the authorized work is not performed, this shall be reported in the final certification. If none of the permitted work is performed, the permittee shall inform the Department to that effect in writing no later than 30 days following expiration of the permit. The final certification shall be on the forms entitled "Final Certification" — DNR Form 73-115A (Revised 1-85) or DNR Form 73-115B (Revised 1-85), or on the form entitled "Final Certification for Emergency Work" — DNR Form 73-116 (Revised 1-85). DNR Form 73-115A shall be used only to certify work performed under authorization of permits approved by the Division Director. DNR Form 73-115B shall be used to certify work authorized by the Governor and Cabinet, the Executive Director, or the Division Director. The staff shall determine which form is appropriate for each permit. DNR Form 73-116 shall be used only to certify work authorized by Section 16B-33.14, Florida Administrative Code. These forms, which are incorporated by reference, are available free of charge. Copies of these forms may be obtained by writing to the Department of Natural Resources, Division of Beaches and Shores, Bureau of Coastal Engineering and Regulation, 3900 Commonwealth Boulevard, Tallahassee, Florida 32303; or by telephone at (904) 488-3180.

(h) No construction and no excavation except that specifically approved shall be conducted seaward of the coastal construction control line.

(i) Construction traffic shall not operate and building materials shall not be stored on vegetated areas seaward of the coastal construction control line. If, in the opinion of the Bureau staff, this requirement is not being met, positive control measures shall be provided by the permittee at the direction of the Bureau staff. Such measures may include temporary fencing, designated access roads, adjustment of construction sequence, and/or other requirements.

(j) Existing beach/dune topography and vegetation shall be disturbed only to the minimum extent necessary for construction, construction access, and other authorized

vities. Before the project is considered complete, any graphy disturbed as a consequence of construction or excavation shall be restored to preconstruction elevations with fill material. This fill material shall be compatible with the existing beach/dune sediments in both grain size and coloration and shall be obtained from a source landward of the coastal construction control line or from a source authorized pursuant to Section 161.041, Florida Statutes. The areas so filled shall be stabilized with native salt resistant beach/dune vegetation as specified in Subsection 16B-33.15(3)(m), Florida Administrative Code.

(k) Unless otherwise specifically authorized in the permit, any fill material placed seaward of the coastal construction control line in undertaking work authorized by the permit shall be sand which is similar to that already existing on the site in both coloration and grain size. All such fill material shall be free of construction debris, rocks, clay, or other foreign matter.

(l) If surplus sand fill results from any approved excavation seaward of the coastal construction control line, such material shall be distributed seaward of the control line on the site, as directed by the Bureau staff, unless otherwise specifically provided by the permit.

(m) Any vegetation destroyed during construction shall be replaced with plants of the same species or, by authorization of the Bureau, with other native salt resistant vegetation suitable for beach and dune stabilization. Unless otherwise specifically authorized by the Department, all replacement plants used for vegetation shall be of species indigenous to Florida aches and dunes, such as sea oats, sea grape, saw palmetto, panic grass, saltmeadow hay cordgrass, seashore saltgrass, and railroad vine.

(n) All topographic restoration and revegetation work is subject to approval and acceptance by the Department staff, and the status of restoration shall be reported as part of the final certification of the actual work performed.

(o) Prior to undertaking any construction activity which will begin or end in the period from May 1 to October 30, the applicant shall contact the Bureau of Marine Research by telephone at its Field Station in Jenson Beach at (305) 334-1667 or if no one answers there, at the Laboratory in St. Petersburg at (813) 896-8626 for instructions and procedures for protecting sea turtles and their nests. Nesting marine turtles are protected by federal law (Endangered Species Act, 1973) and state law (Section 370.12, Florida Statutes). All work on this project shall be in compliance with these laws and with consideration for the protection of nesting females, eggs and nests, and emerging hatchlings. In turtle nesting areas, the Bureau staff may require construction to be delayed for 60 days unless turtle protection measures have been initiated.

(p) Authorization for construction of any rigid coastal or shore protection structure is based on an engineering review and assessment of the design and anticipated performance and impact of the structure as a complete unit. Construction of any less than the complete structure as approved by the Department of Natural Resources is not authorized, and may result in assessment of civil fines as authorized in Section 161.054, Florida Statutes, and/or an issuance of an order to remove the partial structure and restore the site to preconstruction conditions. Deletion of portions of any authorized rigid coastal or shore protection structure may be authorized by the Department in accordance with Section 16B-33.13, Florida Administrative Code, upon submittal of a written request which includes plans showing the reduced extent of the structure.

(q) The shore-normal length and/or the distance seaward of the coastal construction control line specified in the project description of this permit, for any dune walkover structure authorized by the permit, is based on the site conditions at the time of authorization. However, notwithstanding the requirements of Paragraphs 16B-33.15(3)(g) and (s), Florida Administrative Code, or the dimensions and distances shown in the project description of the permit and/or the plans approved by the Department, an authorized beach and dune walkover structure, at the time of its construction, shall extend at least up to the existing line of vegetation, but not further than ten (10) feet seaward of the existing line of vegetation, except as specifically authorized by the permit.

(r) This permit has been issued to a specified property owner and is not valid for any other person unless formally transferred pursuant to Section 16B-33.16, Florida Administrative Code. An applicant for a transfer of the permit shall sign two copies of a permit transfer agreement form, agreeing to comply with all terms and conditions of the permit, and return both copies to the Bureau. A copy of the transfer agreement which has been approved by the Division Director must be displayed on the construction site along with the permit prior to commencement or continuation of work by a transferee. A permit shall not be transferred after its expiration.

(s) All construction shall conform to the plans and project description approved by the Department of Natural Resources as a part of the permit, and to all conditions of the permit. No modifications to the project location, size, or structural design are authorized except by modification of the permit pursuant to Section 16B-33.13, Florida Administrative Code, or other written notice of acceptance from the staff.

(t) The permittee or agent acting on behalf of the permittee, shall immediately inform the Bureau of any change of mailing address which occurs between the date of issuance of the permit and 90 days after completion of the project, or expiration of the permit, whichever occurs earlier.

(u) The permittee shall comply with any other conditions imposed upon the permit. Such conditions may be imposed by the Governor and Cabinet, the Executive Director, or the Division Director; and may be of such nature as is necessary to protect the integrity of beaches and dunes and to carry out the intent of Chapter 161, Florida Statutes.

(4) By accepting a permit for a major structure or a rigid coastal or shore protection structure, the applicant also agrees to the following conditions. The permittee shall provide periodic progress reports certified by an engineer or architect (as appropriate due to the nature of the project) registered in the State of Florida. These reports shall be on the form which is entitled "Periodic Report" — DNR Form 73-111 (Revised 1-85), and is incorporated by reference. Copies of the periodic report form are available free of charge and may be obtained by writing to the Department of Natural Resources, Division of Beaches and Shores, Bureau of Coastal Engineering and Regulation, 3900 Commonwealth Boulevard, Tallahassee, Florida 32303, or by telephone at (904) 488-3180. The reports shall be submitted whether or not construction has occurred during any period. The property owner or authorized agent may sign the reports until such time as construction starts, and after any period in which no construction was performed. However, the reports must be signed by an engineer or architect registered in the State of Florida following each period in which construction has occurred. The reports shall indicate that all construction as

of the date of the report has been performed in compliance with both the plans and the project description approved by the Department of Natural Resources as a part of the permit, and with all conditions of the permit, or shall specify any deviation. These reports shall be submitted according to a schedule established by the staff until a final certification for the work authorized or required by the permit is received and accepted by the staff.

(5) By accepting a permit for a habitable major structure, the applicant also agrees to the following condition. All construction on the permitted structure shall stop when the foundation pilings have actually been installed. At that time the permittee shall provide a certification by a professional land surveyor registered pursuant to Chapter 472, Florida Statutes, that all aspects of the location, and all elevations of the foundation construction are in accordance with both the plans and the project description approved by the Department of Natural Resources as part of the permit. This certification shall be on a form entitled "Foundation Location Certification" — DNR Form 73-114 (Revised 1-85), which is incorporated by reference. Copies of the foundation location certification form are available free of charge and may be obtained by writing to the Department of Natural Resources, Division of Beaches and Shores, Bureau of Coastal Engineering and Regulation, 3900 Commonwealth Boulevard, Tallahassee, Florida 32303; or by telephone at (904) 488-3180. The location certification shall be based upon such surveys performed in accordance with Chapter 472, Florida Statutes, as are necessary to determine the actual elevation, configuration, and the dimensioned relationship of the installed pilings to the coastal construction control line. This certification shall also specify the actual pile tip and pile head elevations and any grade beam or cap elevations. Any deviation from the foundation location and elevations as permitted shall be clearly noted and described in detail as part of the certification. Construction shall stop and certification shall be submitted and accepted prior to proceeding with further vertical construction for each and every phase of a multiphase project where construction above the foundation of one or more structures occurs prior to completion of all foundation work. The Bureau shall notify the permittee of approval or rejection of the certification within seven (7) working days after its receipt. All survey information upon which the certification is based shall be made available to the Bureau upon request.

(6) By accepting a permit for excavation, construction or other physical activity on or encroaching on the sovereignty land of Florida seaward of mean high water or, if established, the erosion control line, the permittee agrees not to commence any excavation, construction, or other activity involving the use of these sovereignty lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund under Chapter 253, Florida Statutes, until the permittee has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use.

(7) Issuance of a permit does not relieve the applicant of the responsibility to comply with all applicable federal, state, county, and municipal laws, ordinances or rules; nor is the applicant relieved of the responsibility to obtain any other licenses or permits which may be required by federal, state, county, or municipal law.

(8) The Division Director may waive any of the permit conditions set forth in Subsections 16B-33.15(3), (4), and (5), Florida Administrative Code, if, in the opinion of the Division Director, such condition is found to be unnecessary to carry out the intent of Chapter 161, Florida Statutes.

Specific Authority 370.021(1) FS. Law Implemented 370.02(5), 161.053, 161.052 FS. History—New 11-18-80. Amended 3-17-85.

***Editorial Note:** The 3-17-85 amendment entirely superseded the former rule.*

16B-33.16 Transfer of Permits.

° ° °

(1) A new property owner, or an agent of the new owner as provided in Paragraph 16B-33.08(2)(b), Florida Administrative Code, may apply in writing for a transfer of an unexpired permit.

(a) Upon request, the Bureau will send the applicant an agent's authorization portion of a permit application form, and two copies of a transfer agreement form. This form, which is entitled "Permit Transfer Agreement" — DNR Form 73-103 (Revised 1-85), is incorporated by reference. Copies of the agreement form are available free of charge and may be obtained by writing to the Department of Natural Resources, Division of Beaches and Shores, Bureau of Coastal Engineering and Regulation, 3900 Commonwealth Boulevard, Tallahassee, Florida 32303; or by telephone at (904) 488-3180. Both copies of the transfer agreement form shall be signed by the applicant and shall be returned to the Bureau along with sufficient evidence of ownership, as provided in Paragraph 16B-33.08(2)(b), Florida Administrative Code and the agent's authorization form signed by the property owner, if applicable. If the transfer is approved, one copy of the approved transfer agreement will then be returned to the applicant.

° ° °

(c) By accepting a transfer agreement, the applica[illegible] agrees to comply with all the terms and conditions specifi[illegible] in the permit and in Section 16B-33.15, Florida Administrative Code.

(2) The Division Director may execute a transfer agreement on behalf of the Department.

(3) If the applicant for a transfer agreement wishes to make changes in the project or activity or to alter any of the permit conditions the application shall be treated as a modification of permit as specified in Section 16B-33.13, Florida Administrative Code. No application for modification shall be considered to be complete until such transfer is approved by the Department.

(4) If after the sale of the property, work is performed which does not comply with the applicable law, rules, regulations, Department orders, or permit conditions, the new owner shall be held liable.

Specific Authority 370.021(1) FS. Law Implemented 370.02(5), 161.053, 161.052 FS. History—New 11-18-80. Amended 3-17-85.

16B-33.17 Time Limits on Permits.

(1) A reasonable time limit may be placed on a permit by the staff after taking into consideration the complexity of the proposed work or the nature of the activity authorized. Unless a shorter time is specified on the permit, permits shall expire two years after the date of the final order conveying the Department's approval.

(2) Permits shall be effective until the activity or construction is certified complete or until expiration, whichever is earlier, unless the permit is earlier suspended, revoked or surrendered in accordance with Section 120[illegible] Florida Statutes, and this chapter.

(3) Once a permit has expired, all work authorized by such permit must cease unless and until a time extension or new permit is authorized as provided herein. However, the

permittee shall conduct any mitigating work ordered by the Department as a condition of a permit, or restoration agreement, in accordance with the time limits imposed by the Department on that work, without regard to the date of permit expiration.

(4) The Division Director has the discretion to extend the time limit placed on a permit a maximum of twelve months upon written application filed by the permittee or authorized agent prior to the expiration of the permit. The application shall be on a form which is entitled "Application for Time Extension of Permit for Construction Seaward of the Coastal Construction Control Line or Fifty-foot Setback" — DNR Form 73-113 (Revised 1-85), which is incorporated by reference. The time extension form is available from the Bureau free of charge and may be obtained by writing to the Department of Natural Resources, Division of Beaches and Shores, Bureau of Coastal Engineering and Regulation, 3900 Commonwealth Boulevard, Tallahassee, Florida 32303; or by telephone at (904) 488-3180. In those instances where the requested extension is for a period of time not to exceed ninety days, the Bureau Chief has the discretion to extend the time limit for good cause. The time extension may be denied in order for changing shoreline and other conditions or alternative design factors to be considered through a reapplication process. The permittee must demonstrate good cause by showing evidence that the prior authorization by the applicable county or municipality will remain in effect throughout the duration of the requested time extension; and by either:

* * *

(5) Under no circumstances will the time limit on a permit be extended beyond thirty-six months from the date of approval, nor will it be extended if application is made after expiration of the permit. No changes in the nature of the work will be considered in requests for time extensions.

(6) A person whose permit has expired and whose permitted project is incomplete may apply for a new permit. A reapplication shall be treated as an initial application for permit and shall be subject to a complete review by the staff. The staff may require additional information that it considers necessary for a review of permits. In considering such reapplication, the Department may require modifications in the approved plans and specifications and may impose additional permit conditions. Specifically, changes may be required to meet changing shore or coastal conditions or to incorporate advances in the science of coastal engineering and recommended professional practice. Changes may also be required pursuant to amendments to Chapter 161, Florida Statutes. The Department may deny any reapplication if such action is warranted by the current shore or coastal conditions, changes in the Department's conclusions regarding the acceptability of the proposed construction on the site, unwillingness or inability of the applicant to make modifications in the project recommended by the staff, or due to amendments to Chapter 161, Florida Statutes.

Specific Authority 370.021 FS. Law Implemented 370.02(5), 161.053, 161.052 FS. History—New 11-18-80, Amended 3-17-85.

16B-33.18 Forms.

Specific Authority 370.021 FS. Law Implemented 161.053, 161.052 FS. History—New 11-18-80, Repealed 3-17-85.

16B-33.19 Suspension and Revocation.

(1) * * *

(a) Failed to submit the reports required by Section 16B-33.15, Florida Administrative Code; or

(b) Included false or inaccurate information in the application, reports, or other documentation submitted to the Department; or

* * *

(2) The Governor and Cabinet shall take action where the original permit was approved by the Governor and Cabinet, and the Executive Director shall take action where the original permit was approved by the Executive Director or the Division Director.

* * *

(4) The Department may suspend or require modification of previously permitted construction or other activities not under construction, if substantial shoreline changes occurring subsequent to issuance of the permit, render the previously authorized activities adverse or ineffective for the purposes of Chapter 161, Florida Statutes.

Specific Authority 370.021(1) FS. Law Implemented 161.053, 161.052 FS. History—New 11-18-80, Amended 3-17-85.

16B-33.20 Violations.

(1) Any person violating any provision of Sections 161.053, or 161.052, Florida Statutes, or these rules is guilty of a misdemeanor of the first degree punishable in accordance with the provisions of Section 775.082, Section 775.083, or Section 775.084, Florida Statutes.

* * *

(4) Upon discovery by the staff that either excavation or construction is being undertaken in violation of the provisions of Sections 161.052 or 161.053, Florida Statutes, or these rules, the Executive Director may issue a Notice of Violation or Cease and Desist Order to the person who has engaged in or is engaging in such illegal excavation or construction, the property owner or the permit holder. The Cease and Desist Order or Notice of Violation shall advise such person of the nature of the violation and order him to immediately Cease and Desist all further excavation or construction.

(5) Any coastal structure constructed or excavation created, in violation of the provisions of Sections 161.052 or 161.053, Florida Statutes, is hereby declared to be a public nuisance, and such structure shall be removed or such excavated topography restored after written notice by the Department directing such removal or restoration. In the event that the structure is not removed or the excavation not restored as directed within a reasonable time, the Department may cause the structure to be removed or the excavated topography restored at the expense of the Department. The cost thereof shall become a lien upon the property of the upland owner upon which such unauthorized structure or excavation is located. All removal and restoration shall be accomplished as follows:

(a) If upon receipt of a Cease and Desist Order or Notice of Violation, the upland owner voluntarily consents to the removal of any structure or excavation in violation of the provisions of Sections 161.052 or 161.053, Florida Statutes, or this Chapter, such owner shall execute a Removal, Restoration and/or Revegetation Agreement with the Executive Director. Such Agreement, adopted in Chapter 16B-33, Florida Administrative Code, shall provide for the type of removal, restoration and/or revegetation within a stated time limitation and subject to the supervision of and approval by the Bureau following a site inspection.

(b) An upland owner, upon receipt of the Department's Order to remove a structure or excavation in violation of the provisions of Sections 161.052 or 161.053, Florida Statutes, or this Chapter and to restore the site of such structure or excavation to its condition prior to the violation, shall execute a Removal Restoration and/or

Revegetation Agreement with the Executive Director as provided for in Paragraph 16B-33.20(5)(a), Florida Administrative Code.

* * *

Specific Authority 370.021(1) FS. Law Implemented 161.053, 161.052, 161.071 FS. History—New 11-18-80, Amended 3-17-85.

16B-33.21 Civil Penalties.

(1) In addition to the penalties provided for in Sections 161.052, 161.053, and 161.121, Florida Statutes, and Section 16B-33.20, Florida Administrative Code, any person or agent of any person refusing to comply with or willfully violating any of the provisions of Sections 161.052 and 161.053, Florida Statutes, or any rule or order prescribed by the Department thereunder shall incur a fine for each offense in any amount up to $10,000 to be fixed, imposed and collected by the Department. Each day during any portion of which such violation occurs constitutes a separate offense. If any person or agent of any person in violation of the provisions of Sections 161.052 or 161.053, Florida Statutes, and/or this Chapter makes application to the Division Director or Executive Director for final agency action pursuant to the provisions of Subsections 16B-33.12(9) or (10), Florida Administrative Code, or agrees to the removal of any structure or excavation in violation pursuant to the provisions of Subsection 16B-33.20(5), Florida Administrative Code, the Executive Director shall have the authority to fix, impose and collect a civil fine in an amount not to exceed $2,500.

(2) Whenever any person or agent of any person knowingly violates any of the provisions of Sections 161.052 or 161.053, Florida Statutes, so that damage is caused to beaches, shores, or beach/dune systems, including animal, plant, or aquatic life thereon, such violator shall be liable for such damage. If two or more persons or their agents cause damage and if liability for such cannot be apportioned each violator shall be jointly and severally liable for the damage. If, however, liability for such damage can be apportioned, each violator is liable only for that portion of the damage and subject to that portion of the fine attributable to his violation.

* * *

(4) Upon the imposition of a fine by the Department, the Executive Director will issue a certified letter to the violator demanding payment to the Erosion Control Trust Fund within fifteen days of receipt. If payment is not received within such fifteen-day period, the Executive Director shall cause an appropriate legal action to be filed to obtain payment. Any judgment rendered in such action shall be recorded in the appropriate public records in the county and filed as a lien under Chapter 85, Florida Statutes.

Specific Authority 370.021(1) FS. Law Implemented 161.054 FS. History—New 11-18-80, Amended 3-17-85.

16B-33.22 Control Line Program Administration to Counties or Municipalities.

* * *

(5) The Department, after thirty-day notice, may suspend and/or revoke the delegation of control line program administration to a county or municipality if the Department determines that the program administered is inadequate to protect the beach/dune system and the upland properties; to safeguard proposed and existing structures; or to protect the animal, plant, or aquatic life of the beach/dune system.

Specific Authority 370.021(1) FS. Law Implemented 161.053(3) FS. History—New 11-18-80, Amended 3-17-85.

16B-33.223 Partial Control Line Program Administration to Counties or Municipalities.

(1) The Department may delegate to any coastal county or municipality the authority for permitting certain types of activities which have been defined by the Department pursuant to Subsection 161.053(13), Florida Statutes.

(2) Such partial delegations of the control line regulatory program shall be narrowly construed to those particular activities specifically named in the delegation and agreed to by the affected county or municipality.

(3) Such county or municipality shall have, in the judgment of the Department, adequate funds and personnel to administer such a program and to provide an adequate review of all permit applications.

(4) The Department may at any time, require additional provisions to insure that the delegations are equivalent to current Departmental criteria and requirements.

(5) Any deviations from those activities specifically delegated require authorization from the Department.

(6) Each county or municipality to which a partial program administration has been delegated shall submit to the Department periodic reports of permits issued. These reports shall include:

(a) a list of all permits issued;

(b) the location of all permitted activities, referenced to Department of Natural Resources' referenced monuments;

(c) a description of the permitted activities and the permit conditions imposed; and

(d) any other information specifically requested by the Department that is necessary to make a proper evaluation of the effectiveness of the partial program administered.

(7) A partial program delegation may be revoked by the Department at any time upon notification being provided by the Executive Director of the Department if it is determined by the Department staff that the delegation is improperly or inadequately administered or enforced or that the local government no longer has adequate funds or personnel to conduct an adequate review or permit applications.

Specific Authority 370.021(1) FS. Law Implemented 161.053(13) FS. History—New 3-17-85.

16B-33.23 Coastal County and Municipality Reporting Requirement.

* * *

(2) All coastal counties and municipalities, within 5 days after receipt of an application for a permit for construction, excavation, or other activities seaward of either the coastal construction control line or 50-foot setback, shall inform the applicant of the requirement for a permit from the Department of Natural Resources. The information required to be given the applicant shall include:

(a) that a Department of Natural Resources' permit may be required by law; and

(b) the address of the Department of Natural Resources, Division of Beaches and Shores, Bureau of Coastal Engineering and Regulation.

(3) [Deleted]

Specific Authority 370.021(1) FS. Law Implemented 161.052(10), 161.053(12) FS. History—New 11-18-80, Amended 3-17-85.

F. A. C., that construction on property of applicant be located as far landward of coastal construction line as possible appears to be of questionable legality, evidence did not show that it was applied to petitioners' application for permit to construct dwelling on property seaward of existing coastal construction control line. Thus, petitioners lacked standing to challenge rule. Coley v. Department of Natural Resources, (DOAH 84-2053R), 6 FALR 6652 (1984).

16B-33.07 Structural and Other Requirements Necessary for Permit Approval.

ANNOTATIONS

Validity

Rule 16B-33.05(1), F. A. C., and Rule 16B-33.07(2), F. A. C., either track language of F. S. A. § 161.053 or otherwise constitute logical and reasonable requirements in implementation of that statutory provision concerning need for special structural and design considerations to minimize any adverse impact on beach system. Coley v. Department of Natural Resources, (DOAH 84-2053R), 6 FALR 6652 (1984).

16B-33.21 Civil Penalties.

ANNOTATIONS

Knowing violation

Court affirmed $5,000 civil penalty imposed by Department of Natural Resources against builder, where builder had actual notice of conditions he was to comply with in constructing residences seaward of coastal construction control line; his failure to comply under these circumstances subjected him to penalties provided for in F. S. A. § 161.054(1). McDonough v. Department of Natural Resources, App., (1st) 414 So. 2d 583 (1982).

CHAPTER 16B-36
BEACH EROSION CONTROL ASSISTANCE PROGRAM

16B-36.01 Purpose. The purpose of this Part is to repeal and replace Rule 16B-23, Florida Administrative Code, and to set forth revised policies and procedures for administration of the Beach Erosion Control Assistance Program, a local government grant-in-aid program, pursuant to Section 161.091, F. S.

General Authority 370.021 FS. Law Implemented 161.091 FS. History—New 6-10-83.

16B-36.02 Definitions.

(1) "Applicant" means an eligible governmental entity that submits a program application to the Department of Natural Resources.

(2) "Application" means a formal request for financial assistance consisting of a complete project proposal with required documentation.

(3) "Authorized Beach Restoration Project" means a beach project authorized by the United States Congress or the Department which involves a specific project engineering design and a project maintenance program for a period of not less than 10 years.

(4) "Board" means the Governor and Cabinet, sitting as the head of the Department of Natural Resources.

(5) "Committed Funds" means program funds appropriated by the Florida Legislature for a specific local applicant.

(6) "Department" means the Department of Natural Resources.

(7) "Director" means the Director of the Division of Beaches and Shores.

(8) "Easement" means an interest in real property owned by another that entitles its holder to a specific, limited use.

(9) "Eligible Governmental Entity" means any coastal county or municipality, and statutory or constitutional agencies of the State of Florida with the legal authority and responsibility for preserving and protecting coastal sandy beach resources.

(10) "Executive Director" means the Executive Director of the Department of Natural Resources.

(11) "Extension Period" means a formally noticed extended application submission period.

(12) "Federal Aid Projects" means those projects which are specifically authorized and funded by Congress and implemented by the U. S. Army Corps of Engineers.

(13) "In-Kind Costs" means personnel salaries and/or materials expense used on an approved project by a project sponsor.

(14) "Liaison Agent" means the individual officially designated to act on behalf of the applicant or project sponsor on all matters related to participation in the Erosion Control Program.

(15) "Nourishment" means the process of replenishing a beach with compatible sand material.

(16) "Program" means the Beach Erosion Control Assistance Program.

(17) "Project" means a planned undertaking in which all actions or activities have a specific, well-defined, common objective and where there are fixed beginning and ending dates.

(18) "Project Agreement" means a program contract executed between the Department and the project sponsor that explicitly defines the terms and conditions under which the project was approved.

(19) "Project Engineering" means the technical planning and designing of a project by a professional engineer which includes all actions necessary for construction, supervision and inspection.

(20) "Project Period" means the approved period of time during which costs may be incurred and charged against a project.

(21) "Project Sponsor" means an eligible governmental agency receiving program funding pursuant to an approved application.

(22) "Restoration" means the artificial placement and sloping of sediment upon an eroded beach so as to approximate the beach shape at some previous point in time.

(23) "Retroactive Funding" means reimbursement of costs incurred by a project sponsor for approved eligible activities prior to the final approval of a project by the Governor and Cabinet but after legislative approval.

(24) "Staff" means the employees of the Division of Beaches and Shores.

(25) "Waiver of Retroactivity" means a statement in writing from the Director that defines those project costs which may be eligible for reimbursement by the Department on a retroactive basis.

General Authority 370.021 FS. Law Implemented 161.091 FS. History—New 6-10-83.

16B-36.03 Policy.

(1) For the effective implementation of the Beach and Shore Preservation Act, the Board hereby establishes the Beach Erosion Control Assistance Program for the purpose of assisting local governments in alleviating serious sandy beach erosion problems and for the protection and preservation of the sandy beach resources of the State of Florida pursuant to Section 161.091(1), F. S.

(2) The following constitutes the policy of the Board pertaining to the Beach Erosion Control Assistance Program:

(a) Sandy beach preservation and erosion control must be the primary purpose of a project receiving a program grant. Secondary purposes may be allowed; however, the staff and Executive Director must first make a determination that a secondary purpose is consistent and compatible with Section 161.091, Florida Statutes, before a favorable recommendation may be submitted to the Board for their consideration.

(b) No other grant program administered by the Department may be used as the applicant's required matching contribution.

(c) For a project to qualify for state funding under the Beach Erosion Control Assistance Program, the project applicant must provide permanent public access to project areas at approximately half mile intervals, including adequate vehicle parking areas, as determined by the Department to be in the public interest. Notwithstanding anything else herein, no public funds shall be spent restoring any beach where adequate public access to, and use of, the restored beach is not available.

(d) The Department may terminate a project agreement and demand return of all program funds released to the sponsor for noncompliance with any of the terms and conditions of the project agreement or of this Part. Repeated failure of a project sponsor to comply with the provisions of Section 161.091, F. S., this Part, or of the project agreement may result in the Department declaring the sponsor ineligible for further participation in the program until such time as compliance has been demonstrated to the satisfaction of the Department.

(e) Procedures for disbursements under this program have been established to disallow the possibility of interest earned by a project sponsor on state funds. In the event circumstances arise which result in a project sponsor retaining state funds in excess of 30 days from the receipt of such funds by the Department, the project sponsor shall pay interest to the Department at the prevailing rate of interest.

(f) A 10 percent retainage of the Department's obligation for all projects approved on a reimbursement basis, shall be held by the Department until construction of the project is complete and the staff has performed a satisfactory project review report. However, in the event that a contract between a local sponsor and a contractor provides for retainage on each progressive payment, the Department will withhold the same percentage from each such progressive payment.

General Authority 370.021 FS. Law Implemented 161.091 FS. History—New 6-10-83.

16B-36.04 Project Eligibility.

(1) Program financial assistance may be approved by the Board only for those projects which can be justified in accordance with

Section 161.091, F. S., and this Part. Program funding may be recommended in support of the following beach preservation and erosion control activities:

(a) Beach restoration/nourishment

(b) Sand transfer, stockpiling

(c) Jetties, groins, breakwaters, revetments

(d) Sand trap construction and maintenance

(e) Dune construction and revegetation

(f) Beach dune overwalks

(g) Dune protective walkways or other measures of dune protection or preservation

(h) Sand fencing

(i) Biological and hydrological monitoring studies

(j) Sand source studies

(k) Educational signs

Retroactive funding may be approved for those erosion control activities specified in subsections (i) and (j) of this section.

The Board may consider and approve applications for erosion control activities not included in subsections (a) through (k) of this section if the Director and the Executive Director certify the eligibility of the application, after having made the determination that such projects are otherwise consistent with all requirements of Section 161.091, F. S., and this Part. The Executive Director shall reject any application submitted which he finds inconsistent with the intent of Section 161.091, F. S., and this Part.

General Authority 370.021 FS. Law Implemented 161.091 FS. History—New 6-10-83.

16B-36.05 Project Funding Limits.

(1) Up to 75% of the nonfederal share of a federal aid project may be provided by the Department under the Beach Erosion Control Assistance Program pursuant to Section 161.091(1)(a), F. S. Project activities as described in Section 16B-36.04 of this Part are eligible activities for federal aid projects. The project sponsor shall be responsible for a minimum of 25% of the non-federal project cost and 100% of:

(a) The nonfederal costs for project engineering including engineering supervision and inspection;

(b) The costs for providing all required construction easements, rights-of-way, public access easements, and required vehicle parking spaces;

(c) The costs of obtaining all required permits;

(d) The costs of establishing erosion control lines; and

(e) All other nonfederal costs.

(2) In the case of federal inlet navigation channel construction or maintenance dredging projects, the Department may pay up to 100% of any additional project cost, as determined by the Department, involved in placing suitable sand material on nearby beaches instead of dumping such sand out at sea or in other disposal areas when such sand placement does not involve the construction of an authorized beach restoration project requiring public funding; provided that, except in cases where beach disposal areas are in state public ownership, the county, municipality, port, or inlet district authority within which the federal inlet navigation channel is located shall accept the responsibility of sponsor for such project and provide easements, rights-of-way, required permits, and all other requirements normally provided by a local sponsor.

(3) Up to 75% of the project cost, as allowable pursuant to Section 161.091(1)(b), F. S., of an approved project may be provided by the Department under the Beach Erosion Control Assistance Program for nonfederal aid projects. Project activities as described in Section 16B-36.04 of this Part, are eligible activities for nonfederal aid projects. The project sponsor shall be responsible for a minimum of 25% of the total contracted project cost and 100% of:

(a) All costs in excess of the contractual project costs;

(b) The costs for project engineering, including engineering supervision and inspection;

(c) The costs for providing all required construction easements, rights-of-way, public access easements, and required vehicle parking spaces;

(d) The costs of obtaining all required permits;

(e) The costs of establishing erosion control lines; and

(f) All other costs.

(4) In the case of nonfederal inlet navigation channel construction or maintenance dredging projects, the Department is authorized to pay up to 75% of the cost involved in placing suitable sand material on adjacent beaches, provided that the county, municipality, port, or inlet district authority within which the inlet is located accepts the responsibility of sponsor for such project and provides easements, rights-of-way, required permits, and all other requirements normally provided by a local sponsor.

General Authority 370.021 FS. Law Implemented 161.091 FS. History—New 6-10-83.

16B-36.06 Project Approval Process.

(1) Applications that are determined to be eligible under the provisions of Section 161.091, F. S., and this Part, will be assigned a total point score by the staff on the basis of the criteria as defined in Section 16B-36.08. A project assessment based upon each criterion shall be filed by the staff with each application.

(2) The Executive Director shall submit to the Board, for formal consideration, a prioritized list of recommended applications evaluated pursuant to this Part.

(3) Once the Board has reviewed and approved the prioritized list of grant applications, the Executive Director shall submit to the Legislature all such project applications as part of the regular legislative budget process. The submittal of each application to the Legislature shall include an explanation of the applicant's request and the results of the Department's evaluation of the project application.

(4) An approval of any application by the Legislature shall be considered a commitment of state funds for the project and also shall be considered a mandate to the Executive Director to continue the formal project review process, pursuant to Section 16B-36.09, F. A. C.

(5) An application for which state funds have been committed by the Legislature shall be returned to the applicant for additional information, including updated and detailed cost estimates, environmental permitting, and the resolution of any recognized deficiencies in the application that could not be resolved prior to legislative funding.

(6) Upon receipt, review, and approval by the staff of a completed and updated application, the Executive Director shall submit a project agreement to the Board for approval. An approval by the Board of the project agreement will finalize the project review process. All or any portion of funds previously committed by the Legislature shall at this point be considered obligated for project implementation.

(7) The Director shall notify the project sponsor of pending Executive Board action and shall formally notify the project sponsor of the action taken by the Board within seven days following such action.

General Authority 370.021 FS. Law Implemented 161.091 FS. History—New 6-10-83.

16B-36.07 Project Application Requirements:

(1) All requests for financial assistance under the Beach Erosion Control Assistance Program must be presented on forms supplied to the applicant by the Department. The application form just be completed in its entirety. An incomplete application form or presentation of inaccurate information may negatively impact the priority rating of the proposed project.

(2) The Department will only accept program applications between April 1 and July 1, corresponding to the state's legislative budget preparation cycle. Under certain circumstances a formally announced specific extension of the authorized submission period may be made by the Department.

(3) Any eligible local government desiring to submit an application under the Beach Erosion Control Assistance Program shall submit a completed standard application form to the Division. The following information shall be submitted on or attached to the standard application form:

(a) The name, address and telephone number of the eligible local government making the application and the name and telephone number of the designated liaison agent.

(b) The name, address, and telephone number of the project engineer.

(c) A resolution adopted by the applicant's governing body approving the submittal of an application under the Beach Erosion Control Assistance Program.

(d) The Chief Executive Officer of the applicant governing body must place his/her signature at the designated space on the application.

(e) A map showing the type of upland ownership of the project area must be attached. Upland ownership shall be designated on the map by federal, state, local, or private ownership.

(f) A narrative description of the project shall be provided as well as:

1. Project site plan.
2. Map showing public access.
3. Map showing vehicle parking areas.
4. Legal description and reference to DNR monuments.

(g) A narrative description of the project need shall be submitted.

(h) Estimated project cost must be identified with a breakdown as to federal fund commitments, state funds requested, and local funds available.

(i) A copy of any federal a[illegible]ions that

the applicant has submitted must be attached.

(j) Estimated project cost by eligible activity shall be identified.

(k) The expected design of life of the project and annual maintenance cost shall be identified and the anticipated source of funds for such costs.

(4) Certain application requirements, as appropriate for the subject property, shall be submitted after the Legislature has approved the project and funds are committed for project construction. The requirements include:

(a) Department of Environmental Regulation permit.

(b) All required easements for project construction.

(c) Department of Natural Resources, Division of Beaches and Shores, permits pursuant to Section 161.041 and/or Section 161.053, F. S.

(d) Establishment of an Erosion Control Line.

(e) Department of the Army, U. S. Corps of Engineers permit.

(f) Approval by Division of Archives, History and Records Management.

(g) One complete set of project plans and specifications prepared and signed by the project engineer.

(h) A detail project budget based on the preliminary activity cost.

(i) Other requirements that the Department deems necessary.

General Authority 370.021 FS. Law Implemented 161.091 FS. History—New 6-10-83.

16B-36.08 Criteria for Evaluating Project Applications.

(1) The extent to which the Department determines that an application meets specified criteria will be indicated by assignment of a point value to each criterion employing the following scaled values:

Poor or None	0
Less Than Satisfactory	1
Satisfactory	2
Above Satisfactory	3
Excellent	4

The point value assigned to a criterion will be multiplied by the indicated weighting factor. An application's overall suitability for program funding and its general standing among competing applications shall be determined by the extent to which the proposed project demonstrates or satisfies the following:

(a) Selects the erosion control solution which most effectively addresses the specific erosion problem.

Classification
Points (max = 4) Weight Point Value Assigned
—— × 3 = ——
Staff Comments: ——

(b) Provides for the resolution of an erosion problem where the public is the upland riparian owner. (Value assigned is relative to the extent of public ownership.)

Classification
Points (max = 4) Weight Point Value Assigned
—— × 3 = ——
Staff Comments: ——

(c) Provides for the resolution of an erosion problem on the state's sandy beaches fronting the Gulf of Mexico or Atlantic Ocean.

Classification
Points (max = 2) Weight Point Value Assigned
—— × 3 = ——
Staff Comments: ——

(d) Has submitted a project application for which the Department has expressed a continuing commitment either to complete a project that was started by a previous legislative appropriation, or to maintain or enhance a project to protect a substantial previous investment by the state.

Classification
Points (max = 4) Weight Point Value Assigned
—— × 3 = ——
Staff Comments: ——

(e) Provides for the preservation and protection of an existing dune system or provides for the restoration and/or enhancement of a disturbed dune system.

Classification
Points (max = 2) Weight Point Value Assigned
—— × 3 = ——
Staff Comments: ——

(f) Has submitted an application that includes all required information and supporting documentation.

Classification
Points (max = 2) Weight Point Value Assigned
—— × 2 = ——
Staff Comments: ——

(g) Has the likelihood that the project will be commenced during the fiscal year for which funds have been requested, and that the project, upon commencement, will be completed within a reasonable period of time.

Classification
Points (max = 2) Weight Point Value Assigned
—— × 2 = ——
Staff Comments: ——

(h) Has previously submitted the same project application that received a favorable project evaluation but was not funded due to financial constraints on the part of the state.

Classification
Points (max = 2) Weight Point Value Assigned
—— × 1 = ——
Staff Comments: ——

(i) Applicant has demonstrated the capabilities to effectively administer and implement the type of project proposed, has no past record of difficulty in meeting the Department's requirements for overseeing erosion control grants, and is clearly within the administrative and financial resources of the applicant.

Classification
Points (max = 4) Weight Point Value Assigned
—— × 1 = ——
Staff Comments: ——

(j) Demonstrates innovative ideas or excellence in resolving an erosion problem and presents evidence of sound planning and management efficiency, and interagency coordination and cooperation.

Classification
Points (max = 4) Weight Point Value Assigned
—— × 1 = ——
Staff Comments: ——

(k) The extent to which the staff of the Department, after review of an application, perceives difficulty in an applicant's ability to obtain requisite environmental permits shall be reflected as a negative weight assigned an application under this evaluation system.

Classification
Points (max = 4) Weight Point Value Assigned
—— × −3 = ——
Staff Comments: ——

General Authority 370.021 FS. Law Implemented 161.091 FS. History—New 6-10-83.

16B-36.09 Project Agreement; Standard Terms and Conditions.

(1) Upon final approval of the project agreement by the Board, the Department and the local sponsor shall execute the project agreement and prepare for implementation of the approved project in accordance with the provisions of this Part.

(2) Although a project agreement is generally standard for all projects, additional specified terms and conditions may be incorporated in the agreement.

(3) The standard terms and conditions for project agreements are:

(a) The Department must find beach erosion control as the primary purpose of the project.

(b) The project sponsor must agree to perform or cause the performance of eligible activities in accordance with project plans and specifications.

(c) All eligible activities shall be identified in the project agreement together with the estimated cost for eligible activities and the identification of the project sponsor's share, the state share, and, in the case of a federal aid project, the federal share of the total estimated cost of the project.

(d) Specific terms and conditions of payment from the Department to the project sponsor must be identified.

(e) A specific project period during which costs may be incurred shall be identified. Further, all retroactive activities and costs shall be identified as such in the project agreement.

(f) The project sponsor must agree that it will make every reasonable effort to insure the continued public ownership and maintenance of public access sites and vehicular parking areas, as identified in the project agreement, during the life of the project.

(g) The project sponsor shall not discriminate against anyone with regard to race, creed, sex, national origin, or location of the user's residence during or after construction of the project. The project sponsor will comply with all federal, state, and local laws, ordinances, rules, and regulations regarding discrimination.

(h) The project sponsor shall insure that it has in force and shall maintain in force throughout the project period all insurance coverage to include those classifications as listed in Standard Liability Insurance Manuals, which most nearly reflect the project operation of the project sponsor and which are appropriate and allowable pursuant to Florida Statutes. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida.

(i) The project sponsor shall fully comply with all applicable laws concerning bidding and purchasing.

(j) The project sponsor shall hold and

save the state and its agencies, officers, and employees harmless from any and all liabilities which may result from the construction or operation of the project.

(k) The project sponsor shall allow the Department's staff to examine all project records, and shall grant staff the right to audit any project books, documents, and papers during the project construction and following completion of the project. The project sponsor shall maintain the records, books, documents, and papers for at least three (3) years following completion of the project. The agreement can be unilaterally cancelled by the Department should the project sponsor refuse to allow public access to all documents, papers, letters, or other materials made or received in conjunction with the contract pursuant to the provisions of Chapter 119, Florida Statutes. Following receipt of an audit report identifying any reimbursement due the Department for noncompliance with the agreement, the project sponsor will be allowed a maximum of 60 days to submit any additional pertinent documentation to offset the amount identified as being due the Department.

(l) The project sponsor shall appoint a liaison officer to be responsible for the implementation of the provisions of the project agreement and for the submission of progress reports at least every 90 days from the date of the execution of the agreement until the project is certified complete.

(m) In the event the project sponsor fails to comply with the terms and conditions of the agreement, the agreement may be considered null and void, and the Department will have the right to cancel its financial and legal obligation as identified in the agreement and the project sponsor shall reimburse the Department upon its request any and all funds disbursed to the project sponsor for the project.

(n) The Department's contract manager for the project shall be identified in the agreement. The contract manager will be responsible for insuring performance of the terms and conditions of the agreement and shall serve as a liaison with the project sponsor and shall approve all project sponsor requests for payment.

(o) Attachments to the agreement will include:

1. Project site identification.
2. Reimbursement forms (as applicable).
3. Competitive bidding procedures (as applicable).
4. Other forms determined to be necessary for project accountability.

(4) Any proposed change(s) in the project agreement must be approved by the Department prior to their implementation. A change in a project agreement that alters either the scope of the project or proposes an increase in state funds shall be submitted to the Board for its review and action. A proposed change that does not alter the scope of the project or proposes an increase in state funds may be approved by the Executive Director without Board review.

(5) Any and all changes in a project agreement shall be made by a formal project agreement amendment. The project agreement amendment shall set forth the exact change(s) and shall be executed by the Chief Executive Officer of the project sponsor governing body and the Executive Director.

General Authority 370.021 FS. Law Implemented 161.091 FS. History—New 6-10-83.

16B-36.10 Disbursement of Program Funds. The Department shall disburse funds for approved projects up to the level of funding obligated for a project in accordance with the disbursement schedule provided in the project agreement.

(1) For federal aid projects where the U. S. Army Corps of Engineers is performing actual construction or contracting with private enterprise for construction of a project, the Department may advance the state's share of the total project cost to the local sponsor.

(2) The project sponsor shall, within twenty (20) days of receipt of the Department's share of the project cost, forward to the U. S. Army Corps of Engineers the Department's share and the local sponsor's share of the total project cost.

(3) The local sponsor shall be responsible for full compliance of all the provisions of the federal aid project agreement including project accountability, progress reports, post completion certification, and all other terms and conditions of the agreement.

(4) For all projects where the local sponsor is to be responsible for project construction, the Department shall disburse program funds on a reimbursement basis as provided in the project agreement.

(5) All requests for reimbursement must:

(a) Be presented on reimbursement request forms supplied to the project sponsor by the Department.

(b) Provide documentation, as specified by the Department that fully justifies all expenses incurred against the project.

(c) Be submitted and approved by the designated project liaison agent and the project sponsor financial officer.

(6) Before final reimbursement for projects classified as nonfederal aid projects, and within 30 days after the date the U. S. Army Corps of Engineers declares a federal aid project completed, the project sponsor shall submit to the Department a completed and executed Post Completion Certification form. The Post Completion Certification form must be signed by the project liaison agent and the project engineer.

(7) Reimbursement Request Forms. Request for reimbursement by a project sponsor shall be presented on forms as described herein. The forms and the conditions under which each must be filed are as follows:

(a) Request for Payment Summary Form. This form must be completed for all requests for project cost reimbursement.

(b) Contractual Services Summary Form. This form must be completed for all projects or portions of projects that are performed by private contractors.

(c) Direct Material Purchases Summary Form. This form must be completed if the project sponsor elects to construct all or any portion of the approved project with its own work force and purchases materials necessary for the construction of approved facilities.

(d) Grantee Labor Cost Summary Form. This form must be submitted if the project sponsor elects to construct all or any portion of the approved project with its own work force.

(e) Grantee Stock Material Cost Summary Form. This form must be completed if the project sponsor elects to construct all or any portion of the approved project with its own work force and supplies are requisitioned from its own stock room.

(8) All forms necessary for a project sponsor to submit a request for reimbursement shall be attached to and made a part of the project agreement together with an explanation of eligible and ineligible costs for each type of expense.

General Authority 370.021 FS. Law Implemented 161.091 FS. History—New 6-10-83.

16B-36.11 Post Completion Project Review.

(1) Within 60 days after the local sponsor has submitted the executed Post Completion Certification Form, the staff shall perform a review of the project. The staff review shall include a site inspection of the project and a review of all books, records or documents pertaining to the financial accountability of all project costs.

(2) If the staff feels that copies of any or all financial records are needed as documentation for the staff review report, the project sponsor shall provide the staff with all such documentation.

(3) If the staff finds the project and the project financial records satisfactory, a review report shall be prepared.

(4) If the staff finds that the local financial records of a project do not fully justify reported costs, the staff shall provide a written summary of all discrepancies noted to the project sponsor at which time the project sponsor shall perform all actions necessary to resolve any and all discrepancies noted so that a satisfactory staff review report can be prepared.

(5) The Department shall hold on account the project retainage until such time as a satisfactory review report is prepared.

(6) All records of the project sponsor that document project costs shall be subject to review by the Department's Internal Audit staff, the Auditor General, Comptroller, federal auditors and others who may be authorized to audit the project records of the Department.

General Authority 370.021 FS. Law Implemented 161.091 FS. History—New 6-10-83.

16B-36.12 Program Forms.

(1) The forms referred to in this Part are set forth as follows:

(a) Beach Erosion Control Assistance Program Application Form.

(b) Project Agreement.

(c) Project Agreement Amendment.

(d) Request for Payment Summary Form.

(e) Contractual Services Summary Form.

(f) Direct Material Purchases Summary Form.

(g) Grantee Labor Cost Summary Form.

(h) Grantee Stock Material Cost Summary Form.

(i) Post Completion Certification Form.

As attached hereto and by reference incorporated herein.

General Authority 370.021 FS. Law Implemented 161.091 FS. History—New 6-10-83.

CHAPTER 16C-25
CONSERVATION OF OIL AND GAS: GENERAL

16C-25.01 Application of Rules. The rules in this chapter and Chapters 16C-26, 16C-27, 16C-28, 16C-29 and 16C-30 are adopted to implement the provisions of Chapter 377, Florida Statutes, relating to the production and conservation of the state's oil, gas, and other petroleum resources.
Specific Authority 377.22 FS. Law Implemented 377.04, 377.21 FS. History—New 11-26-81.

16C-25.02 Definitions. Unless the context otherwise requires, the words defined shall have the following meaning when found in these rules, to wit:

(1) ADMINISTRATOR (Oil and Gas Administrator) shall mean the Chief of the Bureau of Geology.

(2) AGENT shall mean a professional employee of the bureau acting on behalf of the Administrator and Department.

(3) BARRELS or BARRELS OF OIL shall mean 42 United States gallons of oil at a temperature of 60 degrees Fahrenheit, after deductions for the full percent of basic sediment, water and other impurities present, ascertained by centrifugal or other recognized and customary test.

(4) BLOWOUT shall mean a sudden or violent escape into the atmosphere of oil, gas or water from a well.

(5) BLOWOUT PREVENTER shall mean the industry approved equipment installed at the wellhead to prevent a blowout.

(6) BOARD shall mean the Executive Board of the Department of Natural Resources.

(7) BOTTOM-HOLE PRESSURE shall mean the pressure in pounds per square inch at the face of the producing horizon as determined by means of a pressure recording instrument, adopted and recognized by the oil and gas industry.

(8) CASING PRESSURE shall mean the pressure at the surface built up between the casing and the tubing.

(9) CASINGHEAD GAS shall mean any gas or vapor, or both gas and vapor, indigenous to an oil stratum and produced from such stratum with oil (see DRY GAS).

(10) CIRCULATION shall mean the passing of a fluid down through the drill stem and up to the surface in the process of rotary drilling or in setting casing. REVERSE CIRCULATION shall mean the passing of a fluid down the annulus of the casings or the drill stem and hole and return through the drill stem.

(11) COMMON CARRIER shall mean a pipeline, railroad, barge, truck or other transportation facility offering service for hire to remove oil, gas, and products derived from any producer to a designated purchaser, as opposed to a transporter who carries exclusively his own production of oil or gas.

(12) COMMON SOURCE OF SUPPLY shall mean the geographic area or horizon definitely separated from any other such area or horizon and which contains, or from competent evidence appears to contain, a common accumulation of oil or gas or both. Any oil or gas field, or part thereof, which comprises and includes any area which is underlain, or which from geological or other scientific data or experiments or from drilling operations or other evidence, appears to be underlain by a common pool or accumulation of oil or gas, or both oil and gas, is a common source of supply.

(13) COMPLETION DATE shall mean the day, month, and year that a new well is either plugged and abandoned, or is tested for oil and gas and is considered to be completed and capable of production, or is tested as an injection well and is considered to be completed and suitable for injection use. If the well is temporarily abandoned before completion, or if the operator fails to report its completion or abandonment within thirty (30) days after the well has been drilled to total depth, the completion date may be determined by the Administrator.

(14) CONDENSATE shall mean the liquid hydrocarbons produced by the condensation of a vapor or gas, either after it leaves the reservoir or while still in the reservoir. Condensate is often called DISTILLATE, DRIPS, WHITE OIL, etc.

(15) CONSERVATION shall mean conserving, preserving, guarding, or protecting the oil and gas resources of the state by obtaining the maximum efficiency with a minimum waste in the producing, transporting, processing, refining, treating, and marketing of the unrenewable oil and gas resources of the state.

(16) COORDINATOR OF OIL AND GAS shall mean the Supervisor of the Oil and Gas Section of the Bureau of Geology (see DISTRICT OIL AND GAS COORDINATOR).

(17) CUBIC FOOT OF GAS shall mean that amount of gaseous hydrocarbons contained in a cubic foot of space at a base temperature of 60 degrees Fahrenheit and an absolute pressure of 14.65 lbs. per square inch, which temperature and pressure are referred to as the base temperature and pressure respectively.

(18) DAY shall mean a period of twenty-four (24) consecutive hours, from 7:00 a.m. one day to 7:00 a.m. the following day.

(19) DEPARTMENT shall mean the State of Florida, Department of Natural Resources.

(20) DISTRICT OIL AND GAS COORDINATOR (District Coordinator) shall mean the agent of the Administrator of Oil and Gas whose responsibility is an assigned district.

(21) DRILLING MUD (Mud-Laden Fluid) shall mean any approved mixture of water and clay, or other material as the term is commonly used in the industry, which is utilized in controlling formation pressures and in removing drill cuttings.

(22) DRY GAS shall mean natural gas obtained from formations that produce gas only, or natural gas which does not contain the heavier fractions which may easily condense under normal atmospheric conditions, not casinghead gas.

(23) ENHANCED RECOVERY (Additional Recovery Methods) as used herein include, but are not limited to, to maintenance or partial maintenance of reservoir pressure; recycling; flooding a pool or pools, or parts thereof, with air, gas, water, liquid hydrocarbons, any other substance, or any combination thereof; or any other method of producing additional hydrocarbons approved by the department.

(24) FLOW LINE shall mean the pipe through which produced fluids travel from the well to the field processing equipment or storage.

(25) GATHERING LINE shall mean the pipe used in transferring produced fluids from the field storage to the point of sale to a common carrier or other purchaser.

(26) GEOPHYSICAL LOGS shall mean any log obtained by lowering an instrument into a well and recording some physical property of formation fluids and the rock material logged continuously on a meter at the surface. Examples: electric log, radioactivity log, sonic log, temperature log.

(27) LEASE TANK shall mean the tank or other receptacle into which the oil is produced, either directly from a well or from a well through gas separator, gun barrel or similar equipment.

(28) MONTH and CALENDAR MONTH shall mean the period or interval of time from 7 a.m. on the first day of any month of the calendar to 7 a.m. of the first day of the next succeeding month of the calendar.

(29) MUD PIT shall mean a pit or tank utilized to contain mud-laden fluid.

(30) OIL AND GAS ADMINISTRATOR (see ADMINISTRATOR).

(31) OPERATOR shall mean any duly authorized person who is in charge of the development of a lease and/or is the operator of a producing well.

(32) PIPELINE or PIPELINE SYSTEM shall mean all parts of a carrier's physical facilities through which oil, gas or products move in transportation, including, but not limited to the following: line pipe, valves and other appurtenances connected to line pipe, pumping stations, fabricated assemblies associated with pumping stations, metering and delivery stations and fabricated assemblies therein, and carrier-controlled tankage.

(33) PRESSURE MAINTENANCE shall mean the following:

(a) The reintroduction of gas or liquid produced from an oil or gas well to maintain the pressure of the reservoir;

(b) The introduction of gas or liquid for the same purpose but obtained from an outside source.

(34) PURCHASER shall mean any person who directly or indirectly purchases, transports, takes, or otherwise removes production to his account from a well, lease, or common source of supply.

(35) RESERVE PIT shall mean a pit or tank utilized for reserve storage during drilling.

(36) RESERVE CIRCULATION (See CIRCULATION).

(37) SEPARATOR shall mean an apparatus for separating oil, gas, water, etc., with relative efficiency as it is produced.

(38) SHUT IN PRESSURE shall mean the pressure noted at the well head when the

well is completely shut in. Not to be confused with BOTTOM-HOLE PRESSURE.

(39) SPECIFIED MINIMUM YIELD STRENGTH shall mean the minimum yield strength expressed in pounds per square inch, prescribed by the specification under which the material is purchased from the manufacturer.

(40) SUBMERGED LANDS shall mean those lands within the public domain of the State of Florida that are overlain by the waters of the Gulf of Mexico, the Atlantic Ocean, the bays and other bodies of water connecting to the Gulf of Mexico and the Atlantic Ocean which are subject to the ebb and flow of the tide, and inland rivers and lakes of the state.

(41) SURGE PRESSURE shall mean pressure produced by a change in velocity of the moving stream that results from shutting down a pump station or pumping unit, closure of a valve, or any other blockage of the moving stream.

(42) TOXIC GAS shall mean any natural gas containing more than 50 ppm of hydrogen sulfide.

(43) TYPE I WELL (or LOCATION) shall mean a well which flows naturally (without artificial lift) and which has a gas-oil ratio greater than 200 cubic feet of gas per barrel of oil or whose produced fluids contain more than 50 parts per million of hydrogen sulfide.

(44) TYPE II WELL (or LOCATION) shall mean a well or location not classified as a Type I.

(45) TUBINGLESS COMPLETION shall mean any well equipped with 4 1/2 inch OD or smaller production casing and which is produced by flow to the surface through the production casing without tubing.

(46) WATERS shall include all ground waters within the state as well as the surficial water of Florida contained in lakes, rivers, swamps, marsh basins, or territorial waters of the state.

(47) WELL COMPLETION DATE (see COMPLETION DATE).

(48) WELL RECORD (DRILLER'S LOG) shall mean the written record progressively describing the strata, water, oil or gas encountered in drilling a well with such additional information as to gas volumes, pressures, rate of fill-up, water depths, caving strata, casing record, tests, etc. as is usually recorded in the normal procedure of drilling.

(49) WELL SITE shall mean the general area around a well which has been disturbed from its natural or existing condition, as well as the drilling or production pad, mud and water circulation pits, and other operation areas necessary to drill for or produce oil or gas.

(50) WETLANDS shall mean the lands of the State of Florida which are either overlain by the waters of the intermittent lakes, swamps and marshes, or by waters which are impounded by the State of Florida.

(51) WORKOVER shall mean an operation with a workover rig involving a deepening, plugback, repair, cement squeeze, perforation, hydraulic fracturing, acidizing, or other chemical treatment which is performed on a formation in a production, disposal, or injection well in order to restore, sustain, or increase production, disposal, or injection rates.

(52) FRESH WATER shall mean any surface or ground waters of the State whose quality is such that it be suitable for potable water use or have a total dissolved solids content of less than 10,000 milligrams per liter.

Specific Authority 377.22 FS. Law Implemented 377.19, 377.22(2) FS. History—New 11-26-81. Amended 4-12-83, 8-1-83.

16C-25.03 Orders. In addition to these rules, the Board, from time to time, may issue Orders which govern exploration, drilling or production of oil, gas, or other petroleum resources.

(1) An Order shall be limited to a single identified unit, field or pool.

(2) An Order may be issued to:

(a) Impose increased or additional requirements upon owners or operators; or

(b) Define an area included in a field, pool or unit; or

(c) Define an area considered a proven field; or

(d) Limit the total amount of oil or gas which may be produced in the state when the market demand is less than the possible production and to prevent waste; or

(e) Approve activities for an area, field or pool which may be approved for an individual well; or

(f) Impose requirements to prevent or respond to an eminent, existing, or immediate past emergency situation.

(3) An Order shall not abrogate or alter any requirement of Chapter 16C-25, 16C-26, 16C-27, 16C-28, 16C-29, or 16C-30, F. A. C.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-25.04 Reports.

(1) The person who is responsible for filing required reports relating to the exploration, drilling or production of oil, gas, or other petroleum products shall address the reports to: Oil and Gas Administrator, 903 West Tennessee Street, Tallahassee, Florida 32304.

(2) All required reports shall be submitted only through the medium of United States Mail. It is unlawful to transmit or receive the required reports in any other manner.

(3) Every producer of oil and gas in the state shall submit a monthly report of actual production from each and every well operated by him. The monthly report shall be submitted to the Administrator within one month of the report period.

Specific Authority 377.22 FS. Law Implemented 377.21, 377.22 FS. History—New 11-26-81.

16C-25.05 Inspections. The Administrator has jurisdiction over all persons and property necessary to administer and enforce effectively the provisions of the Act and these rules. In furtherance of the duty to effectively manage the oil and gas resources of the state and to prevent waste, the following requirements shall apply to all persons:

(1) All persons holding permits for the exploration, drilling, or operation of oil or gas wells shall allow the Administrator or his agent to examine properties, papers, books, records, equipment or other information, items or locations pertaining to such permits in order to determine whether the applicant can comply or is complying with requirements of the laws and rules relating to oil and gas.

(2) All owners and operators shall allow the Administrator or his agent to inspect all operations relating to the exploration, production, and transportation of petroleum products, including the real property upon which such operations are conducted or proposed to be conducted.

(3) The administrator or his agent shall inspect papers, books, records, and other documents during regular office hours of the applicant, owner or operator. In the event of an emergency, the Administrator or his agent may inspect these documents at any time.

(4) The Administrator or his agent may inspect an exploration or production site at any time, with or without notice.

Specific Authority 377.22 FS. Law Implemented 377.21, 377.22 FS. History—New 11-26-81.

16C-25.06 Permits. Each person who intends to undertake exploration for, production or transportation of oil or gas or other petroleum products shall first obtain a permit from the Department of Natural Resources.

(1) Permits for exploration or production shall be issued by the Governor and Cabinet where the surface rights or mineral rights are publicly owned in whole or in part, on or over submerged lands; and within the Big Cypress Area of Critical State Concern. Permits shall be issued by the Executive Director where the surface rights and mineral rights are privately owned.

Ordinarily a single permit will be issued for all activities related to exploration and production, including the right to transport test oil for a maximum of 60 days and permission to abandon and plug a well after complying with the provisions of Rule 16C-29.09. However, the department reserves the right to restrict a permit to only a portion of the activities, and to require an operator to return to seek permits from the department for additional work to be conducted.

(2) Drilling and operating injection wells, abandonment and plugging activities and geophysical activities all require separate permits pursuant to the requirements of the rules of the division.

(3) Permits for transportation of petroleum products, other than transportation of test oil as set forth in (1) above, produced pursuant to a permit issued by the department, shall be issued or denied by the Executive Director.

(4) When the department is considering an application for any activity relating to exploration for or production of oil or gas, the bureau may hold a public meeting, if there is substantial public interest in the activities which are the subject of the application, prior to taking final agency action on the application.

Specific Authority 377.22 FS. Law Implemented 377.24 FS. History—New 11-26-81, Amended 8-1-83.

16C-25.07 Amendments to Permits.

(1) The department recognizes that, due to the nature of oil and gas resources, an operator may encounter unexpected circumstances while undertaking exploratory or production activities.

(2) The Administrator may amend a permit to allow alternate measures, to the extent that it is necessary to meet unexpected circumstances, provided such changes

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meet the following requirements:

(a) The change is consistent with best management practices of the industry.

(b) The change will continue to, or is necessary to, conserve oil or gas resources.

(c) The change will continue to, or is necessary to, conserve the other natural resources in the area.

(3) In no event may the Administrator approve measures which will reduce the protective measures in the permit or as set forth in Chapters 16C-26 through 16C-30, F. A. C.

Specific Authority 377.22 FS. Law Implemented 377.21, 377.22 FS. History—New 11-26-81.

16C-25.075 Enforcement Actions.

(1) The department may begin enforcement action on its own initiative or when a citizen files a written complaint with the department.

(2) If an initial investigation indicates sufficient evidence of a violation of a statute, rule, or permit condition to warrant instituting enforcement proceedings, the bureau shall so notify the public of its intent at the time the enforcement proceedings are begun.

Specific Authority 377.22 FS. Law Implemented 377.21, 377.34, 377.35, 377.36 FS. History—New 8-1-83.

16C-25.08 Forms. The following forms are required to be filed by the operator as prescribed in the applicable rule, and they are available free of charge from the administrator.

DNR 51-001(16) — Organization Report (See Rule 16C-26.01) (Oil/Gas Form No. 1)

DNR 51-002(16) — Plugging and Site Restoration Bond for Single Well (See Rule 16C-26.02(1)) (Oil/Gas Form No. 2)

DNR 51-002A(16) — Blanket Bond for Plugging and Site Restoration (See Rule 16C-26.02) (Oil/Gas Form No. 2A)

DNR 51-003(16) — Application for Permit to Drill (See Rule 16C-26.03 or 16C-29.02) (Oil/Gas Form No. 3)

DNR 51-003A(16) — Notice of Change of Operator (See Rule 16C-26.06) (Oil/Gas Form No. 3A)

DNR 51-030(16) — Application for Permit to Perform Geophysical Exploration (See Rule 16C-26.07) (Oil/Gas Form No. 4)

DNR 51-031(16) — Bond for Geophysical Exploration on State Lands and Areas of Critical State Concern (See Rule 16C-26.07) (Oil/Gas Form No. 5)

DNR 51-032(16) — Geophysical Rider (See Rule 16C-26.07) (Oil/Gas Form No. 5A)

DNR 51-033(16) — Geophysical Exploration Data (Offshore) Daily Report (See Rule 16C-26.07) (Oil/Gas Form No. 6)

DNR 51-034(16) — Notice of Completion of Geophysical Operation (See Rule 16C-26.07) (Oil/Gas Form No. 7)

DNR 51-004(16) — Well Record (See Rule 16C-27.02) (Oil/Gas Form No. 8)

DNR 51-005(16) — Well Completion Report (First Production or Retest Report) (See Rule 16C-28.10) (Oil/Gas Form No. 9)

DNR 51-006(16) — Monthly Well Production and Test Report (See Rule 16C-28.11) (Oil/Gas Form No. 10)

DNR 51-008(16) — Monthly Producer's Natural Gas Report (See Rule 16C-28.13) (Oil/Gas Form No. 11)

DNR 51-007(16) — Producer's Report of Condensate Produced from Gas Wells (See Rule 16C-28.13) (Oil/Gas Form No. 12)

DNR 51-009(16) — Monthly Transporters and Storers Report (See Rule 16C-28.13) (Oil/Gas Form No. 13)

DNR 51-010(16) — Producer's Certificate of Compliance and Authorization to Transport (Oil, Gas, Sulfur) From Lease (See Rule 16C-28.16) (Oil/Gas Form No. 14)

DNR 51-011(16) — Notice of Intention to Abandon and Plug Well, and Restore Site (See Rule 16C-29.09) (Oil/Gas Form No. 15)

DNR 51-012(16) — Affidavit on Plugging Completion and Restoration of Site (See Rule 16C-29.10) (Oil/Gas Form No. 16)

Specific Authority 377.22 FS. Law Implemented 377.21, 377.22 FS. History—New 11-26-81, Amended 4-12-83.

CHAPTER 16C-26
CONSERVATION OF OIL AND GAS: PERMITTING

16C-26.01 Organization Reports (Form No. 1). Every person engaged in seismic operations or the drilling, production, storage, transportation (except common carriers), reclaiming, treating or processing of crude oil or natural gas shall immediately file with the Administrator on Form No. 1 the name under which such business is being operated or conducted; the name and post office address of such person; the business or businesses in which he is engaged; the plan of organization and, in case of a corporation, the law under which it is chartered; and the names and post office addresses of any persons acting as trustees, together with the names of the manager, agent or executive thereof, and the names and post office addresses of any officers and directors thereof. In cases where such business is conducted under a fictitious name, such report shall show the names and post office addresses of all owners in addition to the other information required. Within 30 days after any change occurs as to facts stated in the report filed, a supplementary report shall be filed with the Administrator with respect to such change.

Specific Authority 377.22 FS. Law Implemented 377.21 FS. History—New 11-26-81.

16C-26.02 Bonds (Form Nos. 2 and 2A). (See also Rule 26.07(2)).

(1) Before any owner or operator shall be granted a permit to drill any well in search of oil or gas in Florida, the owner of operator shall post a bond (Form No. 2 or 2A) with the Administrator, payable to the State of Florida in an amount as hereafter set forth, executed by the owner or operator, as principal, and a surety approved by the General Counsel of the department, conditional upon the requirement that the said owner or operator shall plug the well and restore the location in compliance with the rules and regulations of the Board and with the laws of the State of Florida.

(2) The amount of the bond for each well shall be in accordance with the following relationship of footage:

DEPTH OF FOOTAGE	AMOUNT OF BOND REQUIRED
0—7,000	$25,000
7,001—14,000	$50,000
14,001 or more	$100,000

(3) In lieu of furnishing a separate bond for each particular well, an owner or operator may file with the Administrator a blanket bond for all operations within the state in the amount of Two Hundred Fifty Thousand Dollars ($250,000.00).

(4) The department reserves the right to require a larger bond or a separate bond in addition to the single well or blanket bond for a particular well where the circumstances indicate that the standard bond would not be sufficient to cover potential damage costs.

Specific Authority 377.22 FS. Law Implemented 377.22, 377.244 FS. History—New 11-26-81.

16C-26.03 Application to Drill (Form No. 3).

(1) No person shall begin any work other than surveying at a site of a proposed drilling operation of any injection well or test well in search of oil or gas without a permit to drill issued by the Governor and Cabinet or Executive Director, as specified in Rule 16C-25.06. A separate application shall be issued for each proposed well.

(a) When issued, a permit is valid for one year from the date of issuance. The date of issuance is the date the application for a permit is approved by the Governor and Cabinet or the Executive Director.

(b) If permitted activities are not begun within the first 180 day period from the date of issuance, the permit shall expire unless the permit holder notifies the Administrator in writing, prior to the 180 day deadline, that it intends to begin activities within the next 180 days. Upon receiving written notice from the permitholder, the Administrator may extend the permit until the end of the one year period, subject to all the terms and conditions of the original permit. No additional fee is required for this extension.

(c) Subsequent requests for extensions beyond the one year period shall be treated as new applications.

(d) Once the permitholder has begun permitted activities the time is tolled and the permit is valid so long as the permitted activities are continuous. Temporary abandonment, as provided in Rule 16C-29.09(4), shall not be considered to be an interruption in the permitholder's activities.

(2) An Application to Drill (Form No. 3) shall be accompanied by a completed Organization Report (Form No. 1) and an approved Bond for plugging, performance and site restoration (Form No. 2 or Form No. 2A) unless a current form is on file with the department.

(3) A site inspection shall be made by an agent of the Administrator and a report of this inspection shall be filed with the Administrator before an applicant may begin drilling any well in search of oil or gas.

(4) The name and address of the drilling contractor shall be included on the application to drill; otherwise this information, as soon as determined, shall be

supplied by letter to the Administrator.

(5) The proposed casing program must be shown on or attached to the application to drill. The casing program shall include setting depths, casing size, weight per foot, wall thickness and specified minimum yield strength.

(6) An application to drill an oil or gas well or an injection well in connection with oil or gas production, shall designate the name of the well operator, followed by the name of the owner of the mineral fee of the tract upon which the well is located and the well number. In the event the surface location is on a tract other than that of the bottom hole location, the owner of the mineral fee of the bottom hole location shall be designated. All wells drilled in the state shall be numbered in the following manner:

(a) Drilling unit of 160 acres: The number of the governmental section in which the bottom hole is to be located, followed by a dash and a numeral 1 if in the northeast quarter of the section, a numeral 2 if in the northwest quarter of the section, a numeral 3 if in the southwest quarter of the section, and a numeral 4 if in the southeast quarter of the section. Example: 9-3 means the bottom hole location is in the southwest quarter of section 9.

(b) Drilling unit of 40 acres: If a well is located on a drilling unit consisting of 40 acres, an additional numeral will be added to designate the quarter/quarter section. The digit used shall be 1 for northeast, 2 for northwest, 3 for southwest, 4 for southeast quarter/quarter section in a similar manner as that used to designate the quarter section. Example: 9-31 means the bottom hole location is in the northeast quarter of the southwest quarter of section 9.

(c) Irregular drilling units: If a well is drilled on land which has not been surveyed into townships and sections, the numbering of the well within the unsurveyed area may be proposed by the applicant and will be assigned by the Administrator. If a well is drilled in a unitized field, on irregular spacing, the applicant may propose a numerical designation with final assignment made by the Administrator. Where feasible, the permit application should follow the numerical designation in Rule 16C-26.03(6)(a) and (b).

(d) Drilling units in excess of 160 acres: A well drilled on a 320 acre drilling unit, in either the north half, south half, east half or west half of a governmental section, will be designated by the section number followed by a dash and the letter N, S, E, or W respectively. Numbering of wells drilled on other size drilling units will be subject to assignment by the Administrator.

(7) Each application shall be accompanied by a location plat, drawn to a scale of one thousand feet (1,000) to the inch.

(a) Any mineral acreage within the drilling unit which is not under lease to the applicant must be clearly indicated.

(b) The plats shall be constructed from data compiled by a registered civil engineer or surveyor and shall show the amount and location of the surface acreage with reference to quarter-section corners, or other established lines, leases and offset wells.

(c) The plats must have the well location certification either written thereon or attached thereto and this certification must be signed by a registered professional engineer, qualified surveyor or a qualified engineer.

(8) Each application shall be accompanied by a check or money order for $50.00. Checks or money orders shall be made payable to the Florida Department of Natural Resources. There is no fee for deepening a well previously drilled under Board permit if the deepening is done prior to permanent plugging and abandonment.

(9) A notice to deepen a drilling well beyond the originally permitted depth may be made to the Administrator or his agent orally, but such notice must be confirmed in writing. Resubmittal of Form No. 3 is not required.

(10) A notice to sidetrack a drilling well to a bottom hole location which will remain within permissible distance of the unit boundary may be made to the Administrator or his agent orally, but such notice shall be confirmed in writing. Resubmittal of Form No. 3 is not required.

(11) An operator must obtain written permission from the department prior to undertaking the following action:

(a) Sidetracking a drilling well to a bottom hole location outside the well unit boundary. Submittal of Form No. 3 is required.

(b) Sidetracking a well which has been previously drilled and plugged and abandoned before commencement of operations. Submittal of Form No. 3 is required.

(c) Reentering a well which has been previously drilled and plugged and abandoned before commencement of operations. Submittal of Form No. 3 is required.

The department shall take final agency action on such request.

(12) The application shall describe the provisions to be made for the location of roads and the laying of utility lines that might be necessary, useful or convenient to and in connection with such drilling operations.

(a) Every effort shall be made to minimize the impact of roads and utility lines on the natural resources of the state, including lands, waters, wetlands and wildlife.

(b) Wherever possible, utilities shall be included in the transportation corridor.

(c) Where important to the nature, character and location of drilling area, roads should be designed to lie lightly upon the land, using, whenever possible, natural support.

1. Existing roads shall be used wherever feasible.

2. Improvements shall be kept to a minimum and every effort shall be taken to minimize the impact upon the resources of the area.

3. All roads shall be properly culverted, upon advice of a professional engineer as to size of drainage area, so that the natural flow of water is unimpeded and the resource is protected.

4. Before the construction of any road for use in connection with any drilling operations, a detailed plan thereof must be submitted to the Administrator for approval.

5. Where necessary to protect the area, the department may require the removal of roads upon completion of exploration or production activities.

(13) Wildlife and fish protection.

(a) All operations preparatory to drilling shall be conducted in accordance with good and accepted oil field and engineering practices and in such manner that the habitat and movement of wildlife, fish and other aquatic life are not unnecessarily disrupted.

(b) As part of the application review process the Administrator may require that a professional ecological determination be furnished in order to determine the resulting effects on the resources, including such aspects as vegetation, wildlife habitat and mobility, drainage and stream flow. A professional ecological statement deemed sufficient by the Administrator may be required before consideration will be given any request for a permit to drill in a National Forest or Park, State Forest or Park, or upon other sensitive areas if required by the department.

(c) Drilling sites and routes of access and any activity that requires frequent helicopter service should be designed or scheduled so as to minimize disturbance to wildlife. During nesting periods such activity should be kept to a minimum or, if necessity requires, the department may cause the helicopter service to be suspended or modified.

(d) Access routes and location of facilities shall be located to avoid damage to endangered species and their habitat.

Specific Authority 377.22 FS. Law Implemented 377.24 FS. History—New 11-26-81, Amended 8-1-83.

16C-26.04 Spacing of Wells.

(1) The spacing of wells in proved oil and gas fields may be governed by special field rules for that particular field or area, adopted as Orders by the Board.

(2) Wells drilled in areas not covered by special field rules shall be spaced as follows:

(a) Oil-test wells to be drilled to a depth of less than seven thousand feet shall be located within 200 feet of the center of a drilling unit consisting of a governmental quarter/quarter section (40 acres, plus or minus ten percent); an oil-test well to be drilled to a depth greater than seven thousand feet shall be located within 400 feet of the center of a drilling unit consisting of a governmental quarter section (160 acres, plus or minus 10 percent).

In the absence of a governmental sectional survey such units shall be composed of the appropriate number of acres in one continuous tract, approved by the department.

(b) Gas-test wells or gas-condensate wells shall be located within 660 feet of the center of a drilling unit consisting of a governmental section (640 acres, plus or minus 10 percent). In the absence of a governmental survey such unit shall be composed of the appropriate number of acres in one continuous tract.

(c) The drilling unit upon which a well is located shall meet the following requirements:

1. The area assigned to the drilling unit shall contain no other drilling or producible well in the same pool.

2. The drilling unit upon which the well is located shall not be attributed in whole or in part to any other drilling or producible well in the same reservoir except where provided for by special field rules.

3. The shape of each unit shall be such that all diagonals lie wholly within the unit, with the length of the longest diagonal not exceeding 125% of the num[illegible] feet of a diagonal of a square contain[illegible] number

of acres within the unit.

4. The bottom hole location of any producing well shall meet the spacing requirements set forth above. Where such exception occurs which has not been approved as a condition of the drilling permit, all production therefrom will be restricted by the Board to insure protection of correlative rights of adjacent mineral owners.

(3) When a well is permitted as an oil-test and is drilled in conformity with the provisions of subparagraphs (2)(a) and (c) but is completed as a gas or gas-condensate well, it shall not be produced except to provide fuel for other lease operations or for testing the well for a maximum period of fifteen (15) days, until the Administrator determines, after notice and opportunity for hearing, that the correlative rights of the adjacent mineral owners will be adequately protected.

(4) The Board may grant exception to permit drilling within shorter distances or on different units than those prescribed in this rule, whenever the Board determines that such exceptions are necessary, that the unit is partly outside the pool, or for some other reason that a well approximately in the center of the unit would be unproductive, or when topographical conditions are such as to make the drilling approximately in the center of the unit unduly burdensome or said location may constitute a hazard to waters, wetlands or wildlife.

(a) The exception application may be accepted by the Administrator if waivers of objection are received from all offsetting operators and mineral owners to whom notice would be given.

(b) Where waivers are not forthcoming, such exception may be granted by the Board only after at least thirty (30) days of notice and opportunity for a hearing to all adjoining lessees affected thereby have been given and after the Board has determined that an exception to such rule is necessary.

(c) When exception to such rule is desired, application therefor shall be made to the department on a form authorized by the department. This application shall include a plat (see Rule 16C-26.03(7)) which accurately shows the scale and the property on which is sought the permit to drill a well under an exception to these rules, and which accurately shows to scale all other completions, drilling and permitted wells on said property and all adjoining surrounding properties and wells, including the lessor and the lessee.

Specific Authority 377.22 FS. Law Implemented 377.25, 377.26, 377.27 FS. History—New 11-26-81.

Library References: Leasing Oil and Gas Rights: Landowner's Perspective, Wm. L. Blackwell, 57 Fla. Bar J. 615 (November, 1983).

16C-26.05 Additional Requirements.

(1) No permit to drill a gas or oil well shall be granted within the corporate limits of any municipality, unless the governing authority of the municipality shall have first duly approved the application for such permit by resolution.

(2) No permit to drill a gas or oil well shall be granted at a location in the tidal waters of the state, abutting or immediately adjacent to the corporate limits of a municipality or within three miles of such corporate limits extending from the line of mean high tide into such waters, unless the governing authority of the municipality shall have first duly approved the application for such permit by resolution.

(3) No permit to drill a gas or oil well shall be granted on any improved beach, located outside of an incorporated town or municipality, or at a location in the tidal waters of the state abutting or immediately adjacent to an improved beach, or within three miles of an improved beach, as defined in Section 377.24(8), Florida Statutes, extending from the line of mean high tide into such tidal waters, unless the county commissioners of the county in which such beach is located shall have first duly approved the application for such permit by resolution.

(4) No structure intended for the drilling for or production of oil, gas or other petroleum products may be constructed on submerged lands within one mile seaward of the coastline of the state or as otherwise provided in Section 377.24(7), F. S. No such structures shall be constructed within one mile of the seaward boundary of any state, local or federal park, aquatic or wildlife preserve, or on the surface of fresh water lakes, rivers and streams. No permit shall be granted within one mile inland from the coastline unless the Board is satisfied that the estuaries, beaches and shore areas of the state will be adequately protected in the event of accident.

Specific Authority 377.22 FS. Law Implemented 377.24, 377.242 FS. History—New 11-26-81.

16C-26.06 Change of Operator (Form No. 3A). Any person or persons wishing to become the new operator of a well or wells must submit:

(1) An application on Form No. 3A;

(2) An affidavit of ownership or control;

(3) Organization report on Form No. 1, if not already on file and current;

(4) A bond on Form No. 2 or 2A, which ever shall be appropriate, if such requirement has not been fulfilled as prescribed in Rule 16C-26.02.

The change of operator will become effective after notice of approval by the Administrator.

Specific Authority 377.22 FS. Law Implemented 377.19, 377.21, 377.22 FS. History—New 11-26-81.

16C-26.07 Geophysical Permit (Oil/Gas Form Nos. 4 through 7 — DNR Form Nos. 51-030(16) through 51-034(16)).

(1) Intent. It is the intent of the department to permit geophysical operations in search of naturally occurring oil, gas, or minerals in Florida provided that this activity is conducted in a manner which minimizes or prevents the destruction of or injury to the environment and the natural resources of the State of Florida. This regulation shall govern any and all geophysical activities utilized in the exploration for hydrocarbons, including seismic, core drilling, or other type exploration work (whether or not involving the discharge of explosives) on or in uplands, wetlands, submerged lands, or the water column above State lands in the State of Florida.

(2) Applications. No person shall engage in geophysical operations in Florida until that person has filed with the Administrator an application and received a permit for such operations. The department will forward information copies of each application to the Department of Environmental Regulation, the Marine Fisheries Commission, the Game and Fresh Water Fish Commission, and the Water Management Districts in whose jurisdiction the proposed activities will be located, with the understanding that information covered by Section 377.2408, Florida Statutes, will remain confidential. The application shall include:

(a) An application for a permit to perform geophysical operations (Oil/Gas Form No. 4 — DNR Form No. 51-030(16)).

(b) An Organization Report of the company (Oil/Gas Form No. 1 — DNR Form No. 51-001(16)).

(c) A bond if operations are to be conducted on state lands or areas of critical state concern.

(d) An application fee in the amount of Five Hundred Dollars ($500.00) which sum is fixed as the fee for processing a permit to conduct geophysical operations.

(e) Two plat maps: a detailed plat map showing the location of lines along which geophysical operations are to be conducted, and a generalized plat map showing an area within which are located the lines along which geophysical operations are to be conducted. Onshore plat maps shall use as a base map the Florida Department of Transportation County General Highway Map — scale 1 inch = 2 miles except in regional geophysical operations consisting of survey lines on road right of ways which shall be submitted on appropriate United States Geological Survey topographic maps (scale 1:250,000 or 1:500,000). Survey lines on highway right of ways shall be shown in a different symbol from offroad survey lines. Offshore plat maps shall be on an appropriate base. Fifteen (15) copies of the detailed plat map and thirty (30) copies of the generalized plat map are required. Plat maps are to be accompanied by a detailed explanation of the geophysical activities to be conducted, including but not limited to the following:

1. Number of crews;
2. Composition of crews (personnel);
3. Equipment;
4. Work schedules;
5. Energy source(s);
6. Storage, transportation and use of explosives;
7. Fire equipment;
8. Shot hole drilling and plugging procedures and equipment;
9. Specialized equipment for wetlands traverses;
10. Proposed track routes for vehicles in wetlands;
11. Land clearing (procedures and extent);
12. Site reclamation.

(f) A clear indication as to which portions of the application the applicant considers to be confidential under Section 377.2408, Florida Statutes.

(g) A statement, in general terms, of the location in which the operation is intended to be conducted shall be provided. This statement shall be available for public distribution accompanying the generalized plat map.

(h) Proof of legal permission to conduct geophysical operations on the lands described in the application in the form of an affidavit affirming that permission has been or will be obtained from the surface and miner-

ownership.

(3) Permits:

(a) Applicable to private lands shall be granted, granted with conditions, or denied by the Executive Director.

(b) Applicable to state lands within a highway right of way when only a vibrating energy source would be used shall be granted, granted with conditions, or denied by the Executive Director.

(c) Applicable to state lands other than those addressed in (b) above, or to the water column above state lands, or within areas of critical state concern shall be granted, granted with conditions, or denied by the Governor and Cabinet.

(d) Applicable to lands involving both private and state ownership shall be granted, granted with conditions, or denied by the Governor and Cabinet. In the event that a geophysical operation conducted on private lands contains survey lines which in part cross state lands (i.e., state owned rivers or streams), the operation may be permitted by the Executive Director provided that no drilling of holes or detonation of charges is to take place on state lands and the applicant provides assurance that no damage to the environment will result from the crossing.

(e) Applicable to marine areas, shall involve no more than one Florida Marine Patrol Region as established by the department. The permittee shall notify the officer in charge of the Region Office before conducting any activities in that Region.

(f) When issued, a permit shall be valid for 180 days from the date of issuance, provided however, if actual geophysical activities are not begun within the 180-day period from date of issuance, the permit may be renewed by the Administrator for an additional 180-day period. No fee is required for renewal.

(4) Bonds:

(a) If geophysical activities are to be conducted on state lands or in areas of critical state concern, the applicant shall post a bond with the Administrator, payable to the State of Florida. The bond shall be executed by the applicant as principal, must have a surety which is approved by the General Counsel of the department, and which is conditional that the applicant shall protect state lands and areas of critical state concern upon which geophysical activities are conducted from the failure of the applicant to comply with these regulations or the laws of the State of Florida (Oil/Gas Form No. 5 — DNR Form No. [illegible]031(16)).

(b) Unless the Governor and Cabinet deem otherwise, the amount of the bond for each operation shall be Twenty-five Thousand Dollars ($25,000.00) for each field party of a permitted operation.

(c) In lieu of furnishing a separate bond for each field party of a permitted operation, an applicant may file with the Administrator a blanket bond for all operations on state lands or waters or in areas of critical state concern in the amount of One Hundred Thousand Dollars ($100,000.00), or when an applicant has on file with the department a blanket bond as prescribed in Rule 16C-26.02(3), F. A. C. (Oil/Gas Form No. 2A — DNR Form No. 51-002A(16)), such bond may serve to satisfy the requirements of Rule 16C-26.07(4), F. A. C. if the Rider to Cover Geophysical Operations (Oil/Gas Form No. 5A — DNR Form No. 51-032(16)) has been approved by the surety company and is on file with the department.

(5) Operational Requirements:

(a) Uplands. It is the intent of these regulations that all areas covered by geophysical activities will be returned, as much as possible, to their condition prior to those activities. All geophysical activities are to be conducted in a manner:

1. Which shall avoid all environmental damage, and which will result in the minimum possible disturbance of the site or sites covered.

2. Which will minimize interference with breeding season activities where the permittee is aware, or is made aware, of those activities by the department, other governmental agency, or private individual.

3. Which shall avoid damage to areas of habitat for threatened or endangered species of plants or animals where the permittee is aware, or is made aware, of those activities by the department, other governmental agency, or private individual.

4. Which shall avoid disturbance of areas containing an active rookery or eagle's nest where the permittee is aware, or made aware, of those activities by the department, other governmental agency, or private individual.

5. So that all cutting, clearing or other vegetation disturbance, and all displacement of soil, shall be no more than the minimum necessary to conduct the permitted activities.

6. Which shall avoid times of very high and extreme fire danger as determined by the Florida Division of Forestry. Each field party shall have fire control equipment at the site at all times.

7. Which shall avoid coastal dunes

staging areas.

(b) Wetlands, submerged lands, and water column. In addition to the conditions set forth above, geophysical activities in wetland areas, on submerged lands, or in the water column above state lands shall be conducted in the following manner:

1. Use of vehicles. Vehicles shall not be used on wetlands or submerged lands unless the applicant demonstrates to the department that there is no other practical alternative. If vehicles must be used:

a. Only vehicles which minimize surface impact as determined by the department shall be used on wetlands.

b. Vehicle routes shall be chosen which minimize environmental damage.

c. Vehicles shall avoid submerged grassbeds.

d. Vehicles shall avoid dense stands of vegetation where possible.

e. Vegetated wetlands shall not be used for staging areas unless the applicant demonstrates to the department that there is no other practical alternative.

2. Use of vessels.

a. No vessels shall operate within one (1) mile of areas designated by the department to be an active manatee habitat.

b. All motor vessels and ships used in geophysical explorations shall be clearly marked as to identity and activity and shall fly such warning signals as required by U. S. Coast Guard regulations for ships engaged in dangerous operations.

c. The permittee or his authorized representative shall notify the Administrator of the date of beginning, of any period of interruption, and of the date of cessation of work in any area, and shall keep the Administrator or his agent informed of his name and address, and location and movements of the crew or quarter boat.

d. The permittee or his authorized representative will furnish the Administrator or his agent with transportation facilities, if needed, to enable him to visit the working area.

e. The permittee shall use reasonable precaution in accordance with approved and accepted methods to prevent destruction of or injury to marine mammals, turtles, oysters, shrimp, fish and other aquatic life, or other natural resources.

f. All pipes, buoys, markers, and towed energy sources used in connection with geophysical operations shall be properly flagged in the daytime and lighted at night according to the navigation rules of the U. S. Corps of Engineers and [illegible] Coast Guard.

g. All explosives, caps and primers will be handled and stored in accordance with the regulations of the U. S. Coast Guard.

h. Non-enclosed explosive energy sources, such as dynamite and ammonium nitrate, may be used in lieu of sleeve enclosed explosive energy sources only if the applicant satisfactorily demonstrates that sleeve enclosed explosive energy sources would not be effective. Non-sleeve explosive energy sources shall not be used in heavy fog.

i. Where explosive energy sources are used, the Administrator may require that an agent of the department witness the shooting. The agent has the authority to stop any particular shooting if, in the agent's opinion, it will violate department statutes or rules.

j. Before any explosive is discharged, the permittee shall have installed a fish finder, fathometer or other fish-locating device in such a way as to avoid fish or other wildlife kills. The permittee shall employ any reasonable method to frighten and drive away the fish and marine life which may be in the area where the shot is to be fired. If a school or schools of fish persist in the area, shooting shall be suspended in that area until the school of fish has been driven away.

k. The permittee shall report immediately to the Administrator or his representative any fish kill which occurs in conjunction with geophysical operations. Additional reports may be required by the Florida Department of Environmental Regulation and the Florida Marine Patrol. The permittee is responsible for the retrieval and disposal of any fish killed.

l. Daily reports on geophysical activities using explosives shall be compiled by the permittee and filed with the Administrator on forms provided by the department (Oil/Gas Form No. 6 — DNR Form No. 51-033(16)). A separate report shall be filed for each day whether or not shooting is in progress. These reports shall furnish complete information as indicated on the report form and must be signed by the permittee or his authorized representative. The permittee shall supply any other information requested by the Administrator or his agent.

m. No detonation of explosive charges will be allowed:

(i) Within a radius of 500 feet of any structure, approved or conditionally approved shellfish area [illegible]ed in the Florida Department of N[illegible] Resources

Shellfish Harvesting Area Atlas, or of any coral reef as defined in Rule 16C-30.01, F. A. C.

(ii) Within one (1) mile of a natural pass, jetted pass, fish pass, or river mouth unless properly buried.

(iii) Within one-half (1/2) mile of an active rookery or eagle's nest.

(iv) Within one (1) mile of a recreational beach (when sleeve enclosed explosive energy sources are used this distance may be reduced to one-half (1/2) mile).

(v) Within one-half (1/2) mile of any commercial fishing boat, properly marked according to U. S. Coast Guard specifications, on station and harvesting its product, or within one-half (1/2) mile of unattended fishing gear, such as lobster, blue or stone crab lines marked as required by Chapters 16N-3 and 16N-19, F. A. C. Grouper and snapper banks shall be avoided wherever possible, and if shots must be taken, every care shall be taken to frighten the fish away from the area for the time of detonation.

(vi) Within one-half (1/2) mile of an operating private or charter fishing boat without notice being given to such boat so that it may move from the area.

(vii) When explosive charges exceed 50 pounds except as approved by the Administrator after the permittee has satisfactorily demonstrated that charges of less than this amount have failed to provide a seismic profile of sufficient definition to be useful; provided that these charges will be detonated in a manner which does not disturb the sea bed or destroy benthic organisms. Requests for the use of these charges must be made in writing to the Administrator, giving the reasons why these charges are needed, the size of charges to be used, and the depth at which they are to be suspended or buried. Should multiple charges be used, the total amount of explosives should not exceed 50 pounds unless there is compliance with the above procedures.

(viii) When detonating cord is to be used except as a single strand, and the detonation force does not exceed that of one (1) ounce of dynamite per foot of detonating cord.

(ix) When the explosive charges are directly on the bottom beneath the water column.

n. Suspended charges. All charges not detonated in holes below the bottom must be suspended and detonated at a point not below the level midway between the surface of the water and the bottom underlying such water. No charges shall be suspended nearer than five feet above the bottom of the water bed.

All charges suspended in water:

(i) Shall be designed to disintegrate and neutralize within a short time.

(ii) Using inflated floats, shall use two floats, each capable of supporting the shot at the proper depth.

(iii) Which fail to discharge shall be removed from the water if this, in the opinion of the permittee, can be done without danger to any member of the party. Every effort must be made to detonate, neutralize, or make safe charges which cannot be recovered. Attached floats must be destroyed or removed.

o. Charges buried beneath the bottom:

(i) If through pipe, may be discharged with the pipe in place provided the pipe is secured to a float or other device to prevent its loss.

(ii) May be left in place overnight provided all wires are properly shunted, the charges are anchored, and the location is not within one half (1/2) mile of any shoreline generally open to the public.

p. All geophysical parties using pipe must have clearly stamped at each end of each joint the name or abbreviation of the name of the operator using the pipe.

q. The minimum required depths of charges detonated in holes below the bottom shall be as follows:

(i) 1 pound or less	10 feet below the bottom
Up to 5 pounds	20 feet below the bottom
Up to 20 pounds	40 feet below the bottom
Up to 30 pounds	50 feet below the bottom
Up to 40 pounds	60 feet below the bottom
Up to 50 pounds	70 feet below the bottom
In excess of 50 pounds	100 feet below the bottom

(ii) No part of the charge shall be above the minimum required depth.

(iii) Variances in these required depths and charge sizes may be granted by the Administrator after the permittee has demonstrated that these charges and depths have failed to provide a seismic profile of sufficient definition to be useful and a variance would not result in any disturbance of the sea bed or benthic organisms.

(6) Plugging. Within 45 days after the abandonment of any hole drilled as a part of the permitted operation, it shall be the duty of the permittee to furnish the Administrator two (2) copies of a map in sufficient detail and accuracy to allow for the inspection of the plugged holes. The hole(s) shall be plugged as follows:

(a) The upper two and one-half (2 1/2) feet of the holes shall be plugged with material native to the area.

(b) Any hole which is drilled shall be plugged in accordance with appropriate rules and regulations of the water management district of jurisdiction. Where there are no applicable water management district regulations, holes shall be plugged with cement or material of equal competence from total depth to within five (5) feet of the ground surface except where the applicant can demonstrate an acceptable alternative plugging program. The upper two and one-half (2 1/2) feet of hole shall be plugged as specified in (a) above.

An affidavit on plugging completion shall be required for holes that are described above (Oil/Gas Form No. 16 — DNR Form No. 51-012(16)).

(7) Reclamation. When geophysical activities under any permit have been concluded, the permittee shall remove from the site all trash, debris, equipment and materials resulting from the permitted activity. The permittee shall reclaim the area to the general condition and contour similar to that in existence prior to the permitted activities. The operator shall notify the Administrator using Oil/Gas Form No. 7 (DNR Form No. 51-034(16)) when geophysical and reclamation activities are concluded.

(8) Revocation of Permit. Any violation of these or any other valid rules, or the refusal of any permittee or its employees to comply fully with all requirements which may be imposed by the department at the time the operation is conducted, or any attempt to unduly influence any agent to abstain from the enforcement of these regulations, may result in the suspension or revocation of any permit pursuant to Section 120.60, Florida Statutes, or may result in a first or second degree misdemeanor charge, pursuant to Section 370.021, Florida Statutes.

Specific Authority 120.60, 370.021, 377.22, 377.242 FS. Law Implemented 377.22, 377.2408, 377.2424, 377.2426 FS. History—New 5-10-84.

CHAPTER 16C-27
CONSERVATION OF OIL AND GAS: DRILLING

Library References: Juergensmeyer & Wadley, Fla. Zoning — Specific Uses (The Harrison Company), § 3-36.

16C-27.01 Identification of Wells. Every person drilling for oil or gas in the State of Florida, or operating, owning or controlling or in possession of any well drilled for oil or gas, shall paint or stencil and post and keep posted in a conspicuous place near the well, the name of the person drilling, operating, owning or controlling the well, the name of the lease or property owner, the number of the well and the number of the department permit for the well, together with the name of the county, the section, township and range, or other political subdivision. The obligation to maintain a legible sign remains until the well is plugged and abandoned.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-27.02 Well Record (Form No. 8).

(1) During the drilling of every well, the operator shall keep at the well a daily detailed and accurate written record of the well. This record shall be accessible to the department's agents during all working hours and during times of emergency.

(2) The record shall be furnished to the Administrator within thirty (30) days after reaching total depth of the well upon department Form No. 8. The well record shall describe progressively the strata, water, and oil or gas encountered in drilling a well with such additional information as to abnormal pressures, zones of lost circulation, caving strata, casing record, as are usually recorded in the normal procedure of drilling.

(3) Each operator collecting representative samples (cuttings and cores if taken) shall not later than sixty (60) days after completion of the well, deliver a complete set, together with core analyses if available, F. O. B. to the Bureau of Geology, 903 West Tennessee Street, Tallahassee, Florida 32304. The designation of the well and the depth shall be plainly recorded on each sample and/or core. This requirement can be waived at the discretion of the Administrator in field development wells.

(4) A RECORD OF ALL ELECTRICAL, SONIC, RADIOACTIVITY, MECHANICAL, AND SIMILAR WIRELINE LOGS, INCLUDING SURVEYING OF THE WELL SHALL BE MAINTAINED AND TWO COPIES FURNISHED THE ADMINISTRATOR WITHIN SIXTY (60) DAYS AFTER COMPLETION (see 16C-27.10). Wherever a proposed well location is in excess of ten (10) miles from an existing well from which appropriate logs are available, the Administrator may require resistivity and sonic logs of a quality comparable to the logs to be run in the remainder of the hole, to be run in the open hole before the surface casing is installed to

determine the fresh-water salt-water interface. A temperature and cement bond log may be required to determine the integrity of the cement to casing. Field prints or copies of the logs must be available to the department's agent at the well site.

(5) All samples, cuttings, cores, logs, and well records shall be kept confidential for a period of six (6) months after completion as indicated on Form No. 8. When the operator requests in writing, stating reasons, the department may keep such information confidential an additional twelve months.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81, Amended 4-12-83.

16C-27.03 Mud Pits and Reserve Pits.

(1) Before commencing to drill, mud pits or tanks of sufficient size to receive and hold a volume equal to one and one-half (1-1/2) times the anticipated active fluid volume at the surface shall be constructed for the reception of such materials. In National and State Forests and Parks, in wetlands and other environmentally sensitive areas, tanks and drip pans may be required for the containment of drilling fluids.

(2) In addition to required mud tanks, the operator shall construct a reserve pit or tank that will not be used for drilling mud storage and will be used for emergency.

(a) The reserve pit or tank shall be used to collect any flow of excess fluids from the well bore.

(b) A reserve pit shall be lined with impermeable material when necessary to protect site specific conditions.

(c) The normal height of the fluid in the pit shall not exceed one-half (1/2) the height of the dike if the dike is constructed of native materials.

(d) All drilling operations must be temporarily suspended if the pit approaches overflow until additional pit volume is provided or the level reduced.

(3) The operator shall construct a dike around the well site, except on submerged lands, which shall be of sufficient size and strength to contain all spills that may occur during normal drilling operations.

Specific Authority 377.22 FS. Law Implemented 377.21, 377.22 FS. History—New 11-26-81.

16C-27.04 Control of Wells. The operator shall take all necessary precautions to keep all wells under control at all times, [illegible]ll utilize only contractors or employees [illegible]hed and competent to drill and operate [illegible]n wells, and shall utilize and maintain materials and high-pressure fittings and equipment necessary to insure the safety of operating conditions and procedures. The design of the integrated casing, cementing, drilling mud and blowout prevention program shall be based upon sound engineering principles, and must take into account the depths at which various fluid or mineral-bearing formations are expected to be penetrated, and the formation fracture gradients and pressures expected to be encountered, and other pertinent geologic and engineering data and information about the area.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-27.05 Casing.

(1) The operator shall case and cement all wells with a sufficient number of strings of casing in a manner necessary to:

(a) Prevent release of fluids from any stratum through the well bore, whether directly or indirectly into the waters or onto the surface, except into pits or tanks provided for this purpose.

(b) Prevent communication between separate hydrocarbon-bearing strata (except where such strata has been approved for commingling) and between hydrocarbon and water-bearing strata.

(c) Prevent contamination of fresh-water strata.

(d) Support unconsolidated sediments.

(e) Otherwise provide a means of control of the formation pressures and fluids. The operator shall install casing necessary to withstand collapse, bursting, tensile, and other stresses and the casing shall be cemented in a manner which will anchor and support the casing. Safety factors in casing program design shall be of sufficient magnitude to provide optimum well control while drilling and to assure safe operations for the life of the well.

(2) For the purposes stated above, the several casing strings in order of normal installation are:

(a) Drive, structural or conductor casing.
(b) Surface casing.
(c) Intermediate casing.
(d) Production casing.

(3) Specifications and cementing requirements on each string are:

(a) The drive, structural or conductor casing shall be set by drilling, driving or jetting to a minimum depth of 100 feet to provide hole stability for initial drilli[illegible] operations.

(b) The operator shall make a reasonable effort to establish cement returns to the ground surface in setting structural or conductor casing. If returns to the surface cannot be established, cement shall be introduced into the annulus between the casing and the borehole to fill the annular space as directed by the Administrator or his agent.

(c) Surface casing.

1. Determination of proper depth for setting casing shall be based upon all geologic factors including the presence or absence of hydrocarbons and fresh-water depths on a well-for-well basis. The depth for setting the surface casing string shall be determined by taking into account formation fracture gradients and hydrostatic pressure to be contained within the well bore. The surface casing shall be new pipe or reconditioned pipe that has been tested and inspected to verify a new condition.

2. Surface casing shall be set at a depth and cemented in a manner necessary to protect all fresh-water aquifers and provide well control until the next string of casing is set. This casing shall be cemented with a quantity sufficient to fill the calculated annular space from the casing shoe to the surface, with at least a 50% surplus to insure returns to the surface. If circulation is lost, a temperature or cement bond log or other approved survey shall be run to determine whether the casing is properly cemented. If the annular space is not properly cemented by the primary operation, the operator shall perform supplementary cementing operations to assure a seal across the gradational fresh-water salt-water contact as determined by subsurface control. Wells drilled in deep water, with mud-line suspension, shall bring the cement within fifty (50) feet of the drive-casing shoe. If the area in which a well is to be drilled is underlain by a fresh-water salt-water interface at an undetermined depth, the operator shall drill and log the surface hole prior to setting the surface casing, unless an alternate method to establish the interface is proposed and accepted.

3. The surface casing shall be set at a depth sufficient to protect the fresh-water salt-water contact; provided, however, that in the event lost-circulation zones are encountered above that depth, surface casing shall be set at a a depth above the lost-circulation zone. This casing string shall be run and cemented prior to drilling below the specified setting depths.

The required setting depth below ground surface — True Vertical Depth (TVD) — in feet is:

Proposed Total Depth of Well or Depth of First Full String of Intermediate Casing (TVD) in feet from Ground Surface	Minimum Surface Casing
0—7,000	1,500
7,000—9,000	1,750
9,000—11,000	2,250
11,000—13,000	3,000
13,000—Below	3,500

(d) The intermediate casing shall be set when required by anticipated abnormal pressure, mud weight, sediment, or lost circulation. The intermediate casing shall be new pipe or reconditioned pipe that has been tested, inspected, and verified as equal to a new condition. A quantity of cement which is sufficient to cover and isolate all hydrocarbon zones and to isolate abnormal pressure intervals from normal pressure intervals shall be used.

If a liner is used as intermediate string, the cement shall be tested by a fluid entry or pressure test to determine whether a seal between the liner top and next larger string has been achieved. The test shall be recorded on the driller's log. When such liner is used as production casing, it shall be extended to the surface and cemented as described above to avoid surface casing being used as production casing.

(e) The production casing shall be set before completing the well for production. The production casing shall be new pipe or reconditioned pipe that has been tested, inspected, and verified as equal to a new condition. It shall be cemented in a manner necessary to cover or isolate all zones which contain hydrocarbons, but in any case, calculated volume sufficient to fill the annular space at least 500 feet above the uppermost producible hydrocarbon zone must be used. When a liner is used as production casing, the testing of the seal between the liner top and next larger string shall be conducted as in the case of intermediate liners.

(f) After cementing any of the above strings, drilling shall not be commenced until a time lapse of:

1. 24 hours, or
2. 12 hours under press[illegible] all strings.

(Cement is considered under pressure if one or more float valves are employed and are shown to be holding the cement in place or when any other means of holding pressure is used.)

(g) All casing pressure tests shall be recorded on the driller's log.

(4) Prior to drilling the plug after cementing, all casing strings, except the drive or structural casing, shall be pressure tested as below specified. This test shall not exceed the working pressure of the casing. The minimum test pressures to be applied at the surface to the various casing strings are the following:

CASING STRING	MINIMUM SURFACE TEST PRESSURE (psi)
(a) Surface	1000
(b) Intermediate	1500 or 0.2 psi/ft. of depth, whichever is greater
(c) Liner	1500 or 0.2 psi/ft. of depth, whichever is greater
(d) Production	1500 or 0.2 psi/ft. of depth, whichever is greater
(e) Tubing and Packer	1000 or 0.2 psi/ft. of depth, whichever is greater

These pressure tests will be of thirty minutes duration, and no more than 10 percent pressure bleed off is acceptable. If there is an indication of a leak, necessary remedial measures will be taken, and the same pressure test will be reapplied after completion of the remedial measures. All pressure tests will be recorded in the driller's log, and they may be witnessed by an agent of the department.

(f) Tubing and packer pressure tests are waived for Type II Wells.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-27.06 Blowout Prevention Equipment.

(1) Blowout preventers and related well control equipment shall be installed, used, and tested in a manner necessary to prevent blowouts. Prior to drilling below the surface casing, blowout prevention equipment shall be installed and maintained ready for use until drilling operations are completed, and in addition, an inside blowout preventer assembly (back pressure valve) and drill-string safety valve in the open position shall be maintained on the rig floor at all times while drilling operations are being conducted. Separate valves shall be maintained on the rig floor to fit all pipe in the drill string. In water operations, a Kelly cock shall be installed below the swivel, and an essentially full opening Kelly cock of such design that it can be run through the blowout preventers shall be installed at the bottom of the Kelly.

(2) Blowout preventers and related well-control equipment shall be pressure-tested when installed, before drilling out after each string of casing is set, not less than once each week while drilling, following repairs that require disconnecting a pressure seal in the assembly, and at such other times as prescribed by the Administrator. A required weekly test while drilling may be deferred up to one week to avoid unnecessary tripping of the drill string or conditions that would endanger the hole. Blowout preventer tests shall be recorded on the driller's log.

(3) Ram-type blowout preventers shall be tested to the working pressure of the stack assembly or the casinghead, whichever is the lesser. Bag-type blowout preventers shall be tested up to 70 percent of the above pressure requirements.

(4) A bag-type blowout preventer shall be actuated on the drill pipe or drill collars once each week. Accumulators and pumps shall maintain a pressure capacity reserve at all times to provide for repeated operation of hydraulic preventers. A blowout prevention drill shall be conducted weekly for each drilling crew to insure that all equipment is operational and that crews are properly trained to carry out emergency duties. All blowouts preventer tests and crew drills shall be recorded in the driller's log.

(a) Before drilling below the drive, structural or conductor casing in non-field wells (wildcat) or in the waters or upon wetlands, at least one remotely controlled bag-type blowout preventer and equipment for circulating the drilling fluid to the drilling structure or vessel shall be installed. To avoid formation fracturing from complete shut-in of the well, a large diameter pipe with control valves shall be installed on the drive or structural pipe below the blowout preventer so as to permit the diversion of hydrocarbons and other fluids, except that when the blowout preventer assembly is on the water's floor, the choke and kill lines connected with the blowout preventer assembly shall be equipped to permit diversion of hydrocarbons and other fluids.

(b) Before drilling below the surface casing except in south Florida locations which drill through the Boulder Zone the blowout prevention equipment shall include a minimum of three (3) remotely controlled, hydraulically operated, blowout preventers with a working pressure which exceeds the maximum anticipated surface pressure, including one equipped with pipe rams, one with blind rams, and one bag-type; drilling spool with side outlets, if side outlets are not provided in the blowout preventer body, a choke manifold, a kill line, and a fill-up line. In locations in which the hole below the surface hole is drilled through the Boulder Zone, the blowout prevention equipment shall include a bag-type blowout preventer and a drilling spool with side outlet.

(c) Before drilling below the intermediate string the blowout prevention equipment shall include a minimum of three (3), or in abnormal pressure area, four (4) remotely controlled, hydraulically operated, blowout preventers with a working pressure which exceeds the maximum anticipated surface pressure, including at least one equipped with pipe rams, one with blind rams, and one bag-type; a drilling spool with side outlets, if side outlets are not provided in the blowout preventer body, a choke manifold, a kill line, and a fill-up line.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-27.07 Drilling Fluid.

(1) The operator shall maintain readily accessible for use quantities of mud sufficient to insure well control. The testing procedures, characteristics and use of drilling fluid and the conduct of related drilling procedures shall be such as are necessary to prevent blowouts. Necessary mud testing equipment and mud volume measuring devices shall be maintained at all times, and mud tests shall be performed frequently and recorded in the driller's log.

(2) Before starting out of hole with drill pipe, the drilling fluid shall be circulated with drill pipe just off bottom until the drilling fluid is properly conditioned to insure a safe trip. When coming out of the hole with drill pipe, the annulus shall be filled with drilling fluid before the drilling fluid level drops below 100 feet, and a mechanical device for measuring the amount of drilling fluid required to fill the hole shall be utilized. The volume of drilling fluid required to fill the hole shall be watched, and any time there is an indication of swabbing, or influx of formation fluids, the necessary safety device(s) shall be installed on the drill pipe, the drill pipe shall be run to bottom and the drilling fluid properly conditioned. The drilling fluid shall not be circulated and conditioned except on or near bottom, unless well conditions prevent running the pipe to bottom. The drilling fluid in the hole shall be circulated or reverse circulated prior to pulling drill stem test tools from the hole. The provisions of this subsection shall not apply when drilling in lost circulation zones.

(3) Drilling fluid testing equipment shall be maintained on the drilling location at all times, and drilling fluid tests shall be performed daily, or more frequently as conditions warrant.

The following drilling fluid system monitoring equipment shall be installed (with derrick floor indicators) and used throughout the period of drilling after setting and cementing surface casing, only when weighted drilling fluid is required.

(a) A pit level indicator, and a mud flow indicator, shall be installed and used in connection with the drilling of wells, to insure that the hydrostatic pressure of the drilling fluid is maintained at all times at a level above any possible formation pressure. Also, the installation of both of these indicators shall include graphs of readings for ready reference by the operator; and, if the readings reach critical levels on either indicator, alarms shall be activated to alert the crew to take corrective action.

(b) A drilling fluid volume measuring device for accurately determining volumes required to fill the hole on trips.

(c) A drilling fluid return indicator to determine that returns essentially equal the pump discharge rate.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-27.08 Fire and Hazardous Operations.

(1) Drill Stem Tests.

(a) All drill stem tests shall be concluded during daylight hours.

(b) The operator shall provide adequate tanks to contain oil produced and a system to safely flare gas. When pits are used to contain fluids recovered on drill stem tests, such pits shall be located not less than one hundred fifty (150) feet from the derrick floor and from any fire hazard.

(c) Reverse Circulation — When after test, the drill stem is known or believed to

contain oil in appreciable quantity, the fluid within the drill stem shall be recovered by reverse circulation into a tank prior to breaking out the drill stem into stands.

(2) Boilers and electric power systems shall be located and operated in a manner which will reduce the possibility of spark or fire.

(a) No unshielded spark-making equipment or open fire shall be placed or remain nearer than one hundred fifty (150) feet to any producing well or oil tank.

(b) Marine-armored or metal-clad cable may be substituted for wire in conduits in any water area.

(c) On wetlands and the waters an auxiliary power supply source, completely independent of the primary power source, shall be installed when necessary to provide emergency power capable of operating all equipment, exclusive of firefighting equipment, in the event the primary source of power supply fails. Fail-safe equipment shall be installed and operated in these areas.

(d) All engines with ignition systems which are operated shall be equipped with low-tension ignition systems containing rigid connections and shielded wiring which shall prevent the release of sufficient electrical energy under normal or abnormal conditions to cause ignition of a combustible mixture.

(3) Any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least one hundred fifty (150) feet from the vicinity of wells, tanks and pump stations. All waste shall be placed in a sanitary land fill or disposed of in such manner as to avoid creating a fire hazard or polluting the surface, streams and fresh-water strata. In wetlands, on the waters and in other offsite disposal areas, all waste, rubbish, or debris shall be retained temporarily either in a pit, barge or tank for final disposal. Disposal shall not be into waters or wetlands.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-27.09 Operations Involving Hydrogen Sulfide. When drilling or workover operations are undertaken where H_2S is known or is reasonably expected, preventive measures shall be taken to control the effects of the toxicity, flammability, and corrosive characteristics of H_2S should it be encountered. Alternate equipment or procedures to those specified below may be approved if they achieve the same or greater le[illegible] of safety.

(1) Training Program — Personnel Safety and Protection.

(a) All personnel, whether regularly assigned, contracted or employed on an unscheduled basis, shall be informed as to the hazards of H_2S. They shall also be instructed in the proper use of personnel safety equipment and informed of H_2S detectors and alarms, ventilation equipment, prevailing winds, briefing areas, warning systems and evacuation procedures.

(b) Information relating to these safety measures shall be prominently posted on the drilling or workover facility.

(c) To promote efficient safety procedures, an on-site H_2S safety program shall be established. It must include monthly training sessions beginning after spud until H_2S is reasonably expected, and weekly proficiency drills and training thereafter. Records of attendance shall be recorded in the driller's log. Untrained employees will not be utilized.

(d) All personnel in the working crew shall have been indoctrinated in basic first-aid procedures applicable to victims of H_2S exposure. During subsequent on-site training sessions and drills, emphasis shall be placed upon rescue and first aid for H_2S victims. Each drilling or workover facility shall have the following equipment, and each crew member shall be thoroughly familiar with the location and use of these items:

1. A first-aid kit.
2. Resuscitators complete with face masks, oxygen bottles, and spare bottles.
3. A Stokes litter or equivalent.

(e) One person who regularly performs duties on the drilling or workover facility shall be responsible for the overall operation of the on-site safety and training program.

(2) Visible Warning System.

(a) Wind direction equipment shall be installed at prominent locations to indicate to all personnel, on or in the immediate vicinity of the facility, the wind direction at all times, for determining safe upwind areas in the event H_2S is present in the atmosphere

(b) Operational danger signals consisting of signs and rectangular green, yellow, or red flags as appropriate shall be displayed in a manner visible to all traffic that is approaching the drill or workover site when required. All signs and flags within the prepared rig site shall be illuminated under conditions of poor visibility and at night, when in use. All signs not illuminated shall be painted with reflective paint such that they will be readily visible from other light sources

such as automobiles.

(c) These warning signals shall be displayed to indicate the following operational conditions and requirements:

1. Possible Danger — In any operation where the possibility of encountering H_2S exists, and in all situations where concentrations of H_2S are detected in the air, even below the threshold limit of 10 parts per million in air, the signs and green flags shall be displayed.

2. Moderate Danger — When the threshold limit value of H_2S (10 parts per million in air) is reached, the yellow flags shall be displayed. If the concentration of H_2S reaches 20 parts per million in air, protective breathing apparatus shall be worn by all personnel, and all nonworking personnel shall proceed to the safe briefing areas.

3. Extreme Danger — When H_2S is determined to have reached the injurious level (50 parts per million in air), the red flags shall be displayed and all non-essential personnel or all personnel, as appropriate, shall be evacuated at this time. Immediate notification shall be given to civil authorities and all known traffic in the immediate vicinity of the drilling or workover facility shall be diverted.

(3) Contingency Plan. A contingency plan shall be developed and filed in duplicate with the Administrator as a part of the application to drill unless an appropriate contingency plan has already been filed, in which case that plan may be made a part of the application by reference. Said plan shall include a plot of the well site upon a plat or aerial photographic mosaic covering an area having a radius of one mile about the well, upon which all good roads, residences (with homes, telephone numbers, names and numbers of residents listed), churches, public places, transformer stations, prominent surficial features, oil wells, pipelines, refineries, separators, and pumping stations are clearly shown. The plan shall include at a minimum, the following:

(a) General information and physiological response of H_2S exposure.

(b) Safety procedures, equipment, training, and smoking rules under circumstances where there is:

1. Moderate danger to life.
2. Extreme danger to life.

(c) Responsibilities and duties of personnel for each operating condition.

(d) Designation of briefing areas as locations for assembly of personnel during extreme danger condition. At least two briefing areas shall be established on each drilling or workover facility. Of these two areas, the one upwind at any given time is the safe briefing area.

(e) Evacuation plan.

1. Supervisory personnel shall be familiar with the roads to the subject residences in order to expedite evacuation. Those residing in places of low elevation within one mile radius which are down wind from the well site shall be given priority in evacuation.

2. Plans, lists, and exhibits shall be posted for reference in the resident engineer's office or its equivalent and in the sheriff's office.

(f) Agencies to be notified in case of an emergency shall include:

1. Sheriff and Highway Patrol.
2. Nearest fire fighting agency.
3. Department of Natural Resources — District Oil and Gas Coordinator.

(g) A list of the closest hospitals, ambulance services and medical personnel and facilities, including addresses and telephone numbers.

(h) The design of the toxic-gas detection system required in Rule 16C-27.09(4).

(i) In addition to the items specified above, the contingency plan also shall include the following:

1. Type, location, and number of detection or sampling heads.
2. Cycling, non-cycling and frequency information.
3. Type and kind of alarm, including emergency equipment to be activated.
4. Method used for detection of various kinds of gas.
5. Method and frequency of calibration.
6. A diagram of the gas detection system.
7. A timetable for testing all emergency equipment on a regular basis.

(j) One copy of this contingency plan shall be provided to the sheriff's office and one copy maintained at the work site in the office of the operator's representative.

(4) Each drilling or workover facility shall have an H_2S detection and monitoring system which activates audible and visible alarms before the concentration of H_2S exceeds its threshold limit value of 10 parts per million in air. This equipment shall be capable of sensing a minimum of five parts per million in air. In those areas where the possibility exists of encountering H_2S in concentrations that may reach the threshold limit of 10 parts per million in air, sensing points shall be located at the be[illegible]le, shale shaker, mud pits, driller's sta[illegible]d other

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areas where H_2S may be anticipated. H_2S detector ampules shall be available for use by all working personnel. After H_2S has been initially detected by any device, frequent inspections of all areas of poor ventilation shall be made with a portable H_2S detector instrument.

(5) Personnel Protective Equipment.

(a) Proper personnel protective breathing apparatus shall be provided and readily accessible to all personnel on a drilling or workover facility. Additional equipment, such as nose cups, ear plugs and spectacle kits, shall be available for use as needed.

(b) At all locations where the possibility of encountering H_2S exists the storage location of protective breathing apparatus shall be such that they are quickly and easily available to all personnel. When conditions indicate H_2S concentrations may reach the extreme danger level, storage locations shall include the following:

1. Rig floor.
2. Any working area above the rig floor.
3. Mud-logging facility.
4. Shale-shaker area.
5. Mud pit area.
6. Mud storage.
7. Each briefing area.

(c) Where the possibility exists of encountering H_2S, a minimum requirement shall be to provide for all working personnel self-contained breathing equipment, which is located in a readily accessible location. Where H_2S concentrations of extreme danger levels are possible, a system of breathing-air manifolds, hoses, and masks shall be provided on the rig floor and in the briefing areas. A cascade air bottle system shall be provided to refill individual protective-breathing-apparatus bottles. The cascade air-bottle system may be recharged by a high-pressure compressor suitable for providing breathing-quality air, provided the compressor suction is located in an uncontaminated atmosphere. All breathing-air bottles shall be labeled as containing breathing-quality air fit for human usage.

(d) Breathing masks which are connected to a breathing-air manifold, and additional protective breathing apparatus shall be available for evacuees from the drilling location.

(e) The following additional personnel safety equipment shall be available for use as needed:

1. Portable H_2S detectors.
2. Retrieval ropes with safety harnesses to retrieve incapacitated personnel from contaminated areas.
3. Chalk boards and note pads located on the rig floor and in the shale shaker area for communication purposes.
4. Bull horns and flashing lights.
5. Resuscitators.

(6) Ventilation Equipment. All ventilation devices shall be explosion-proof and situated in areas where H_2S may accumulate. Movable ventilation devices shall be provided in work areas and be multidirectional and capable of dispersing H_2S vapors away from working personnel.

(7) Metallurgical Considerations. Equipment used when drilling or working over zones bearing H_2S shall be constructed of materials which, according to design principles, will be able to resist damage from the phenomena known variously as sulfide stress cracking, hydrogen embrittlement, or stress corrosion cracking. Such equipment includes drill pipe, tubing, casing casing heads, blowout preventer stack assemblies, kill lines, choke manifolds, and other related equipment. A knowledge of the various interactions between stress, environment, and the metallurgy employed is required for successful operation in H_2S environments. The following general practices are required for acceptable performance:

(a) The drill or work string shall be designed consistent with the anticipated depth, conditions of the hole, and reservoir environment to be encountered. Care shall be taken to minimize exposure of the drill or work string to high stresses as much as is practical and consistent with the anticipated hole conditions to be encountered.

(b) Casing, couplings, flanges, liners, tubing and related equipment shall be designed for H_2S service. Field welding on casing (except conductor and surface strings) is prohibited unless approved by the Administrator.

(c) The blowout preventer stack assembly shall be designed in accordance with criteria evolved through technology of the latest state-of-the-art for H_2S service. Surface equipment such as choke lines, choke manifold, kill lines, bolting, weldments and other related well-killing equipment, shall be designed and fabricated utilizing the most advanced technology concerning sulfide stress cracking considering the degree of H_2S concentration and particular needs of the operation. Elastomers, packing, and similar inner parts exposed to H_2S shall be resistant at the maximum anticipated temperature of exposure.

(8) Mud Program.

(a) Either water or oil-base muds are suitable for use in drilling formations containing H_2S.

(b) A pH of 10.0 or above shall be maintained in a water-base mud system to control corrosion and prevent sulfide stress cracking.

(c) Consideration shall also be given to the use of H_2S scavengers in both water and oil-base mud systems.

(d) Sufficient quantities of additives shall be maintained on location or at a readily available source for addition to the mud system as needed to neutralize H_2S picked up by the system when drilling in formations containing H_2S.

(e) The application of corrosion inhibitors to the drill pipe to afford protective coating or their addition to the mud system may be used as an additional safeguard to the normal protection of the metal by pH control and the scavengers mentioned above.

(f) Drilling mud containing H_2S gas shall be degassed at the optimum location for the particular rig configuration employed. The gases so removed shall be piped into a closed flare system and burned at a suitable remote stack or flare.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-27.10 Deviation Tests. All wells not intentionally deviated must be drilled with due diligence to maintain a reasonably vertical well bore.

(1) An inclination survey shall be made on all wells with the first shot point at a depth not greater than that of the surface casing seat and succeeding shot points not more than one thousand feet (1,000') apart. Inclination surveys conforming to these requirements may be made either during the normal course of drilling or after the well has reached total depth. Such survey data shall be certified by the operator and shall indicate the resultant lateral deviation as the sum of the calculated lateral displacement determined between each inclination survey point, assuming that all such displacement occurs in the direction of the nearest property line. If a directional survey determining the bottom of the hole is filed with the Administrator upon completion of the well, it shall not be necessary to furnish the inclination survey data.

(2) Except as otherwise specified herein, all inclination or directional survey data shall be filed with the Administrator at the time of filing the Well Record (Form No. 8).

(3) A directional survey shall be run and a certified copy thereof filed by the operator with the Administrator on all future wells drilled in the State of Florida if:

(a) The well is directionally controlled and is thereby intentionally deflected from the vertical, or

(b) A well is drilled as an exceptional location, or

(c) The resultant lateral deviation as calculated from inclination survey data is a distance greater than the distance from the center of the surface location of the well bore to the nearest unit line, or

(d) The well bore deviates laterally a resultant distance greater than that determined by a three degree (3°) angle from a vertical line passing through the center of the surface location of the well bore, or

(e) A well is expected to penetrate intervals containing concentrations of hydrogen-sulfide, or

(f) A well is capable of producing hydrocarbons and before the well is allowed to produce such hydrocarbons if other than standard spacing was used.

(4) The Administrator may require the operator of any well to run a directional survey in it whenever the Administrator determines there is a reasonable cause to do so.

When a directional survey is required by the Administrator at the request of an offset operator and the operator of the well and the offset operator are unable to agree on terms and conditions for running such survey, the location of the bottom of the hole shall determine who pays for the directional survey.

If the directional survey shows that the bottom hole location meets the spacing requirements of the permitted well, the offset operator requesting the survey shall pay the cost of the survey.

If the directional survey shows that the bottom hole location does not meet the spacing requirements of the permitted well, the operator shall pay the cost of the survey.

(5) Unless required as specified above, a directional survey shall not be required for any well which is not intentionally deflected from the vertical and which has a surface location, maximum angle of deviation and total depth, all in compliance with the provisions thereof.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

CHAPTER 16C-28
CONSERVATION OF OIL AND GAS: PRODUCTION AND FLOWLINES

16C-28.01 Wellhead Equipment. All completed wells shall be equipped with casingheads, wellhead fittings, valves and connections with a rated working-pressure equal to or greater than the shut-in pressure to which they will normally be subjected. Connections and valves shall be designed and installed to permit fluid to be pumped between any two strings of casing, except between conductor and surface casing. In wells with a surface pressure in excess of five thousand pounds per square inch two master values shall be installed in the tubing. One is to be located below the production tee and the other above or across it, in the tubing. Prior to installation all well head connections shall be assembled and tested by a fluid pressure which shall be equal to the rated test pressure of the fitting to be installed.
Specific Authority 377.22 FS. Law Implemented 377.21, 377.22 FS. History—New 11-26-81.

16C-28.02 Production Casing and Tubing.

(1) Testing Casing. Any well showing sustained pressures on the casinghead, or leaking gas or oil between the production casing and the next larger casing string, shall be tested in the following manner:

(a) The production casing shall be tested in accordance with Rule 16C-29.07.

(b) After corrective measures have been taken, the casing shall be tested in the same manner.

(c) This testing procedure shall be used when the origin of the pressure cannot be determined otherwise (see also Rule 16C-27.05(3)(d)).

(2) Tubing. All wells shall be equipped with and produced through tubing except wells with hydraulically operated pumps and small diameter (4 1/2 inches OD or smaller) tubingless completions.

(3) Chokes and Subsurface Safety Devices in Flowing Wells.

(a) All flowing wells shall be equipped with adequate chokes, or beans, to properly control the flow.

(b) All wells producing upon the waters or wetlands or producing H_2S with concentrations in the produced fluids of 50 parts per million or greater and capable of flowing oil or gas (in Type I Areas) shall be equipped with a fail close subsurface safety device installed at a depth of 100 feet or more below the water bottom or ground surface.

1. Subsurface safety devices shall be adjusted, installed, and maintained in a workmanlike manner and the operator will comply with the following test procedures:

a. Each controlled subsurface safety device in a producing well shall be removed and inspected at intervals not exceeding six (6) months, except that such removable devices set in a landing nipple may be removed and inspected at intervals not exceeding twelve (12) months.

b. Prior to reinstallation, each such device shall be repaired as necessary and shall be adjusted and resized to compensate for changes in well conditions.

c. Each surface controlled subsurface safety device in a producing well shall be tested in place at intervals not exceeding six (6) months. If the test is unsatisfactory, the device shall be removed, repaired and reinstalled or replaced.

d. Subsurface safety devices that are an integral part of the tubing string or surface actuated shall be tested at intervals not exceeding six (6) months and, if the test is unsatisfactory, shall be replaced or a removable subsurface device shall be installed.

2. In all tubing installations, the tubing string shall be equipped with a landing nipple to provide for the setting of the subsurface safety device. Wells with a high rate of flow or wells producing sediment in areas of turbulence above and below such devices shall be protected by a flow coupling or other protective equipment.

(4) Subsurface safety devices may be of the direct-controlled or of the remote-controlled type. They shall be of industry recognized manufacture and metallurgy with due consideration given to operating conditions encountered in the well.

(5) A different safety program may be used under the following conditions:

(a) When artificial lift is required.

(b) When the flowing tubing pressure at the wellhead is 100 psig or less.

(c) When the subsurface device causes sediment to plug the tubing or sediment makes the subsurface safety devices inoperative.

(d) When well flow rate fluctuation or water production prevents a well equipped with a subsurface safety device from producing.

(e) When the mechanical condition of the well does not permit the installation of a subsurface safety device.

(6) For any well capable of flowing oil or gas not equipped with a subsurface safety device, such well shall be equipped with an automatic surface shut-in device built into the Christmas tree.

(7) The well completion report (Form No. 9) and any subsequent report of workovers shall state the type and depth of the subsurface safety device installed in the well, or shall state that the requirement has been waived.

(8) The operator shall maintain records, available to an agent of the department, showing the status of each subsurface safety device, including dates of inspection, testing, repairing, adjustment, and reinstallation.
Specific Authority 377.22 FS. Law Implemented 377.21, 377.22 FS. History—New 11-26-81.

16C-28.03 Fire and Pollution Control. Practices for the production of oil or gas and for operation of attendant facilities shall be designed to avoid or minimize fire hazards and control pollution. The following regulations apply to all producing wells and facilities in the state:

(1) A diagram of any firefighting system showing the location of all equipment shall be posted in a prominent place at the well site.

(2) Fire extinguishers shall be located in strategic areas while work is being conducted at producing wells and facilities.

(3) Separators. All flowing oil wells shall be produced through an oil and gas separator manufactured to API specifications.

(4) Fire Walls.

(a) Each permanent oil tank or battery of tanks shall be surrounded by a dike or fire wall with a capacity of one and one-half (1 1/2) times that of the enclosed tank or battery of tanks.

(b) Curbs, gutters and drains or fire walls shall be constructed in all areas in a manner necessary to collect contaminants, unless drip pans or equivalent are placed under equipment and pipe to a sump to contain wastes.

(5) Emulsion, Basic Sediments, Waste Oil and Water.

(a) Wells producing oil shall be operated in a manner to reduce as much as practicable the formation of emulsion and basic sediments. The operator shall not pollute land or water or damage wildlife or aquatic life or allow extraneous matter to enter and damage any mineral or water bearing formation.

(b) All wells shall be cleaned into a pit, barge or tank located at a distance of at least one hundred fifty (150) feet from a possible fire hazard.

(c) No waste oil or oil-field waste shall be disposed of into any stream, lake or other body of water or into any ditch or surface drainage depression leading to any stream, lake or other body of water. Such waste shall be retained for disposal at an approved waste disposal site.

(d) The following requirements shall apply to the handling and disposal of all produced waste water discharged into surface saline waters:

1. Waters discharged shall not create conditions which will adversely affect the public health or the use of the waters for the propagation of aquatic life, recreation, navigation or other legitimate uses not prohibited by high natural mineral content.

2. Waste water-disposal systems shall be designed to reduce the oil content of the disposed water to an average of not more than fifty ppm or to comply with the rules and regulations of the appropriate state pollution control agency, whichever is more restrictive. An effluent sampling station shall be located at a point prior to discharge into the receiving waters in order that a representative sample of the treated effluent can be obtained. On one day each month an effluent sample shall be taken and determination shall be made of the total oil content of the sample. The system shall be maintained in order to prevent the discharge of an effluent containing in excess of fifty ppm of total oil content. Results shall be maintained by the operator and made available to the Administrator upon request. The report shall contain date, time and location of sample, volume of waste discharge on the date of sampling and the results of the specific analysis and physical observations.

(6) Testing Wells (Cleaning Wells). When production tests are made on new or re-worked wells, gas shall be flared at a point at least one hundred fifty (150) feet from the wellhead. If oil is produced on such tests, it shall be retained in tanks or other approved containers for disposition.

(7) Pollution and Waste Disposal.

(a) No liquid waste material or drilling mud, whether or not it contains toxic materials, oil, oil field waste, or oil in any form shall be disposed of into any wetland, stream, lake or any other body of water or into any ditch or surface drainage depression leading into any wetland, stream, lake or other body of water. Such waste shall be contained by the operator for proper disposal in an approved waste disposal site.

(b) Oil in any form shall not be burned at the pits unless an emergency exists. Burning under emergency conditions shall require notification of an agent of the department as soon as possible.

(c) Drilling mud containing oil shall not be disposed of into the waters or wetlands. Drilling mud containing toxic substances shall be neutralized prior to disposal.

(8) Solid-Waste Disposal.

(a) Drill cuttings, sand and other solids containing oil or toxic materials shall be circulated to mud containers for all wells drilled upon the waters and wetlands and shall not be disposed of into the waters. All wells shall be cleaned into a pit, barge or tank located at least 150 feet from a possible fire hazard. Where it is feasible to construct pads and pits above high water levels in wetlands, the Administrator may approve this construction after thorough investigation of the drilling site and determination that the impact would be minimal and of short duration.

(b) Other solid waste materials shall be disposed of at an approved waste disposal site.

(9) Sewage Disposal. All human body wastes shall be disposed of only through the use of properly serviced chemical toilets or any sewage disposal system which conforms to standards established by the appropriate state or federal pollution control authority. The operator shall provide this treatment at all exploratory and production sites. Sewage is defined as human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes.

Specific Authority 377.22 FS. Law Implemented 377.371 FS. History—New 11-26-81.

16C-28.04 Production Facilities, Pollution Inspections and Reports.

(1) All wells shall be equipped by the operator with casingheads which have a test pressure in conformance with conditions existing in areas in which they are used. Casing head body as soon as installed shall be equipped with proper connections and valves which are accessible to the surface. Reconditioning shall be required on any well showing pressure on the casinghead, or leaking gas or oil between the production string and the next larger size casing string.

(2) All production facilities such as separators, meters, tanks, treaters, or other equipment shall be such as are necessary to control the maximum anticipated pressures and production of oil, gas, and sulphur, and shall be maintained at all times in a manner necessary to prevent pollution.

(3) All platforms, structures and foundations shall be curbed or leveed and connected by drains to a collecting tank or sump unless drip pans, or equivalents, are placed under equipment from which a pollutant may spill upon the surface or into the waters and the spilled contaminant shall be piped to a tank or sump.

(4) Inspections and Reports. The operator shall install, maintain in good working order, and monitor adequate and sufficient equipment to detect emission leaks or spills which might violate air or water quality standards or which might cause pollution.

(a) Pollution Inspections.

1. Manned facilities shall be inspected daily.

2. Unattended facilities shall be inspected by the operator daily, except those equipped with remote control and monitoring systems, which shall be inspected at least every third day.

(b) Pollution Reports.

1. All spills or leakage of oil and liquid pollutants shall be recorded showing the cause, size of spill and the action taken, and the record shall be maintained and available for inspection by an agent of the department.

All spills or leakage shall be reported without delay to the District Coordinator by telephone.

2. All spills or leakage of oil and liquid pollutants above five (5) barrels shall be confirmed in writing to the Administrator by the operator as soon as possible.

(5) Control and Removal.

(a) Corrective Action — Immediate corrective action shall be taken in all cases where pollution has occurred. Each operator shall have an emergency plan for initiating corrective action to control and remove pollution and such plan shall be filed with the Administrator.

(b) Equipment — Standby pollution control equipment shall be maintained by or shall be immediately available to each operator. The equipment shall be regularly inspected and maintained in good condition for use.

(6) Safety and Pollution Control Equipment and Procedures for Type 1 Locations, Waters and Submerged Lands: All production facilities shall have the following shut-in and protective devices installed on all pressurized vessels and water separation facilities. If the intent of the following requirements can be shown by the operator to be satisfied in another manner, the specific requirements listed below may be waived by the Board through the issuance of an order on a field wide basis. The operator shall maintain records of annual inspections showing the status of each device, including dates and details of inspections, testing, repairing, adjustment and reinstallation.

(a) All sensors shall be equipped to permit testing with an external pressure source. All separators shall be equipped with high-low pressure shut-in sensors, low level shut-in controls, and a relief valve. High liquid level control devices shall be installed when the vessels can discharge to a continuous flare.

(b) All pressure surge tanks shall be equipped with a high-low pressure shut-in sensor, a high level shut-in control, flare line and relief valve.

(c) Atmospheric surge tanks shall be equipped with a high level shut-in sensor.

(d) All other hydrocarbon handling pressures vessels shall be equipped with high-low pressure shut-in sensors plus high-low level shut-in controls and relief valves.

(e) Pilot-operated pressure relief valves shall be equipped to permit testing with an external pressure source. Spring-loaded pressure relief valves shall either be bench tested or equipped to permit testing with an external pressure source. A relief valve shall be set no higher than the designed working pressure of the vessel. The high pressure shut-in sensor shall be set no higher than 5% below the rated or designed working pressure, and the low pressure shut-in sensor shall be set no lower than 10% below the lowest pressure in the operating pressure range on all vessels with a rated or designed working pressure of more than 400 psi. On the lower pressure vessels the above percentages shall be used as guidelines for sensor settings considering pressure and operating conditions involved, except that sensor settings shall not be within five (5) psi of the rated or designed working pressure or the lowest pressure in the operating pressure range.

(f) All flare lines shall be equipped with a scrubber or similar separation equipment unless enclosed by a suitable pit.

(g) All wellhead assemblies for flowing wells shall be equipped with an automatic fail-close valve. Automatic safety valves temporarily out of service shall be flagged.

(h) All flowlines from wellheads shall be equipped with both high and low pressure sensors located close to the wellhead. The pressure sensors shall be set to activate the wellhead valve or pumping unit shut-down device in the event of abnormal pressures in the flowline. The need for high pressure sensors may be waived by the Administrator if the flowlines are designed to withstand anticipated wellhead pressure, and proof of design is supplied the Administrator.

(i) All headers (or manifolds) shall be equipped with check valves on the individual flowlines. Such requirement for header check valves may be substituted with individual check valves on production separator outlets, or a low pressure sensor on the flowline for valve actuation if the flowline is equipped with a fail close valve at the separator. The flowlines and valves from each well shall withstand the shut-in pressure of that well unless protected by a high-low pressure sensor or pressure relief device. If there is an inlet valve to a separator, the valve, flowline and all equipment upstream of the valve shall also withstand the shut-in wellhead pressure unless protected by a high-low pressure sensor or pressure relief device.

(7) Safety and Pollution Control Equipment Testing.

(a) All pressure sensors shall be tested for proper pressure settings annually. Results of all tests shall be recorded and maintained in the field and shall be available for inspection by agents of the department.

(b) All automatic wellhead safety valves shall be tested for operation weekly. All automatic wellhead safety valves shall be tested for holding pressure quarterly. Results of tests shall be recorded and maintained in the field and shall be available for inspection by agents of the department.

(c) Check valves shall be tested for holding pressure annually. Results of all tests shall be recorded and maintained in the field and shall be available for inspection by agents of the department.

(d) A complete testing and inspection of the safety system shall be conducted by the operator at the time production is commenced. Thereafter, the operator shall conduct similar tests and inspections annually. The tests may be witnessed by agents of the department.

(e) A standard procedure for testing of safety equipment shall be prepared and posted in a prominent place.

(8) Combustible Gas Detectors — An automatic gas detector and alarm system shall be installed in submerged land areas

and facilities handling toxic gases in accordance with the following:

(a) Gas detection systems shall be installed in all enclosed areas containing gas handling facilities or equipment and in other enclosed areas which are classified as hazardous areas.

(b) All gas detection systems shall be capable of continuously monitoring for the presence of combustible gas in the areas in which the detection devices are located.

(c) The central control shall be capable of giving an alarm at some point below the lower explosive limit of 1.3%. This low level shall be for alarm purposes only.

(d) A high level setting of not more than 4.9% shall be used for shut-in sequences and the operation of emergency equipment.

(e) A written statement describing the installation and maintenance of any gas detection system shall be filed with the Administrator. The statement shall include the following:

1. Type, location, and number of detection or sampling heads.
2. Cycling, non-cycling and frequency information.
3. Type and kind of alarm including emergency equipment to be activated.
4. Method used for detection of combustible gas.
5. Method and frequency of calibration.
6. A diagram of the gas detection system.
7. Other pertinent information.

(f) A diagram of the gas detection system showing the location of all gas detection points shall be posted in a prominent place.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-28.05 Notification of Blowouts, Fires, Breaks, Leaks, and Spills.

(1) The operator of any oil or gas wells, pipelines, or receiving tanks, storage tanks, or receiving and storage receptacles into which crude is produced, received, or stored, or through which oil is piped or transported must immediately notify the District Coordinator or the Administrator by telephone of any blowout, fire, tank break or pipeline break and, if the amount of discharge is five (5) barrels or more, of any leak, spill, line break, or other discharge of pollutant.

(a) If the leak or spill occurs in an estuary or other offshore coastal environment the operator shall notify the nearest Florida Marine Patrol office and the U. S. Coast Guard.

(b) For leaks, spills, line breaks and other discharges of oil and liquid pollutants in the amount of five (5) barrels or more, the operator shall confirm the incident by written report to the Administrator within one week.

(2) In notifying (by telephone or confirming written report) the agent of the department, the operator shall include:

(a) The location of the incident by county, section, township and range, or other political subdivision or property or highway descriptions so that the exact location can be readily determined.

(b) A description of damage to life, property, and fish and wildlife habitat.

(c) The quantity of oil or gas lost, destroyed or permitted to escape, the quantity of liquid pollutant discharged, and if not stopped as of the time of notification, the rate at which these quantities are discharging. These quantities must be estimated, if no accurate measurement can be obtained, in which case the notification must state the quantities are estimates.

(d) The actions taken and still to be taken to clean up the discharge and to prevent reoccurrence of the incident.

(3) It shall be the responsibility of the operator, in the event of a blowout, fire or discharge of pollutants to perform the remedial procedures to bring the condition under control as quickly as possible. If this is not accomplished, the Administrator or his agent shall have the authority to take charge of the work to control the situation at the expense of the operator.

Specific Authority 377.22 FS. Law Implemented 377.21, 377.22, 377.40 FS. History—New 11-26-81.

16C-28.06 Determining and Naming Common Sources of Supply. Wells shall be classified as to the common sources of supply from which they produce and common sources of supply shall be determined and named by the Administrator. In naming the common sources of supply, reference shall be given to common usage and geographic names. Separate common sources of supply within the same area shall preferably be named according to the producing formation.

Specific Authority 377.22 FS. Law Implemented 377.18 FS. History—New 11-26-81.

16C-28.07 Takings to Be Ratable. Every person, now or hereafter, engaged in the business of purchasing and selling crude oil or natural gas in this state shall purchase without discrimination in favor of one producer against another or in favor of one

source of supply as against another.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-28.08 Agents to Have Access to All Wells, All Well Records, to Make Well Tests, and Measure Production From Wells. All operators of oil and gas wells are required to permit and assist the agents of the department in making tests common to drilling, production or plugging on any or all wells. The agents of the department shall have access to all well records, and shall be permitted to come upon any lease or property to inspect any and all wells and to gauge the production therefrom at all times.

Specific Authority 377.22 FS. Law Implemented 377.21 FS. History—New 11-26-81.

16C-28.09 Multiple Completions. No well shall be completed in any field with the casing open to one strata and the tubing open to another except with a permit issued by the Board.

(1) Information shall be submitted showing top and bottom of all zones proposed for completion or alternate completion, including a partial electric log and a diagrammatic sketch showing such zones and equipment to be used.

(2) When zones approved for multiple completion become intercommunicated, the operator shall immediately repair and separate the zones after approval is obtained.

(3) When multiple completion applications are granted, each completion shall be considered separately. The production from each reservoir shall be run through separate flow lines and measured separately. The Administrator shall designate the well number and the name of the reservoir for each producing unit.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-28.10 Well Completion Report (Form No. 9). An operator completing a new oil or gas well or placing an old oil or gas well on production which has been closed in during at least one month shall test the well to determine that the well is capable of producing and the amount it can produce up to and including its allowable. The results of the test shall be filed on Form No. 9 within 5 days after the test is completed. Upon receipt of Form No. 9, the Administrator may assign a temporary allowable to the well and, after receipt of adequate engineering data and after due notice and public hearing, allowables may be reassigned by the Administrator. An operator shall notify the Administrator by telegram or equivalent means on the first business day after new or renewed (following shut-in period in excess of one month) production on a well.

Specific Authority 377.22 FS. Law Implemented 377.21, 377.22, 377.30 FS. History—New 11-26-81, Amended 4-12-83.

16C-28.11 Monthly Production Test (Form No. 10). A deliverability test of each producing well shall be made monthly. Such test shall be an actual test to determine whether or not the well is capable of producing efficiently any allowable that may be reasonably expected to be assigned to it and, if the well is not found to be capable, then the test shall determine the maximum rate at which the well may be efficiently produced. A report of each test so required shall be promptly furnished to the Administrator upon Form No. 10. Any operator may make such additional deliverability tests at any time and report such tests to the Administrator in the same manner as required tests are reported. A well allowable may be determined by the latest test information furnished to the Administrator.

Specific Authority 377.22 FS. Law Implemented 377.21, 377.30 FS. History—New 11-26-81.

16C-28.12 Oil, Gas and Condensate to Be Measured.

(1) All oil of a common ownership shall be adequately measured before the same is commingled with another production.

(2) Oil Measurements.

(a) Quantities of oil shall be measured or gauged. Corrections shall be made for temperature on the basis of sixty (60) degrees Fahrenheit. The full percentum of basic sediments and water as shown by centrifugal or other tests shall be deducted after making correction for temperature.

(b) The producing company may, at its option, use mechanical metering systems to measure its production.

1. Oil Production. The company will be permitted to install meters recognized by the Administrator as a type generally approved for industry's use.

When the oil production from a given well is metered through more than one meter, the operator will supply the Administrator with the "meter changes," which show the amount of oil metered by each of the meters which measured oil production from the well during the month.

2. Salt-Water Production. Where monthly salt-water production is measured

through a meter or by another method, such monthly measurements shall be supplied the Administrator with the corrected salt-water production figures by well within 25 days subsequent to report period.

(3) Gas to Be Metered (Form No. 11). All gas produced from the deposits of this state shall be accounted for by measurement and reported to the Administrator by the operator.

(a) Where gas is delivered to gasoline extraction plants or gas pipeline companies for light and fuel, oil and gas development, including drilling, gas lift, repressuring, and gasoline extraction before redistribution as residue, the company operating the gasoline extraction plant or gas pipeline shall be responsible for reporting the portion of the gas taken by them and shall make a separate report for each field or reservoir from which the gas is taken and shall make a separate report for sweet, sour and casinghead gas taken in each field and/or reservoir.

(b) Gas produced incident to the production of oil where not sold, shall be measured and reported by the operator. The record of the measurement, whether it be for the individual well or the entire property, shall be made available to the Administrator at all times.

(c) Gas measurements shall be in accordance with industry accepted methods.

(4) Gas-Oil Ratio. Any oil well producing with a gas-oil ratio in excess of two thousand (2,000) cubic feet of gas per barrel of oil produced shall be allowed to produce daily only that volume of gas obtained by multiplying its daily oil allowable, as determined by the allocation formula applicable to said well which was approved by the Board, by two thousand (2,000) cubic feet. The gas volume thus obtained shall be known as the daily gas limit of such well. The daily oil allowable of such well, in barrels, shall then be determined by dividing its daily gas limit, obtained as herein provided, by its producing gas-oil ratio in cubic feet per barrel of oil produced. A gas well producing from the gas cap of an oil reservoir in which an oil well or wells are completed and producing, shall be allowed to produce daily (to the extent that it can produce without waste) only that volume of gas and other hydrocarbons which under conditions of pressure and temperature existing in the reservoir from which produced is the equivalent in volume, under like pressure and temperature, to the oil and gas which would be produced daily from that oil allowable if its gas-oil ratio were two thousand (2,000) cubic feet of gas per barrel of oil.

Specific Authority 377.22 FS. Law Implemented 377.22, 377.23, 377.30 FS. History—New 11-26-81.

16C-28.13 Monthly Reports (Form Nos. 10-13). Operators of oil and gas wells and transporters of crude petroleum shall make reports of their operations. The following reports shall be filed with the Administrator on forms prescribed by the department on or before the twenty-fifth day of the month subsequent to the period for which the report is made. Any person engaged in operations which fall within the classification of operator, transporter, or refiner, shall make out the reports applicable to his operations.

(1) Monthly Producer's Reports:

(a) Well Production and Test Report (Form No. 10).

(b) Natural Gas Report (Form No. 11).

(c) Condensate Production Report (Form No. 12).

(2) Monthly Transporter's and Storer's Reports (Form No. 13).

(3) Monthly Processor's Reports.

Specific Authority 377.22 FS. Law Implemented 377.21, 377.22, 377.23 FS. History—New 11-26-81.

16C-28.14 Gas Utilization. After the expiration of seven (7) days from the start of testing gas in a gas well, no gas from such well shall be permitted to escape into the air, and all gas produced therefrom shall be utilized for the following purposes:

(1) Gas well gas shall ultimately be utilized only for:

(a) Light or fuel.

(b) Efficient chemical manufacturing.

(c) Bona fide introduction of gas into an oil or gas bearing horizon, in order to maintain or increase the reservoir pressure or otherwise increase the ultimate recovery of oil or gas from such horizon.

(d) The extraction of ethane and heavier hydrocarbons therefrom, provided the residue gas is used for purposes described in subsections (a), (b) and (c) above.

(2) Casinghead gas may be used for any beneficial purpose.

(3) Any producer of gas may use the same as gas lift in the bona fide production of oil where such gas is not used in excess of ten thousand (10,000) cubic feet per barrel of oil produced, provided that, in order to prevent waste in any case where the facts warrant it, additional quantities of gas may be used to lift oil, provided all such gas so used in excess of ten thousand (10,000) cubic feet for each barrel of oil shall be processed for natural gasoline when same is produced.

(4) Use of Gas for Other Than Light or Fuel. Before any person shall engage in the utilization of gas (excluding casinghead gas) for purposes other than light and fuel or other uses permitted herein, he shall file with the Administrator a statement setting forth the names and addresses of the person or persons who are to engage in the proposed operation, the location of the plant or plants where the proposed utilization is to be carried on, the kind and probable volume of the gas that is to be used, the reservoir from which it is to be taken, the general type of the process, and the kind and condition of the equipment that is to be used, the results to be obtained insofar as such results can be reasonably anticipated, and such other pertinent facts as the Administrator may require.

Specific Authority 377.22 FS. Law Implemented 377.20, 377.21, 377.30 FS. History—New 11-26-81.

16C-28.15 Field Flowlines and Gathering Lines. The operator shall submit a plan of installation for the laying and construction of flowlines and gathering lines and associated structures for the movement of oil and gas production and derivatives therefrom to lease storage or to a point of transfer to a common carrier or other purchaser, as well as to the movement of produced water to a disposal facility.

(1) General Design — All flowlines and gathering lines shall be designed and maintained to protect the land and waters from environmental damage. The plan shall include control devices which shall be installed and maintained in accordance with the following:

(a) All oil and gas lines delivering production to a transportation facility shall be equipped with an automatic shut-in valve connected to the facility's automatic remote shut-in system.

(b) All oil and gas lines delivering production to a separation or treatment facility shall be equipped with a check valve to avoid backflow.

(c) All line pumps shall be equipped with high-low pressure shut-in devices.

(d) All lines shall be protected from loss of metal by corrosion that would endanger the strength and safety of the lines by providing extra metal for corrosion allowance, or by other means of preventing loss of metal such as protective coatings or cathodic protection. Coupons must be installed to monitor corrosion.

(e) All lines shall be installed and maintained to be compatible with other uses of the area.

(f) The operator shall maintain records of annual inspections showing the status and past history of each safety device, including dates and details of inspection, testing, repairing, adjustment, and reinstallation.

(g) All lines shall be hydrostatically tested to 1.25 times the designated working pressure for a minimum of two (2) hours prior to placing the line in service. Submittal of the original hydrostatic pressure test including procedure, test pressure, hold time and results is required.

(h) All lines shall be maintained in good operating condition at all times and inspected monthly for indication of leakage using aircraft, floating equipment, or other methods. Records of these inspections including the date, methods and results of each inspection shall be maintained by the operator and made available to the Administrator upon request. The operator shall submit records indicating the cause, effect, and remedial action taken regarding all flowline and gathering line leaks within one week following each such occurrence.

(i) All lines shall be designed to be protected against all known environmental factors.

(2) Map Showing Survey. The plan shall be accompanied by a map at a scale at least 1:24000 showing:

(a) The center line of the right-of-way properly identified so that the right-of-way may be accurately located by a competent engineer.

(b) Water depths if submerged.

(c) Connecting facilities.

(d) Burial depth if buried.

(e) Bearings and distances of each segment of the center line of the right-of-way.

(f) The total distance and width of the right-of-way and the diameter of the pipeline specified.

(g) The initial and terminal points of the right-of-way accurately located by the latitude and longitude or grid.

(h) The name and license number of the surveyor or engineer preparing the document.

(3) The plan shall contain a schematic drawing showing the following flowline safety equipment and the manner in which the equipment functions:

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(a) High-low pressure sensors.
(b) Automatic shut-in valves.
(c) Check valves.
(d) Product or products to be transported by line.
(e) Size, weight, and grade of the pipe.
(f) Length of line.
(g) Maximum water depth.
(h) Type or types of corrosion protection.
(i) Description of protective coating.
(j) Bulk specific gravity of line (with line empty).
(k) Anticipated gravity or density of the product or products.
(l) Design working pressure and capacity.
(m) Maximum working pressure and capacity.
(n) Hydrostatic pressure and hold time to which the line will be tested after installation.
(o) Size and location of pumps and prime movers.
(p) The line installation date should be shown on the map.
(q) The location of coupons to monitor corrosion.
(r) Any other pertinent information which may be requested.

(4) The plan shall include proof of permission of appropriate interests in land which allow the operator to use the proposed system.

(5) Completion Report. The operator shall notify the Administrator when installation of the flowline is completed.

(6) Provided the operator obtains prior approval from the Administrator, new segments of less than 1,000 yards length may be added to a completed flowline system within a field. These are to be depicted on an updated copy of the map as described in subsection (2) above. The installation date of all segments of the system are to be shown on the revised copy of the map, which shall be submitted to the Administrator within 90 days after the addition of a segment.

Specific Authority 377.22 FS. Law Implemented 377.21, 377.22, 377.30 FS. History—New 11-26-81.

16C-23.16 Pipelines (Form No. 14).

(1) Certificate of Compliance (Form No. 14). Authorization to Transport. No pipeline operated as a common carrier shall be connected with any oil or gas well nor shall any oil or gas be removed from a lease, by truck or other means of transport until the well operator shall furnish a certificate (Form No. 14) provided by the Administrator, that the conservation laws of the state have been complied with and that the pipeline is authorized by the well operator to transport oil from the lease. This requirement shall not prevent the temporary connection with any well for the time necessary to take care of emergency situations, or to prevent waste.

(2) No pipeline operator shall disconnect a pipeline from any well until receiving approval from the Administrator and from the well owner.

(3) Whenever the operator of any oil or gas well shall have failed to comply with all laws and all rules and regulations of the department applicable to that well, the certificate of compliance shall be revoked. After the certificate of compliance is revoked, the pipeline company connected to such well and to such property shall cease upon notice to do so from the Administrator to accept oil or gas for transport until authorized to resume.

(4) Purchasers and Transporters.

(a) No transporter shall transport oil from any lease or wells after said transporter has been notified in writing by an agent of the department that the owner or operator of said lease or wells has violated any state law, rule, regulation, or order of the department.

(b) No transporter shall accept or receive any oil from any other transporter after having been notified in writing by an agent of the department that that other transporter has violated any state law, rule, regulation or order of the department.

(c) In order to carry out the spirit and purposes of this and other regulations tending to provide orderly production of crude oil without waste and to give equal opportunity to marketing oil to all operators bringing wells into production in said field, all pipeline companies are hereby directed to make connection of their lines to the lease tanks on properties or leases in rotation as wells are completed, regardless of ownership. Connections shall be accepted and taken by the pipeline companies which by geographical location and least expense is the logical connection unless some other line is willing to accept same.

Specific Authority 377.22 FS. Law Implemented 377.21, 377.22, 377.30 FS. History—New 11-26-81.

CHAPTER 16C-29
CONSERVATION OF OIL AND GAS: INJECTION WELLS, WELL WORKOVERS, AND ABANDONMENTS

16C-29.01 General. Injection wells must be operated and conducted in a manner consistent with the rules and regulations of all federal, state, regional, county or municipal agencies having authority for the protection of the subsurface waters of the state. Well workovers must conform to all applicable safety and environmental protection standards required under Chapters 16C-27 and 16C-28 and in addition, the regulations of this Chapter which apply specifically to injection wells and well workovers. Any well that is not used or useful shall be plugged and abandoned promptly.

No waste oil or oil-field waste generated during any operation designated in this Chapter shall be disposed of into any stream, lake or other body of water or into any ditch or surface drainage depression leading to any stream, lake or other body of water. Such waste shall be retained for proper disposal as required by the Administrator.

Specific Authority 377.22 FS. Law Implemented 377.22, 377.371 FS. History—New 11-26-81.

16C-29.02 Injection Wells.

(1) A permit is required prior to commencement of drilling operations on a well designed for disposal of salt water into any subsurface formation, or for the purpose of introducing gas or fluid into a producing reservoir for the enhancement of hydrocarbon recovery by pressure maintenance (see Chapter 16C-26). If a well initially drilled for the production of oil or gas is to be converted to an injection well, an application (Form No. 3) to convert the well must be submitted and permission obtained from the department. Such permit shall be valid for one year from the date of issuance. If drilling or conversion operations are not initiated within six months after the date of approval, the permit may be renewed by the Administrator for another six-month period. Wells drilled or converted for injection purposes are subject to all the requirements of plugging and site restoration as are oil or gas wells.

(2) No subsurface formation or zone will be approved for fluid disposal if total dissolved solids of the formation fluid do not equal or exceed 10,000 ppm and chloride content does not equal or exceed 5,000 ppm.

(3) As part of the application for a permit required by (1) above the operator shall submit to the Administrator a written application containing at least the following information:

(a) In the case of a well already drilled, a geophysical log of the well with the proposed zone marked and a statement giving the name of the disposal formation. In the case of undrilled wells, the name of the formation or zone to be used for injection and its approximate depth.

(b) A plat showing the location, or proposed location, of the injection well and all wells within a one-half mile radius thereof which penetrated the formation proposed for injection if the formation is non-productive and all wells within a two-mile radius thereof if the proposed injection zone is productive of oil or gas within two miles.

(c) The following data are required for each well identified on the plat required in paragraph (b) above:

1. A description of well type, character and amount of material being injected.
2. A description of well construction.
3. Depth of the injection zone.
4. Record of completion and plugging activities.
5. Additional information which may be required by the Administrator to properly evaluate the environmental impact on a site specific.

(d) A statement of estimated daily volume of salt water to be injected, and of the injection pressure anticipated.

(e) A statement of other known instances in which the proposed disposal zone has been used for salt-water disposal.

(f) A chemical analysis of the formation waters of the zone proposed for brine injection taken from the well in which injection is proposed in the case of a well already drilled. However, if analysis of the same identifiable zone exists from at least one other well within two (2) miles of the proposed injection well and is on file with the Administrator, the Administrator may waive this requirement, provided, however, geophysical logs are furnished over the interval of the well in which the injection zone is proposed, and they give adequate assurance that contained chlorides are no less than 5,000 parts per million (ppm).

(g) A sworn statement that such disposal well will be completed in a manner to insure that the disposal products are injected into the proposed injection zone and that provision has been made for adequate

protection of fresh-water aquifers and other zones of commercial value. A schematic diagram of the disposal well showing the casing and cementing program shall be attached together with an explanation thereof. Adequate provision must be made to insure that casing is set below the base of fresh-water aquifers into salt-water aquifers.

(4) Prior to the injection of salt water, an agent of the department shall inspect each completed disposal facility to insure compliance.

(a) When the bureau notifies an applicant that its application for a permit to inject fluids underground is complete, the applicant shall provide public notice of its intentions. The applicant shall publish notice of the general surface location of the injection well, the formation or zone into which the fluids will be injected, and the nature and amounts of fluids to be injected.

(b) The applicant, at its cost, shall publish notice in a newspaper of general circulation in the area of the proposed operations and to all persons who have notified the bureau that they wish to receive notice of these activities. The applicant shall provide the bureau with proof of publication within 30 days of receiving the notice of the bureau's determination that the application was complete. Proof of publication is a necessary condition

(5) The operator shall measure the amount of salt water injected into each disposal well and shall report to the Administrator the monthly volume each quarter of the calendar year.

(6) All injection wells shall be equipped with tubing and packer set above the point of injection. No injections shall be permitted through casing, in the annulus between casing strings, or between casing and the well bore.

(7) The integrity of the casing and tubing strings for injection wells shall be pressure tested in the presence of an agent of the department in accordance with the provisions of Chapter 16C-27 during construction and within five year intervals thereafter. If the casing or tubing fails to hold the scheduled pressure during the test time specified, remedial action and retests shall be made prior to approval of the well for injection purposes.

(8) Each permit for an injection well shall include a condition specifying the upper limit of allowable pressure.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81, Amended 4-12-83, 8-1-83.

16C-29.03 Injection Wells for Pressure Maintenance. Permits for wells, either constructed for or converted for the purpose of maintaining reservoir pressures in a producing field, may be granted following a hearing prior to unitization of a producing oil or gas field, or portion thereof, as provided by Section 377.28, F. S. Regulations governing the drilling of oil or gas wells and for salt-water disposal wells in the state apply to wells drilled for pressure maintenance.

Specific Authority 377.22 FS. Law Implemented 377.22, 377.28 FS. History—New 11-26-81.

16C-29.04 Monitoring, Periodic Inspection and Record Keeping.

(1) Monitoring. All injection wells shall be equipped for pressure readings of the casing and tubing strings. The pressure readings shall be recorded weekly. In addition, the total volume of injected fluid shall be recorded weekly on a log kept with the pressure readings. If surface pressure fluctuations indicate malfunction of the injection system, or failure of the casing, tubing or packer, the Administrator or his agent shall be notified immediately and the integrity of the well shall be verified according to Rule 16C-29.07. If a malfunction or failure is detected injection will cease until the problems are corrected.

(2) All injection wells shall be visually inspected at quarterly intervals; pressure gauges shall be calibrated or proofed quarterly and records maintained thereof.

(3) The operator of each injection well shall file the following reports with the Administrator:

(a) Notification within ten days of the start-up date of the initial injection operation.

(b) Quarterly reports containing the monitoring and inspection reports required above.

(c) Temporary discontinuance of the injection operation due to mechanical problems shall be reported within ten (10) days of each occurrence, stating the reason for the discontinuance.

(d) Any malfunction of the injection system which may cause migration of fluids into any zone other than the intended injection zone shall be reported immediately.

Specific Authority 377.22 FS. Law Implemented 377.22, 377.28 FS. History—New 11-26-81.

16C-29.05 Workover Notification. Each operator shall notify the Administrator

or his agent prior to commencing a workover operation except in an emergency as provided herein. This notification may be by telephone to the District Coordinator and subsequently confirmed in writing to the Administrator within ten (10) days. In the case of an emergency, remedial work may be initiated immediately, in which case the required notification shall be made as soon as possible, but in no event later than 24 hours after the emergency occurs.

(1) Workover notifications shall state the following:

(a) Well permit number, well name and number, the field name, and the section, township, and range in which the well is located.

(b) The nature of the work to be performed during workover, the type of workover fluid utilized, and the purpose of workover.

(c) A description of fire extinguishing equipment to be on location during the workover.

(d) The estimated date workover is to begin and days to completion.

(2) Within thirty (30) days following completion of any workover, a revised well record (Form No. 8) shall be submitted to the Administrator.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-29.06 Workover Operations.

(1) All workover rigs which have a derrick floor more than four (4) feet above ground level shall have a minimum of two sets of stairs which lead from the derrick floor to the ground to allow for two directions of exit from the derrick floor.

(2) All engines which are used to power workover rigs, workover rig pumps and electric generator sets shall have spark arrestors on each engine's exhaust.

(3) Whenever possible no electric generator set shall be located closer than one hundred fifty (150) feet from a wellbore or any fire hazard.

(4) No smoking shall be permitted within one hundred fifty (150) feet of a workover rig while workover operations are in progress.

(5) Fire extinguishing equipment shall be provided and readily available on all workover rigs. A fire drill shall be conducted at the initiation of a job and once every week thereafter for each crew to insure that all equipment is operational, and that all crews are properly trained to carry out emergency duties. All fire drills shall be recorded in the driller's log. An impromptu fire drill may be conducted at any time during the workover if requested by the Administrator or his agent, provided that such drills shall not be requested during critical periods of operation where the personnel, the well, or the equipment might be endangered as a result of the drill.

(6) Two-way radio or telephone communication shall be provided at the location of each workover operation.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-29.07 Pressure Testing of Production Casing, Tubing and Packers on Workover Operations.

(1) The production casing in all Type I wells shall be pressure tested to a pressure which is equivalent to the depth of the production casing multiplied by 0.1 psi/ft. of depth. This pressure shall be applied at the surface of the ground for a duration of 30 minutes, and no more than a 10 percent bleed off of pressure is acceptable during this test. If there is evidence of a leak, necessary remedial measures shall be taken, and the same type of pressure test shall be reapplied after completion of the remedial measures. This pressure test shall be conducted after every fishing job in which the production casing string may have been damaged, and also if requested by an agent of the department. All production casing pressure tests shall be recorded on the driller's log.

(2) The production casing in all Type II wells shall be pressure tested to a pressure which is equivalent to the depth of the production casing multiplied by 0.05 psi/ft. of depth. This pressure shall be applied at the surface of the ground for a duration of 30 minutes, and no more than a 10 percent bleed off of pressure is acceptable during this test. If there is evidence of a leak, necessary remedial measures shall be taken, and the same type of pressure test shall be reapplied after completion of the remedial measures. This pressure test shall be conducted after every fishing job in which the production casing string may have been damaged, and also if requested by an agent of the department. All production casing pressure tests shall be recorded on the driller's log.

(3) Tubing and packers in Type I wells shall be pressure tested to a pressure which is equivalent to the depth of the tubing multiplied by 0.1 psi/ft. of depth. This pressure shall be applied at the surface of the ground for a duration of 30 minutes, and no

more than a 10 percent bleed off of pressure is acceptable during this test. If there is evidence of a leak, necessary remedial measures shall be taken, and the same type of pressure test shall be reapplied after completion of the remedial measures. All tubing and packer tests shall be recorded in the driller's log. Tubing and packer pressure tests are waived for Type II wells.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-29.08 Blowout Preventer Requirements for Workover Operations. All workover operations which are conducted in Type I wells shall provide blowout preventer systems and tests thereof, which shall meet or exceed the requirements in Chapter 16C-27.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-29.09 Plugging and Abandonment of Wells (Form No. 15).

(1) The approval to plug and abandon shall be granted by the Administrator. Methods must be submitted in writing, using Form No. 15, stating reasons for abandonment and the detailed plans for any casing removal and plugging. Verbal approval may be granted by the Administrator or his agent prior to the submission of Form No. 15. Equipment shall be removed and the well site shall be properly reclaimed immediately after plugging operations are completed on any well.

(2) An agent of the department may inspect the work of abandonment as it progresses, including checking the location and quantity of plugs, the amount of casing pulled, and the demonstration of movement, if any, of oil, gas or water.

(3) Wells approved for possible use for salt-water disposal or for secondary recovery operations may be closed in a manner to permit the reworking of the wells for the intended use.

(4) The drilling of a well may not be temporarily suspended for periods longer than sixty (60) days without approval of the Administrator. Any well on which unapproved suspensions are in excess of sixty (60) days shall be considered to be an abandoned well, and shall be plugged in accordance with these rules.

(5) Pulling of Casing from an Abandoned Hole. Before pulling casing from an abandoned hold the operator shall obtain approval from the Administrator for reentry i[illegible] well. All requests to pull casing shall contain:

(a) A diagram showing the casing in place and the depth at which casing is to be cut and recovered.

(b) The procedure to be followed to protect fresh-water resources.

(c) The proposed schedule of plugging the well.

(6) The operator shall provide the agent of the department with at least twenty-four hours notice prior to commencement of any plugging operation.

(7) Permanent Abandonment.

(a) Uncased-hole plugs.

1. In uncased portions of wells, fresh water zones shall be isolated from adjoining saline zones by a cement plug which extends at least 200 feet above and below the fresh-water saline-water contact.

2. Uncased holes that penetrate formations known to contain hydrocarbons shall have a cement plug, not less than 200 feet in length, placed opposite each horizon, reservoir or formation, known to be producing hydrocarbons within ten miles of the well being plugged. Such plugs will be placed in such manner as to seal off the producing formations from the well bore.

The interval in the well bore above the plug, and the holes that do not penetrate a known producing zone, reservoir or formation, may be filled with the fluid used in drilling such well, to within 100 feet below the base of the deepest string.

(b) In-out casing plugs. Where there is open hole below any casing string, a cement plug shall be placed at the base of the string, extending a minimum of 100 feet above and 100 feet below the casing shoe. A cement retainer which is composed of materials other than magnesium and with effective back pressure control may be set not less than 50 feet nor more than 100 feet above the casing shoe. A cement plug must be placed so that it will extend at least 100 feet below the casing shoe and 100 feet above the retainer.

In the event lost circulation conditions were encountered during drilling within 100 feet below the casing shoe a permanent type bridge plug may be set within 100 feet above the casing shoe, and 150 feet of cement placed on top of the bridge plug.

(c) Plugging of perforated intervals. No perforation shall be permitted to remain open upon abandonment. Either a cement retainer shall be set a minimum of 100 feet above the open perforation interval with cement squeezed into the perforation interval, and a 100-foot cement plug then placed on top of the cement retainer, or a 200-foot cement plug shall be placed to extend 100 feet below and 100 feet above the perforation. This plug shall be verified either by tagging with 15,000 pounds of drill stem weight or by utilizing an amount of cement 100% in excess of that needed for the 200-foot plug.

(d) Plugging of casing stubs. If casing is cut and recovered, a cement plug 200 feet in length shall be placed at the base extending 100 feet above and 100 feet below the stub. A retainer may be used in setting the required plug.

(e) Plugging of annular space. No annular space between the casing strings shall be left open to the drilled hole below. If this condition exists, all of the annular space shall be plugged with a minimum 1,000 foot cement plug at the top of the casing.

(f) Surface plug requirement.

1. Dry land. A cement plug shall be placed in the casing of smallest diameter extending to the surface. This plug shall extend from the surface downward 25 feet or more, and a steel plate shall be welded across the top of the casing.

2. Wetlands and submerged lands. A cement plug shall be placed in the casing of smallest diameter extending from the top of casing downward for 150 feet.

(g) Testing of plugs. The setting and location of all plugs below the surface that extend in and out of casing strings shall be verified by either placing a minimum pump pressure of 1,000 psig with no more than a 10 percent pressure drop during a 15-minute period, or testing with 15,000 pounds of drill-string weight. All other plugs shall be verified as directed by the agent of the department.

(h) Drilling fluid. Each of the respective intervals of the hole between the plugs shall be filled with drilling fluid of sufficient density to exert hydrostatic pressure which exceeds the greatest formation pressure encountered while drilling such interval.

(i) Mud pits. All fluids and recoverable slurry that remain in the pits shall be either returned to the well bore below the fresh-water aquifer during the process of plugging, placed between plugs set in the casings, or removed to a land fill.

(j) Restoration of location. The operator shall remove all waste, debris, and equipment from the site without undue delay, and shall undertake such restoration of the site as is necessary to protect the site, adjoining areas and the natural resources. Land drilling sites shall be restored to about the original contour of the surface. All access roads constructed for the purpose of site access shall be removed and area restored to about the original contour of the land. The operator, with written consent of the landowner, may request in writing an exception to this procedure. The Administrator may allow temporary stacking of equipment to assist in the orderly development of a drilling program.

1. Dry land. All casing shall be cut off at least four feet below ground surface.

2. Wetlands. All casing shall be cut off at least one foot below the water-bottom surface in the Everglades and at least four feet below the water-bottom surface in areas of standing water.

3. Submerged lands. All casing and piling shall be severed and removed to at least 15 feet below the water-bottom surface of submerged land. The water bottom shall be dragged to clear the well site of any obstructions.

(8) Temporary Abandonments. Any drilling well which is to be temporarily abandoned shall be filled with drilling fluid and cemented as required for permanent abandonment, except for requirements of subsections (7)(f) and (j)1. When casing extends above the water's floor, a non-magnesium mechanical bridge plug (retrievable or permanent) shall be set in the casing between 15 and 2,000 feet below the water's floor.

Specific Authority 377.22 FS. Law Implemented 377.22, 377.24 FS. History—New 11-26-81, Amended 4-12-83.

16C-29.10 Affidavit on Plugging Completion (Form No. 16). Within thirty (30) days after the plugging of any well has been completed, the operator shall file Form No. 16 with the Administrator setting forth in detail the method used in plugging the well, and shall include a detailed description of the restoration as performed.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-29.11 Final Inspection.

(1) A final inspection by an agent of the department is required for each site that has been restored before the operator may be relieved of the liability of the requirements under these rules.

(2) The inspection will be made at the request of the operator upon completion of restoration.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

16C-29.12 Fresh-Water Supply Wells.

(1) All wells drilled for the supply of fresh water at the site of a test well shall be drilled by a water-well contractor who is licensed under Florida Statute.

(2) No well drilled in the search for oil or gas production may be plugged or abandoned in any manner that permits its subsequent use as a water-supply well.

(3) The anticipated permanent use of any water well drilled as a part of the testing for oil or gas, such as future use by the landowner as a fresh-water supply well, is prohibited unless, the affected water management district has granted permission prior to construction of the well and a copy of such permit is on file with the Bureau of Geology.

Specific Authority 377.22 FS. Law Implemented 377.22 FS. History—New 11-26-81.

CHAPTER 16C-30
CONSERVATION OF OIL AND GAS: WETLANDS AND SUBMERGED LANDS

16C-30.01 General. In addition to the provisions of Chapters 16C-25 through 16C-29, Florida Administrative Code, the department may impose additional requirements on activities related to the drilling, exploration for or production of petroleum products when such activities are undertaken on, in, or above submerged lands. Additional requirements may also be imposed for other environmentally sensitive areas where such activities may or could impede sheet flow of water, affect state-owned lands, or other areas where the nature, character, location of the lands or the ecosystems located on the lands require additional safeguards.

In no case shall the department issue a permit for the erection of a drilling structure where such structure would be located upon submerged lands which are occupied by living coral organisms in reefs, patch reefs, or other significant communities where coral is a dominant structure or organism which would be subject to damage or destruction by the erection or operation of such a structure. Each applicant shall provide the department, as part of the application, a biological survey of the submerged lands upon which structures are proposed to be located. The biological survey must be sufficient to enable the department to determine whether living coral organisms in such communities are present. In the event that scientific studies determine that certain areas of submerged lands are naturally devoid of such communities, the department may waive the requirement for a survey in such areas.

Requirements of this chapter are in addition to and shall be read as cumulative with the provisions of Chapters 16C-25, 16C-26, 16C-27, 16C-28, and 16C-29, Florida Administrative Code.

Specific Authority 377.22 FS. Law Implemented 377.21, 377.22, 377.24, 377.241, 377.242, 377.243, 377.371 FS. History—New 11-26-81.

16C-30.02 Intent. It is the intent of the department to allow exploration for and production of oil and gas in the Big Cypress watershed provided that those activities are conducted in a manner which will protect the Big Cypress watershed from deterioration by eliminating or mitigating the environmental impacts caused by the exploration for and production of hydrocarbons.

Specific Authority 377.22 FS. Law Implemented 377.22, 377.243, 377.371 FS. History—New 11-26-81.

16C-30.03 Big Cypress Watershed. The Big Cypress watershed is that area in Collier County and the adjoining portions of Hendry, Broward, Dade, and Monroe counties designated as the Big Cypress Swamp in the U. S. Geological Survey Open-File Report No. 7003.

Specific Authority 377.22 FS. Law Implemented 377.22, 377.243, 377.371 FS. History—New 11-26-81.

16C-30.04 Big Cypress Swamp Advisory Committee. To insure that all requirements for obtaining a permit to explore for hydrocarbons in the Big Cypress Swamp Area are properly complied with, each application for such permit shall be reviewed by the Big Cypress Swamp Advisory Committee (hereafter Committee).

(1) The Committee shall be appointed by and serve at the pleasure of the Board. The hydrologist and botanist shall be nominated by unanimous agreement of the other three members of the Committee and approved by the Board.

(a) Chief of the Bureau of Geology of the Department of Natural Resources — Chairman.

(b) Executive Director of the Florida Petroleum Council.

(c) Representative from organized conservation group.

(d) Hydrologist.

(e) Botanist.

(2) The Committee shall agree in principle to the policy of the Board, allowing continued oil exploration and production in the Big Cypress as set forth in Rule 16C-30.02 above.

(3) The Committee shall be guided by the laws, rules and orders of the department which apply generally to oil and gas. And, if site specific conditions require, the Committee may recommend additional procedures, safeguards or conditions be applied to an application to drill and produce which are necessary to protect the integrity of the Big Cypress area in accordance with Rule 16C-30.01.

(4) The Committee shall have no final authority on approval or denial of permits, but shall make recommendation to the Board and the Board shall take final agency action.

(5) The Committee shall meet at the call of the Chairman to evaluate any pending applications for a permit to drill in the Big Cypress watershed, and may make other evaluations requested by the department.

(6) All meetings of the Committee shall be advertised in the Florida Administrative Weekly. The Committee may seek the advice of other governmental agencies in reaching its recommendations to the Board, inviting them to participate in the meetings when appropriate.

Specific Authority 377.22 FS. Law Implemented 377.22, 377.243, 377.371 FS. History—New 11-26-81, Amended 4-12-83.

16C-30.05 Applications to Drill.

(1) The Committee shall evaluate each application to drill and visit each proposed access route and drilling site to insure that the exploration and production activities will cause no permanent adverse impact on the water resources and sheet flow of the area, or on the vegetation or the wildlife of the area, with special emphasis on rare and endangered species.

(2) In evaluating applications, the Committee shall use the following criteria:

(a) Roads, including road extensions.

1. No road construction or improvement shall begin prior to obtaining a permit to drill.

2. Existing roads shall be used wherever feasible.

3. Existing roads, if improved, or new roads where constructed, shall be from trucked-in fill material or from material taken from approved borrow pits. There shall be no parallel borrow canals along roads.

4. All roads shall be culverted and maintained to prevent degradation by industry vehicles. The size and number of culverts shall be determined so that the natural flow of water is not impeded and the resource is protected.

5. All roads shall be only wide enough to accommodate one lane of traffic, but shall have at least one turn-out every mile for passing.

6. All roads shall be high enough to assure year round usage, except where otherwise expressly required to be lower.

7. All roads shall follow the best practical route suited to protect the natural environment. Where feasible, roads and road extensions should follow existing woods roads; or

8. Roads shall be constructed to avoid serious damage or enduring scars to land and wildlife, and to avoid obstructing the natural movement of water and wildlife.

9. Unless otherwise expressly approved, at the conclusion of exploration or production activities all roads shall be removed, the area restored to the approximate natural contour, and revegetated with natural vegetation as specified by the Committee. Roads may be left as constructed, or otherwise modified, if requested by the land owner or manager for good cause and if recommended by the Committee and approved by the Board.

10. All new access roads authorized to serve the needs of the exploration activities shall be limited in use to the permitted purpose. For these limited use access roads the applicant shall submit as a part of the proposed plan the means to accomplish the limited use including the control of unauthorized vehicles which are the constructing company's responsibility for the life of the permitted purpose of the road.

11. Access corridors and drilling pads shall not be constructed into or through sensitive resources such as cypress-mixed forest swamps, hardwood hammocks, mangrove forests, archeological sites, native ceremonial grounds and those zones which are documented and/or confirmed by the Florida Game and Fresh Water Fish Commission as areas of high level Florida Panther activity unless reasonable and prudent alternatives are not available. Known red-cockaded woodpecker colonies, rookeries, alligator holes, research sites, pine uplands and threatened or endangered species habitats shall be avoided where possible.

12. Access corridors (including pipelines) shall be contiguous where possible and corridors emanating from new entry points

shall be prohibited unless demonstrated to be the more prudent and reasonable alternative.

(b) Drilling sites.

1. Drilling sites shall be located to minimize negative impacts on the vegetation and wildlife, including rare and endangered species, and the surface water resources.

2. Topographical and engineering surveys of the drill site shall be prepared and together with an aerial photograph of the drill site at a large scale, which can be obtained from existing governmental photographs with the well spotted thereupon, shall be made a part of the Application to Drill (Form No. 3).

3. No site preparation shall begin prior to obtaining a permit to drill.

4. Every effort shall be made to limit the impact upon the environment of the Swamp by using areas covered by prairies, limited forest growth, or grazing, farming, or cleared lands where practical.

5. Drilling pads shall be constructed from trucked-in fill material or from material taken from approved borrow pits.

6. Drilling pads shall be constructed to a height to assure year-round usage.

7. A protective levee of sufficient height to prevent any escape of oil shall be constructed around the drilling site and storage tank areas.

a. An attempt will be made to use fine grain native material, particularly in the center of the levee.

b. Should the available sediments be permeable, the levee shall be made tight by thickening the levee wall or by using drilling mud or plastic on the levee wall.

8. Directional (slant) drilling shall be utilized from existing drilling pads where it will have a beneficial effect upon maintaining the quality of the environment.

9. Unless otherwise approved, drilling pads shall be removed at the conclusion of exploration or production activities, and the area shall be restored to the approximate natural contour and vegetated with natural vegetation as specified by the Committee. Drilling pads may be left as constructed, or otherwise modified, if requested by the land owner or manager for good cause and if recommended by the Committee and approved by the Board.

(c) Production.

1. The operating company shall prepare and submit for consideration of approval a field development plan as soon as practical for a new field. All transportation of oil shall be by pipeline, unless otherwise permitted.

2. If the oil from a producing well is to be removed by pipeline, the pipeline shall be equipped with automatic shut-down valves. All storage and loading facilities shall be located within impervious dikes as required by Rule 16C-27.03(3).

3. All flowlines and utilities shall be contained within the rights-of-way secured for road construction.

4. The operating company shall develop an emergency and contingency plan and shall have standby equipment consistent to meet the requirements of the area in which the operations are being conducted.

5. The operating company shall not provide a permanent residence in the Big Cypress to any employee except where the extreme isolation of his place of work, or some similar necessity, compels an exception. Such exceptions must be approved by the Administrator.

6. The operating company shall clean the site of any oil or other contaminants spilled at the site or spilled in conjunction with the drilling, production, and transportation activities.

Specific Authority 377.22 FS. Law Implemented 377.22, 377.243, 377.371 FS. History—New 11-26-81, Amended 7-17-84.

CHAPTER 16C-50
STATE FUNDING FOR AQUATIC PLANT CONTROL

16C-50.01 Intent. Pursuant to Section 372.925(5), Florida Statutes, this chapter and the rules of Chapter 16C-20, F. A. C., the Department of Natural Resources will implement this chapter as part of the state aquatic plant control plan as follows:

(1) The Department shall administer the aquatic plant control funding program of the State, pursuant to Section 372.925, Florida Statutes, through a program of contracts and permits to protect human health, safety, and recreation and to the greatest degree practicable, prevent injury to plant and animal life and property.

(2) The Department of Natural Resources may disburse funds to any special district or other local authority charged with the responsibility of controlling or eradicating aquatic plants subject to the eligibility requirements in Rule 16C-50.03 of this chapter and Section 372.925(5), Florida Statutes.

(3) The Department shall require an application for funds which will include a work plan which describes the aquatic plant control needs and the techniques to be used. Review and approval of the application will be based on the requirements of this chapter and the rules of Chapter 16C-20, F. A. C., Aquatic Plant Control Permits.

(4) The Department is responsible for determining that funds are spent in accordance with program intent, therefore shall require an accounting of all funds disbursed in the State Aquatic Plant Control Program. The Department shall provide guidelines in this chapter for disbursement of funds pursuant to Section 372.925(5), Florida Statutes, in accordance with State Law and generally accepted accounting principles for governmental agencies.

(5) The Department in accordance with the provisions of Section 372.925(a), Florida Statutes, shall disburse state aquatic plant control funds on an equal percentage among program participants by determining an annual percentage of funding based on available funds appropriated by the legislature and the total of the budgets of all applicants for funding.

General Authority 370.021 FS. Law Implemented 372.925 FS. History—New 8-31-82, Previously Chapter 16C-15.

16C-50.02 Definitions.

(1) "Amendment" — means a formalized modification of an existing project agreement.

(2) "Applicant" — means any special district, or other local authority charged with the responsibility of controlling or eradicating aquatic plants which has requested financial assistance for such control or eradication from the Department.

(3) "Aquatic Plant" — means any plant growing in, or closely associated with the aquatic environment and includes "floating," "emersed," "submersed," and "ditchbank" species.

(4) "Aquatic Plant Control" — means any technique designed to regulate growth of undesirable aquatic vegetation as provided by law.

(5) "Aquatic Plant Eradication" — means techniques utilized in an attempt to kill all aquatic plants, on a permanent basis in a given geographical area.

(6) "Budget" — means the total detailed anticipated expenditures including both local and anticipated state funds, which are within the categories designated eligible by this chapter, for the fiscal year for which state funding is being requested.

(7) "Bureau" — means the Bureau of Aquatic Plant Research and Control, an administrative subdivision of the Department.

(8) "Contractual Service" — means the rendering by a contractor of its time, effort, and expertise rather than the furnishing of specific commodities.

(9) "Department" — means the State of Florida Department of Natural Resources.

(10) "Direct Costs" — means costs that can be specifically identified as being incurred for the accomplishment of approved aquatic plant control activities in eligible waters.

(11) "Disallowed Costs" — means reported project costs which are subsequently disallowed by the Department due to noncompliance with state laws, rules, regulations, or the agreement.

(12) "Donated Materials, Property, and Services" — means materials, property or services contributed or provided at no cost to the Grantee from others.

(13) "Eligible Costs" — means costs identified by state laws, rules or the agreement, as being reimbursable with state funds.

(14) "Grantee" — means any applicant which has been approved for state aquatic plant control funding.

(15) "Indirect Costs" — means costs incurred for common or joint purposes that cannot be readily identified as being incurred solely for the accomplishment of the aquatic plant control activities specified in the approved work plan.

(16) "Local Authority" — means a county or municipal government or other local public body.

(17) "Project Agreement (Contract)" — means a written contract executed by the Department and Grantee setting forth in detail the mutual obligations of both parties.

(18) "Project Administrator" — means the official designated by the Grantee to serve as a liaison agent in routine matters and provide direct project supervision and administration. The Bureau Chief or other designated person shall serve as the Department's project administrator.

(19) "Project Financial Officer" — means the official who is primarily responsible for maintaining the financial and accounting records of the Grantee.

(20) "Special District" — means a local unit of special government, except district school boards and community college districts, created pursuant to general or special law for the purpose of performing

RULES OF THE DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAW ENFORCEMENT

CHAPTER 16N-22 THE FLORIDA MANATEE SANCTUARY ACT

16N-22.01	Scope.
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16N-22.15	Statutory Violation.
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16N-22.01 Scope. The "Florida Manatee Sanctuary Act" was adopted to protect the manatee or sea cow (Trichechus manatus) in waters of the State of Florida from disturbance, harassment, injury or harm in part by regulating as mandated in subsections 370.12(2)(f), (g), (h), (i), and (j), F.S., motorboat speeds and operation in the critical areas of manatee concentration between the dates of November 15 and March 31 of each year, which time period constitutes the months of greatest manatee concentration.

Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(d), (f) FS. History—New 3-19-79.

16N-22.02 Definitions. When used in these rules, the following words shall have the indicated meanings unless the context clearly indicates otherwise:

(1) "Critical areas" means portions of waters of the State of Florida as defined by subsections 370.12(2)(f)(1), (2), (3), (4), (5), (6), (7), (8), and (9), and subsection 370.12(2)(g), F.S.

(2) "Idle speed" means the minimum speed that will maintain the steerageway of a motorboat.

(3) "Idle speed zone" means a designated area within which it has been established that concentrations of manatees in large numbers are known to exist and within which all motorboat operators shall exercise a high degree of care for manatee presence, and shall not, unless authorized by a valid federal or state permit, either intentionally or negligently annoy, molest, harass, disturb, collide with, injure or harm manatees and shall proceed at the minimum speed that will maintain safe steerageway.

(4) "Miles" means statute miles.

(5) "Motorboat" means any boat or vessel propelled or powered by machinery.

(6) "Motorboats prohibited zone" means an area in which it is posted or it is apparent that because of the density of manatees or the condition of the area, motorboat activity shall be hazardous to the manatees and shall be prohibited.

(7) "Slow speed" means no speed greater than that which is reasonable and prudent to avoid either intentionally or negligently annoying, molesting, harassing, disturbing, colliding with, injuring or harming manatees and which comports with the duty of all persons to use due care under the circumstances.

A motorboat in a manatee sanctuary area designated as a slow speed zone, (1) that is operating on a plane is not proceeding at slow speed; (2) that produces no wake or minimum wake is proceeding at slow speed; (3) that is in the process of coming off plane and settling into the water, which action creates more than no or minimum wake is not proceeding at slow speed; (4) that is completely off plane and which has settled into the water and is proceeding without wake or with minimum wake is proceeding at slow speed.

(8) "Slow speed zone" means a designated area within which it has been established that manatees are known to congregate. In a slow speed zone, motorboat operators shall not proceed at a speed greater than is reasonable and prudent to avoid either intentionally or negligently annoying, molesting, harassing, disturbing, colliding with, injuring or harming manatees and shall operate such motorboat in accordance with legal requirements and the duty of all persons to use due care under the circumstances.

CHAPTER 16N-22 THE FLORIDA MANATEE SANCTUARY ACT

16N-22.02 Definitions.

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(9) "Caution zone" means an area where manatees frequently inhabit on a somewhat regular basis and boaters are advised to use caution so as not to strike a manatee.

(10) [Renumbered from former (9)]

Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(f) FS. History—New 3-19-79, Amended 11-23-83.

16N-22.04 Management Provisions.

(1) Appropriate zones are established for the purpose of regulating the speed and operation of motorboat traffic between the dates of November 15 and March 31 of each year by taking into consideration the safety and well-being of the manatees in those state designated in subsection (1)(1), (2), (3), (4), (5), (6), (7), (8), (9), F.S., safety of the boating public, inconvenience to the boating public and natural marine habitat protection.

(2) Such zones shall be marked by large signs conforming to the Florida Uniform Waterway Marking System in accordance with Section 371.521, F.S., provided with reflectorized paint or attached units and situated in locations where they will be highly visible to the boating public.

Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(f) FS. History—New 3-19-79.

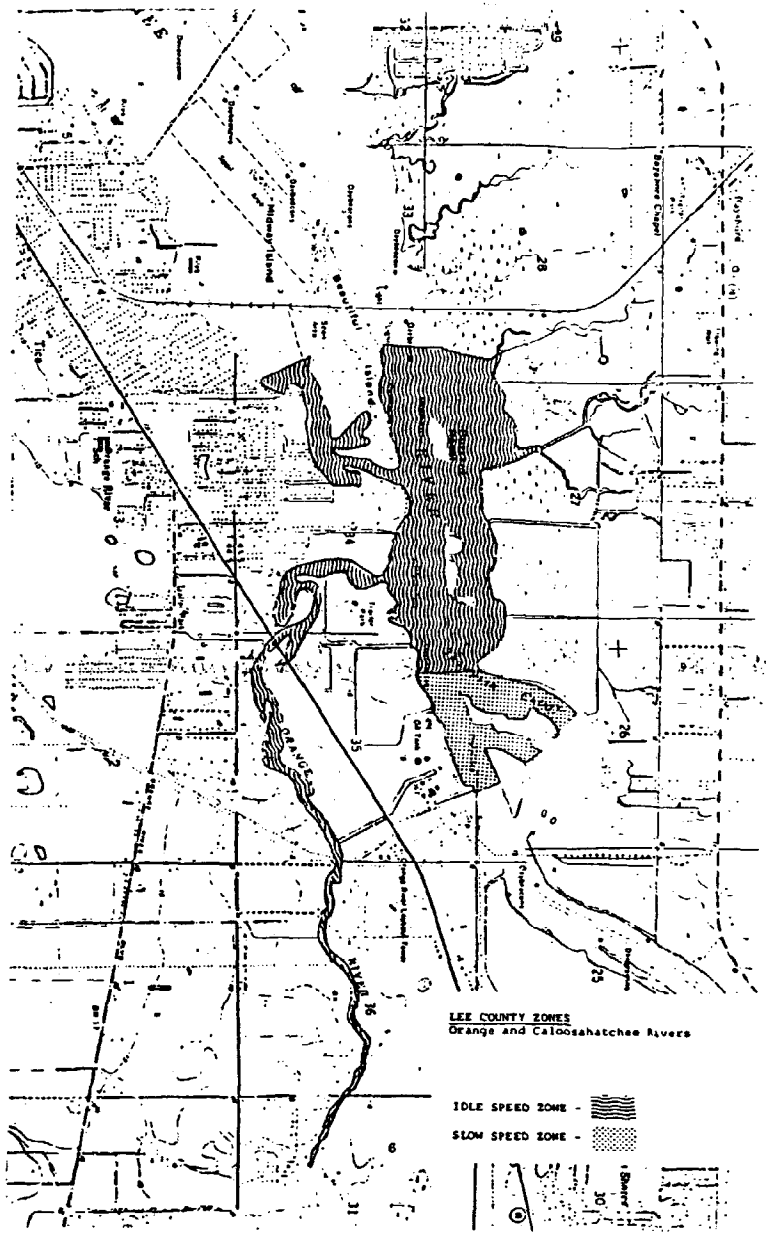
16N-22.05 Lee County Zones Established.

(1) For the purposes of regulating the speed and operation of motorboat traffic between the dates of November 15 and March 31 of each year, the Lee County zones are established as follows:

(a) IDLE SPEED ZONE — All waters of the Orange River and that part of the Caloosahatchee River lying downstream and northerly northwesterly, westerly, and/or southwesterly of the point of confluence of the Caloosahatchee and Orange Rivers for a distance of one mile and those waters of the Caloosahatchee River lying upstream and northerly and/or easterly for a distance of one-half mile.

(b) SLOW SPEED ZONE — All waters of the Caloosahatchee River lying upstream and easterly and/or northeasterly between one-half mile and one mile of the point of confluence with the Orange River.

(2) The zones described in 16N-22.05(1) herein are depicted on the following map:



Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(f), (9) FS. History—New 3-19-79.

16N-22.06 Brevard County Zones Established.

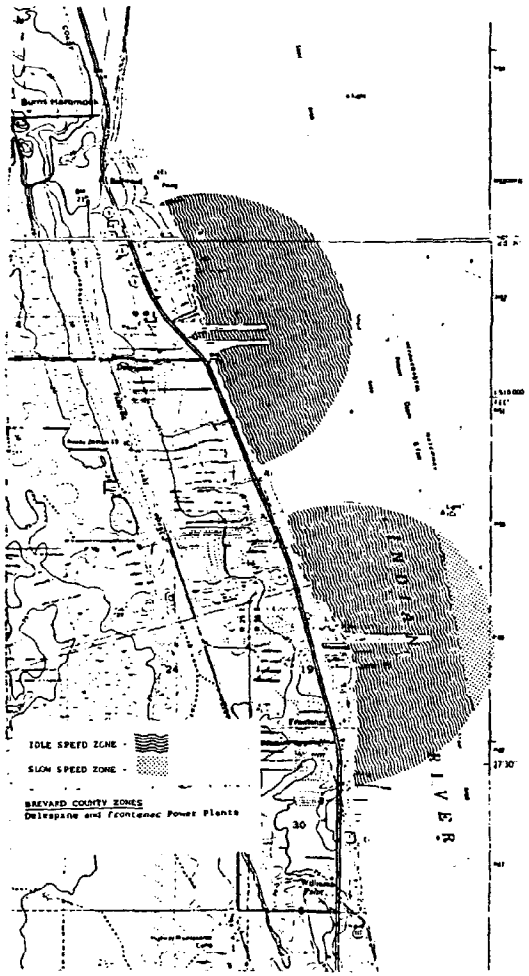
(1) For the purpose of regulating the speed and operation of motorboat traffic between the dates of November 15 and March 31 of each year, the Brevard County zones are established as follows:

(a) IDLE SPEED ZONE — All waters of the Indian River lying within three-fourths mile of the hot water effluent outlet of the Delaspine Power Plant.

(b) IDLE SPEED ZONE — All waters of the Indian River lying within three-fourths mile of the hot water effluent outlet of the Frontenac Power Plant and westerly of the Intracoastal Waterway.

(c) SLOW SPEED ZONE — All waters of the Indian River lying easterly of the westernmost portion of the Intracoastal Waterway within three-fourths mile of the hot water effluent outlet of the Frontenac Power Plant.

(2) The zones described in 16N-22.06(1) herein are depicted on the following map:



Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(f)(2) FS. History—New 3-19-79.

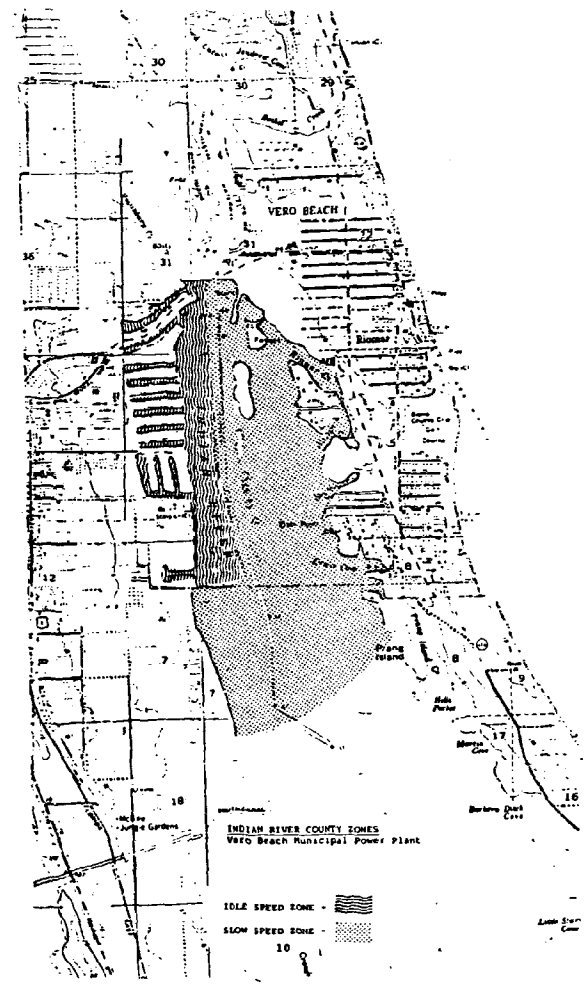
16N-22.07 Indian River County Zones Established.

(1) For the purpose of regulating the speed and operation of motorboat traffic between the dates of November 15 and March 31 of each year, the Indian River County zones are established as follows:

(a) IDLE SPEED ZONE — All waters of the Indian River lying northerly of the Vero Beach Municipal Power Plant and westerly of the Intracoastal Waterway for a distance of one and one-fourth mile and those waters lying southerly of the Vero Beach Municipal Power Plant and westerly of the Intracoastal Waterway for a distance of one-half mile.

(b) SLOW SPEED ZONE — All waters of the Indian River lying within one and one-fourth mile of the Vero Beach Municipal Power Plant easterly of the westernmost portion of the Intracoastal Waterway and those waters westerly of the Intracoastal Waterway lying between one-half and one and one-fourth miles.

(2) The zones described in 16N-22.07(1) herein are depicted on the following map:



Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(f)(3) FS. History — New 3-19-79.

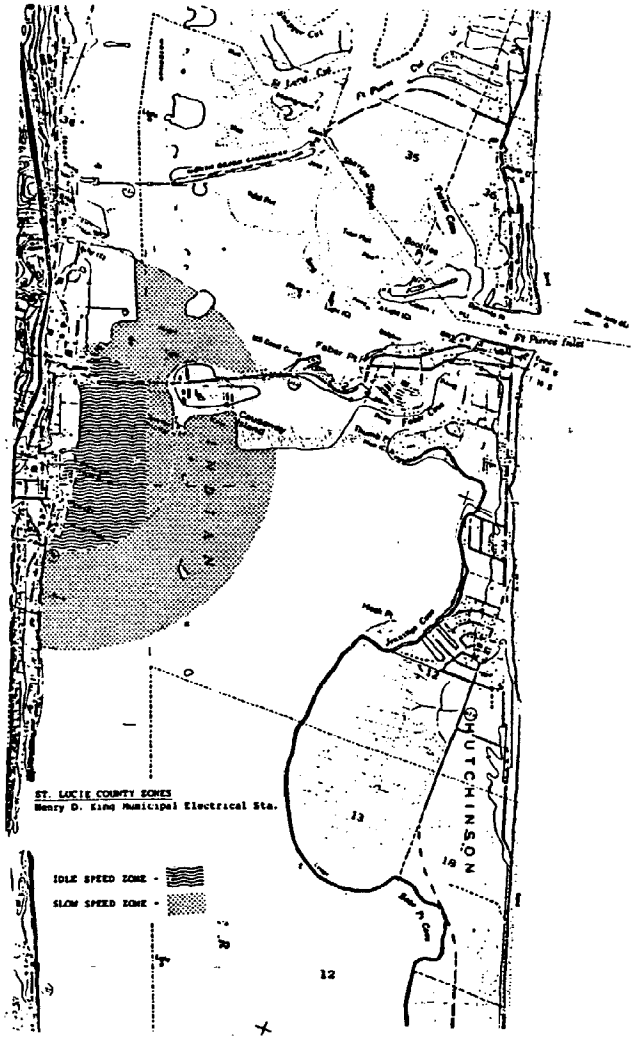
16N-22.08 St. Lucie County Zones Established.

(1) For the purpose of regulating the speed and operation of motorboat traffic between the dates of November 15 and March 31 of each year, the St. Lucie County zones are established as follows:

(a) IDLE SPEED ZONE — All waters of the Indian River lying within one-half mile of the Henry D. King Municipal Electrical Station and westerly of the Intracoastal Waterway.

(b) SLOW SPEED ZONE — All waters of the Indian River lying between one- half mile and one mile of the Henry D. King Municipal Electrical Station and lying easterly of the westernmost portion of the Intracoastal Waterway.

(2) The zones described in 16N-22.08(1) herein are depicted on the following map:



Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(f)(4) FS. History—New 3-19-79.

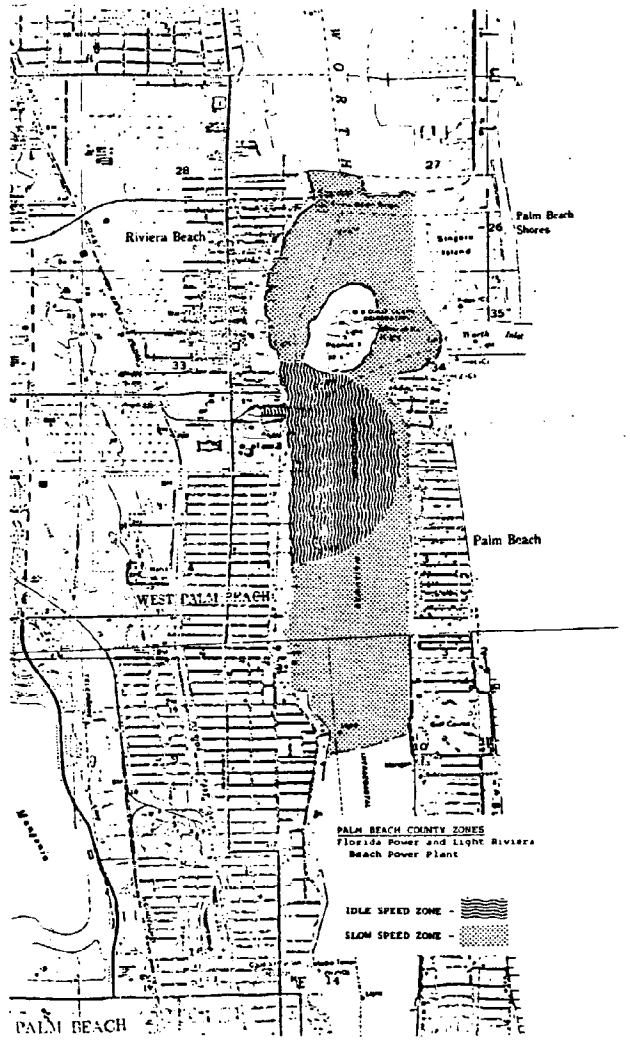
16N-22.09 Palm Beach County Zones Established.

(1) For the purpose of regulating the speed and operation of motorboat traffic between the dates of November 15 and March 31 of each year, the Palm Beach County zones are established as follows:

(a) IDLE SPEED ZONE — ALL waters lying within one-half mile of the discharge of the Florida Power and Light Riviera Beach Power Plant including the Intracoastal Waterway.

(b) SLOW SPEED ZONE — All inland waters lying beyond one-half mile and within one and one-half mile of the discharge of the Florida Power and Light Riviera Beach Power Plant including the Intracoastal Waterway.

(2) The zones described in 16N-22.09(1) herein are depicted on the following map:



Specific Authority 3[illegible](f) FS. Law Implemented 370.12(2)[illegible]S. History—New 3-19-79.

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16N-22.10 Broward County Zones Established.

(1) For the purposes of regulating the speed and operation of motorboat traffic between the dates of November 15 and March 31 of each year, the Broward County zones are established as follows:

(a) IDLE SPEED ZONE — The discharge canal of the Florida Power and Light Port Everglades Power Plant and connecting waters within one-fourth mile including the Intracoastal Waterway.

(b) IDLE SPEED ZONE — Those navigable discharge canal waters of the Florida Power and Light Fort Lauderdale Power Plant lying northerly of Highway 84 and southerly of the south fork of New River.

(c) SLOW SPEED ZONE — Those navigable inland waters of Broward County lying more than one-fourth mile and within one and one-half mile of the discharge canal of the Port Everglades Power Plant.

(d) SLOW SPEED ZONE — Those navigable waters within two miles of the Fort Lauderdale Power Plant except that part of the hot water discharge canal lying northerly of Highway 84 and southerly of the south fork of New River.

(2) The zones described in 16N-22.10(1) herein are depicted on the following maps:

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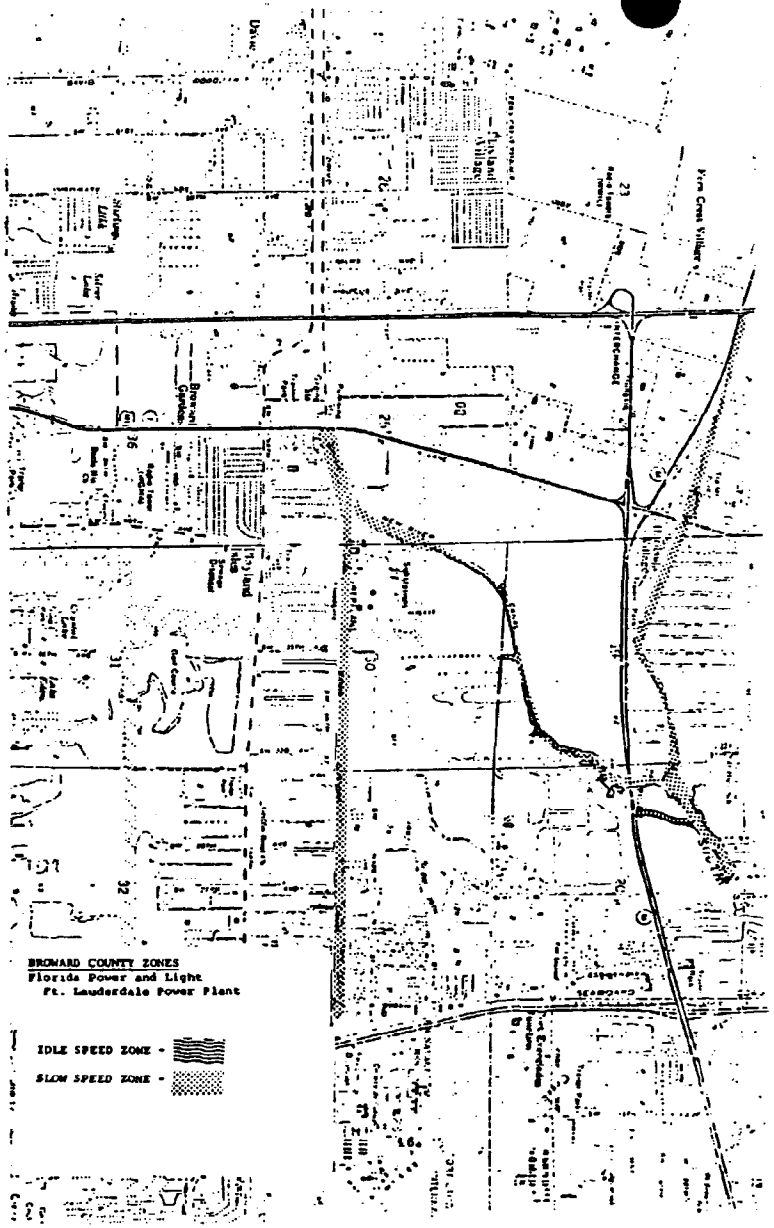
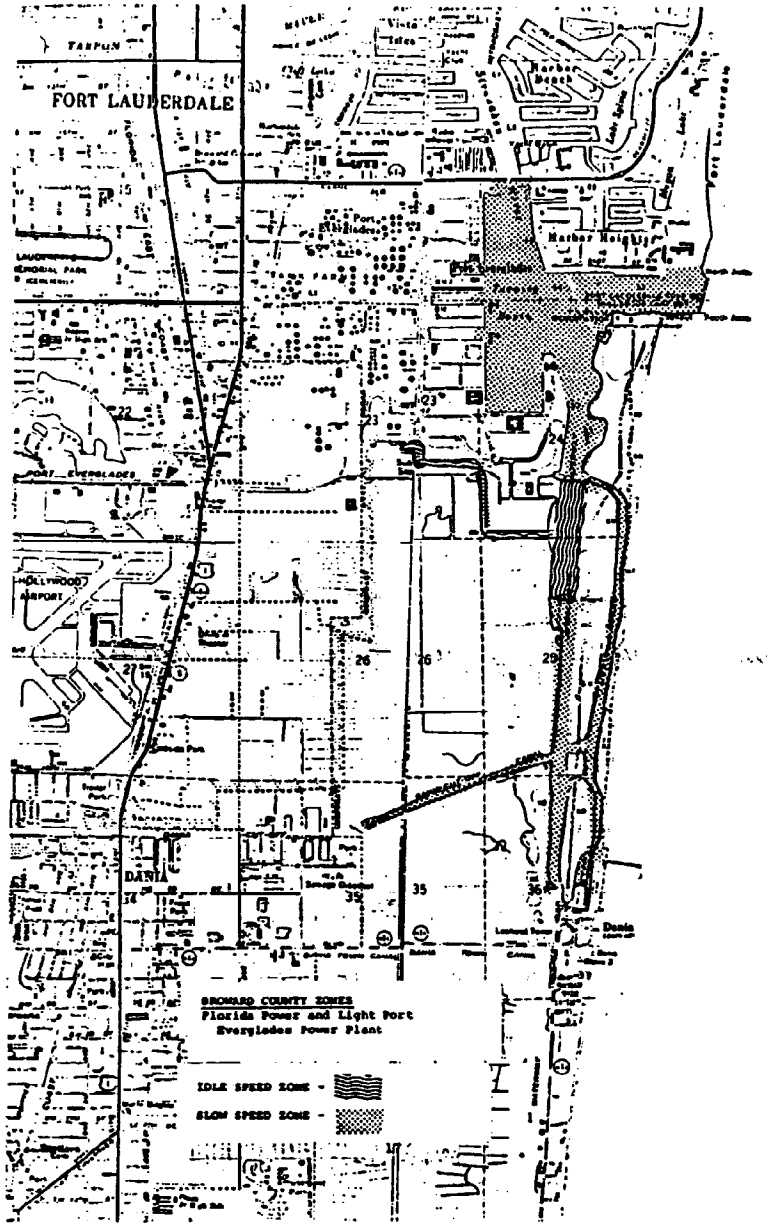




Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(f)(6) FS. History—New 3-19-79.

16N-22.11 Citrus County Zones Established.

(1) For the purpose of regulating the speed and operation of motorboat traffic between the dates of November 15 and March 31 of each year, the Citrus County zones are established as follows:

(a) IDLE SPEED ZONE — All that part of King's Bay lying southerly of a straight line drawn from the easterly Bay shore across the northerly tip of Parker Island to the southern shoreline of Buzzard Island and westerly to the Bay mainland.

(b) IDLE SPEED ZONE — Those canal waters in the Springs of Paradise housing subdivision extending from the southwest First Court Bridge to the east and thence south to a line extending east from the southeast corner of Paradise Isles to the mainland.

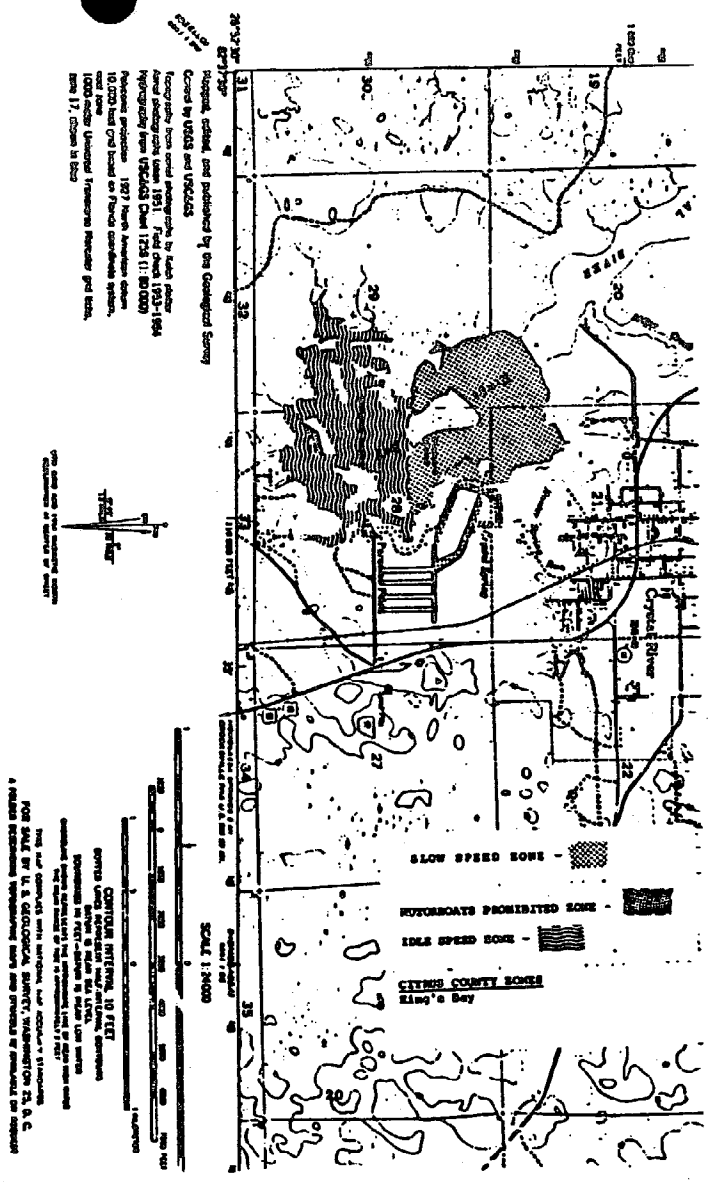
(c) SLOW SPEED ZONE — All that part of King's Bay lying northerly of a straight line drawn from the eastern Bay shore across the northern tip of Parker Island to the southern shoreline of Buzzard Island and westward to the Bay mainland.

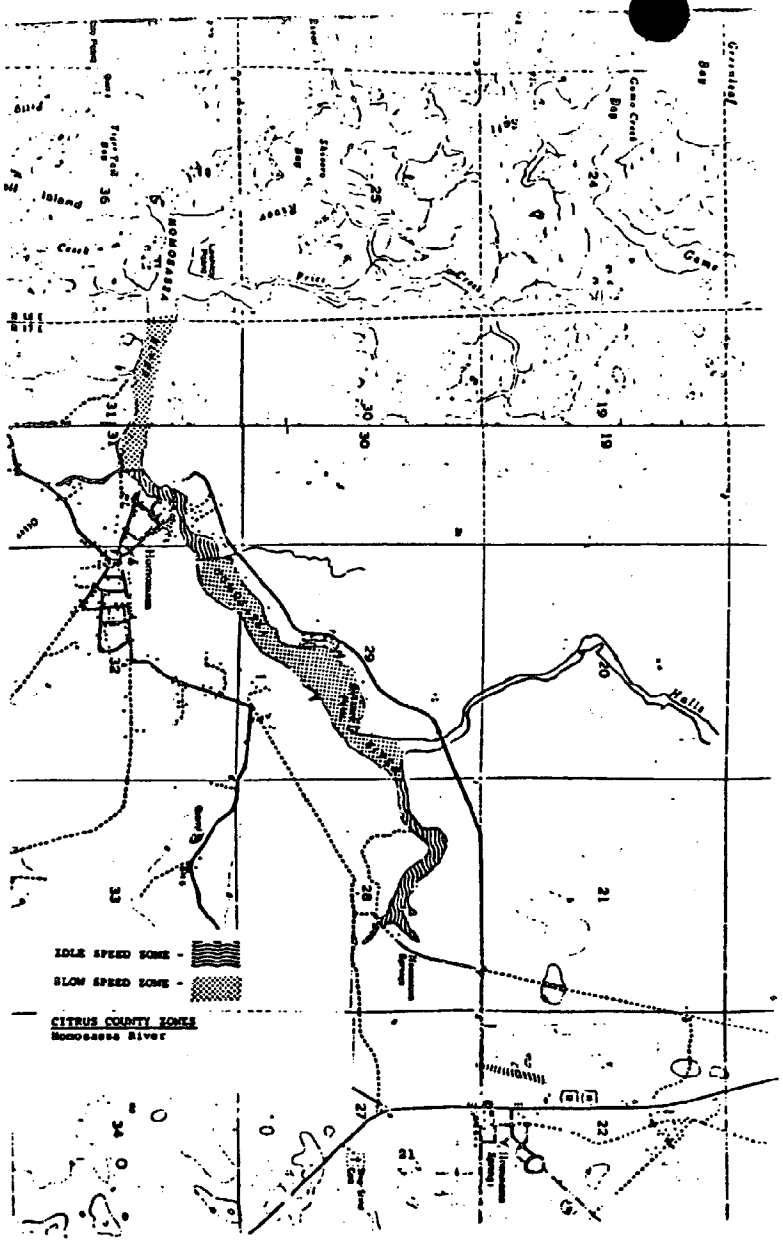
(d) IDLE SPEED ZONE — All waters in that part of the Homosassa River from Pine Island, located by a line running north and south dividing Section 31, Township 19, Range 17 East, Citrus County to Peterson Creek, located by a line running north and south dividing Sections 31 and 32, Township 19 South, Range 17 East and in all of that part of the Homosassa River located in Section 28, Township 19, Range 17 East.

(e) IDLE SPEED ZONE — That part of the headwaters of the Homosassa River lying in Section 28, Township 19, Range 17 East.

(f) SLOW SPEED ZONES — All waters of the Homosassa River running from Pine Island downstream to a line dividing Section 31, Range 17 East and Section 36, Range 16 East and that part of the Homosassa River from Peterson Creek northeasterly to the westerly border of Section 28, Township 19 South, Range 17 East.

(2) The zones described in 16N-22.11(1) herein are depicted on the following maps:





Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(f)(7) FS. History—New 3-19-79, Amended 2-23-81.

16N-22.12 Volusia County Zones Established.

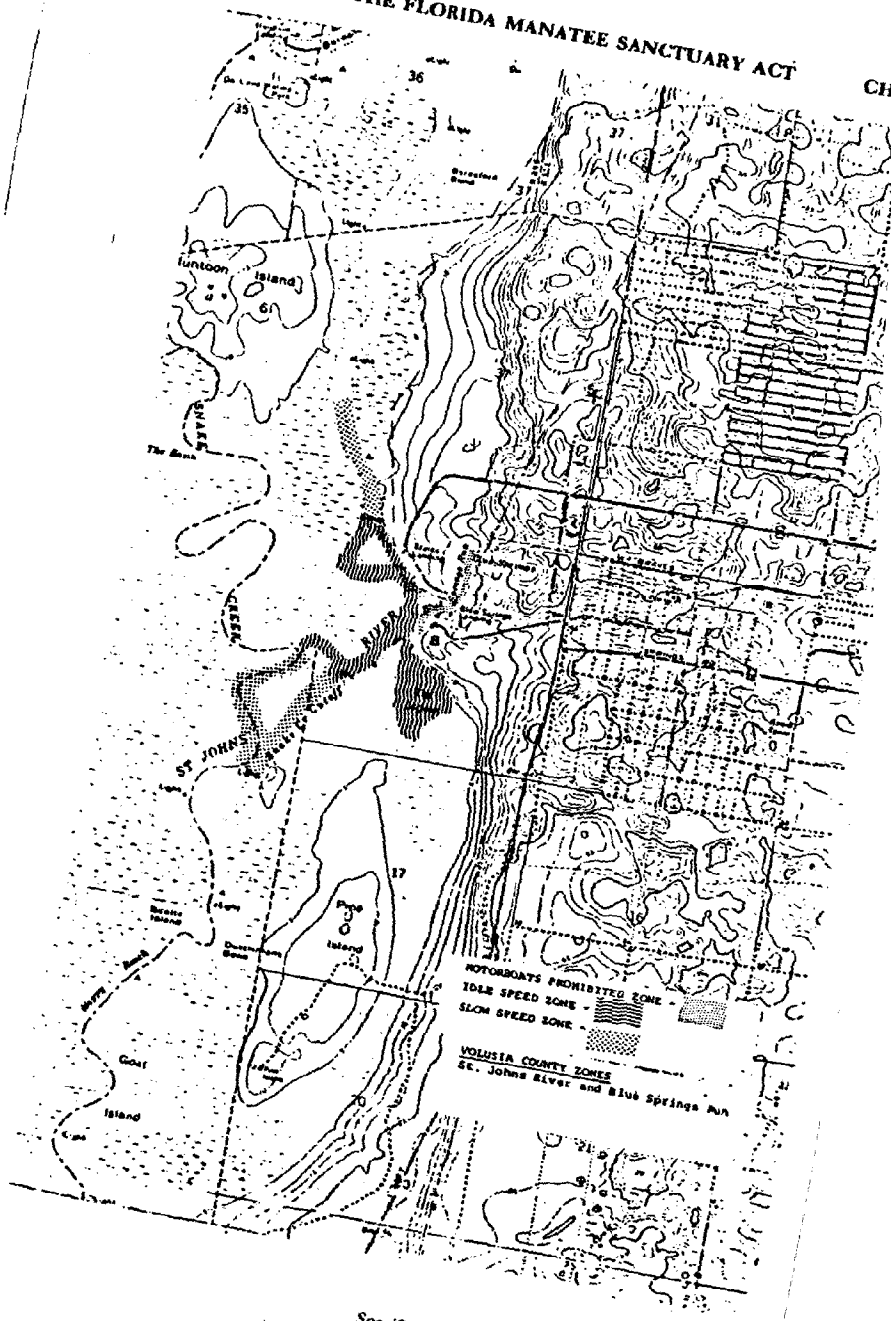
(1) For the purpose of regulating the speed and operation of motorboat traffic between the dates of November 15 and March 31 of each year, the Volusia County zones are established as follows:

(a) MOTORBOATS PROHIBITED ZONE — Those waters of Blue Springs Run from the point of confluence with the St. Johns River to and including the Springs headwaters.

(b) IDLE SPEED ZONE — Those navigable waters of the St. Johns River within one-half mile of the point of confluence of the St. Johns River and Blue Springs Run.

(c) SLOW SPEED ZONE — Those navigable waters of the St. Johns River lying between one-half mile and one mile of the point of confluence of the St. Johns River with Blue Springs Run.

(2) The zones described in 16N-22.12(1) herein are depicted on the following map:



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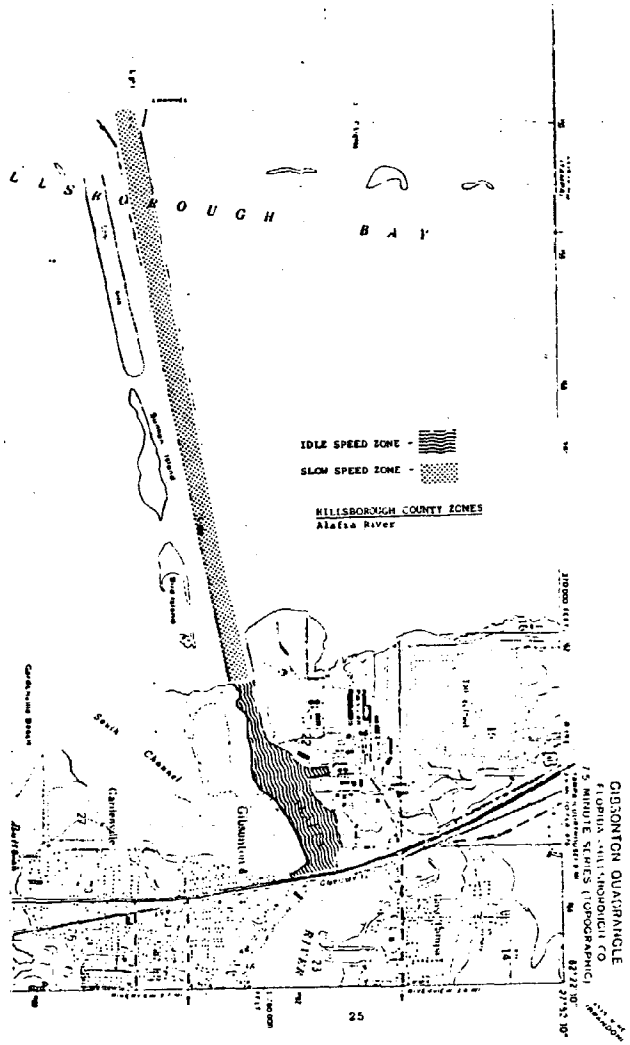
16N-22.13 Hillsborough County Zones Established.

(1) For the purpose of regulating the speed and operation of motorboat traffic between the dates of November 15 and March 31 of each year, the Hillsborough County zones are established as follows:

(a) IDLE SPEED ZONE — Those waters of the Alafia River from Highway 41 bridge westerly one mile to their point of confluence with Hillsborough Bay.

(b) SLOW SPEED ZONE — Those waters of the Alafia River from a point one mile westerly of Highway 41 bridge to the main shipping channel.

(2) The zones described in 16N-22.13(1) herein are depicted on the following map:



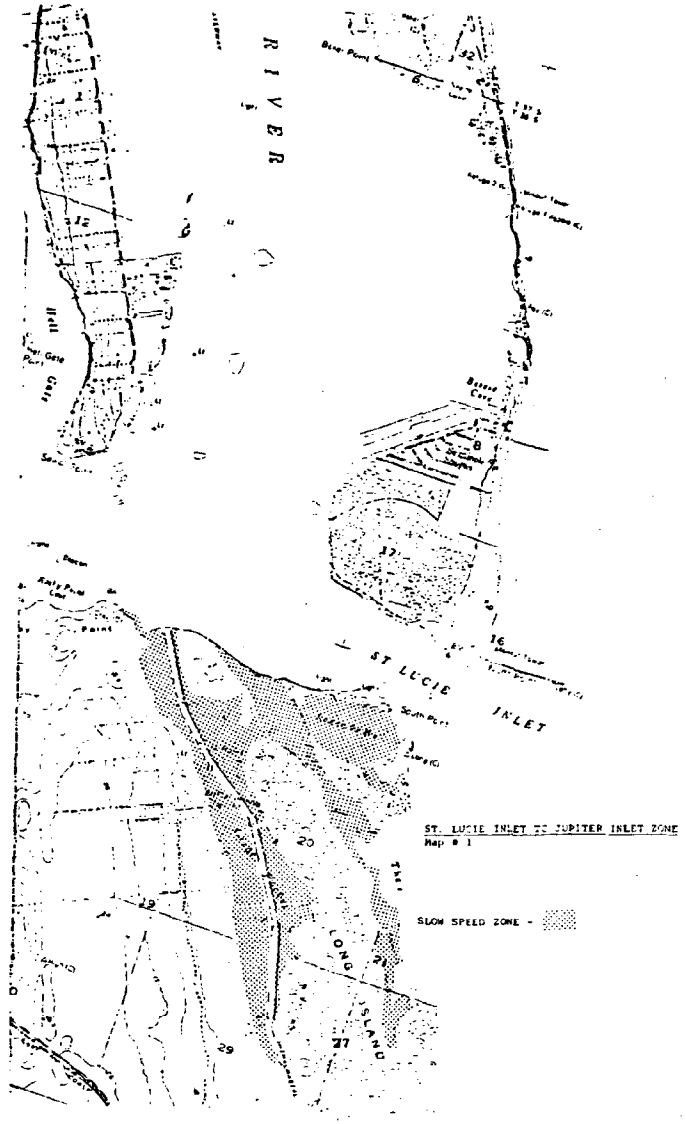
Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(f)(9) FS. History—New 3-19-79.

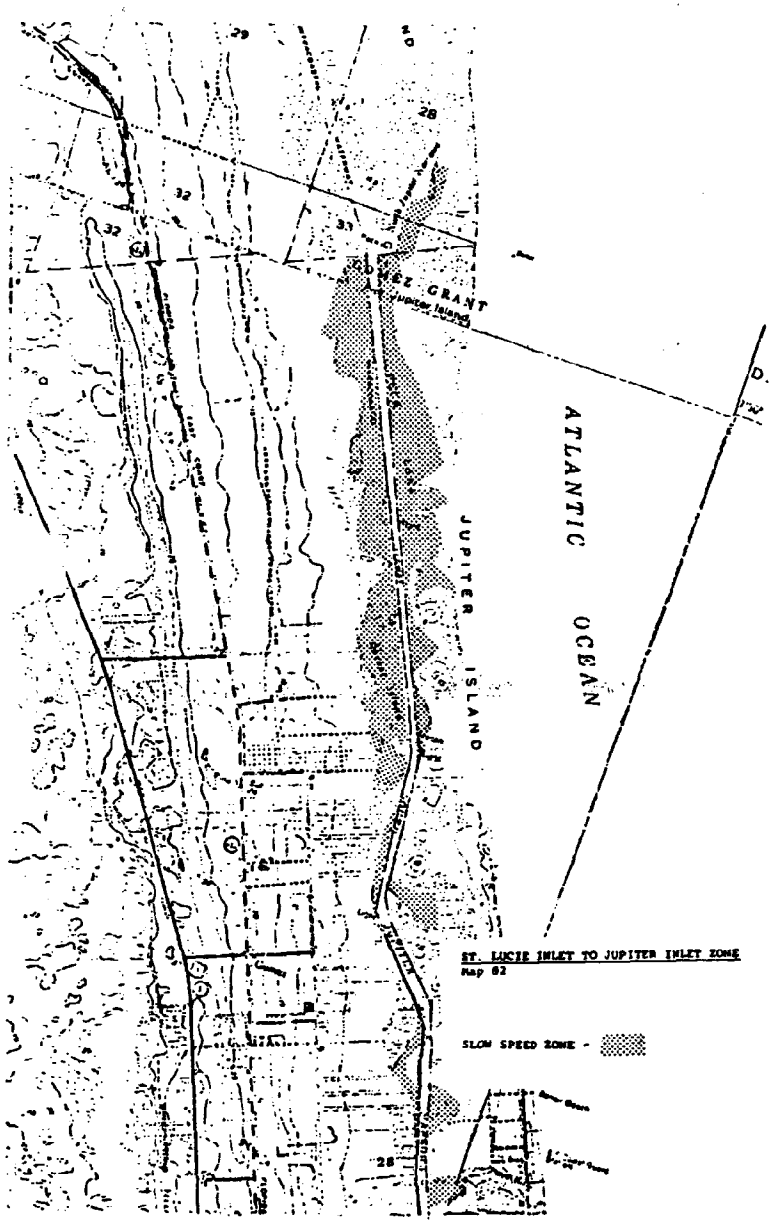
16N-22.14 St. Lucie Inlet to Jupiter Inlet Zone Established.

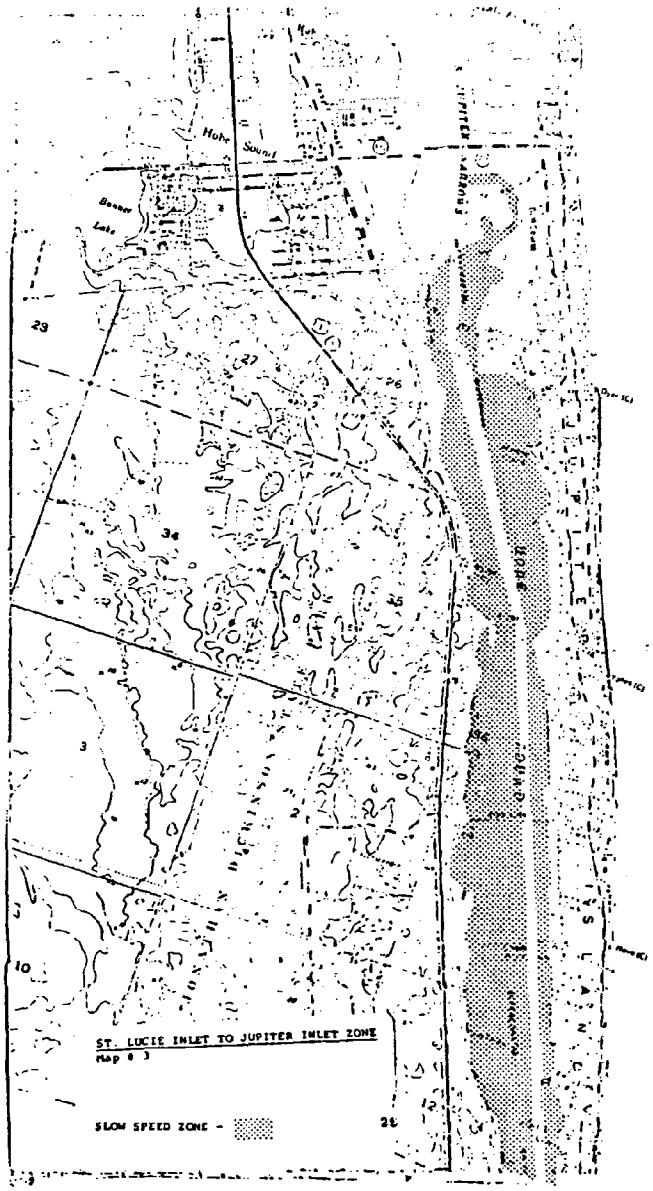
(1) For the purpose of regulating the speed and operation of motorboat traffic between the dates of November 15 and March 31 of each year, the St. Lucie Inlet to Jupiter Inlet zone is established as follows:

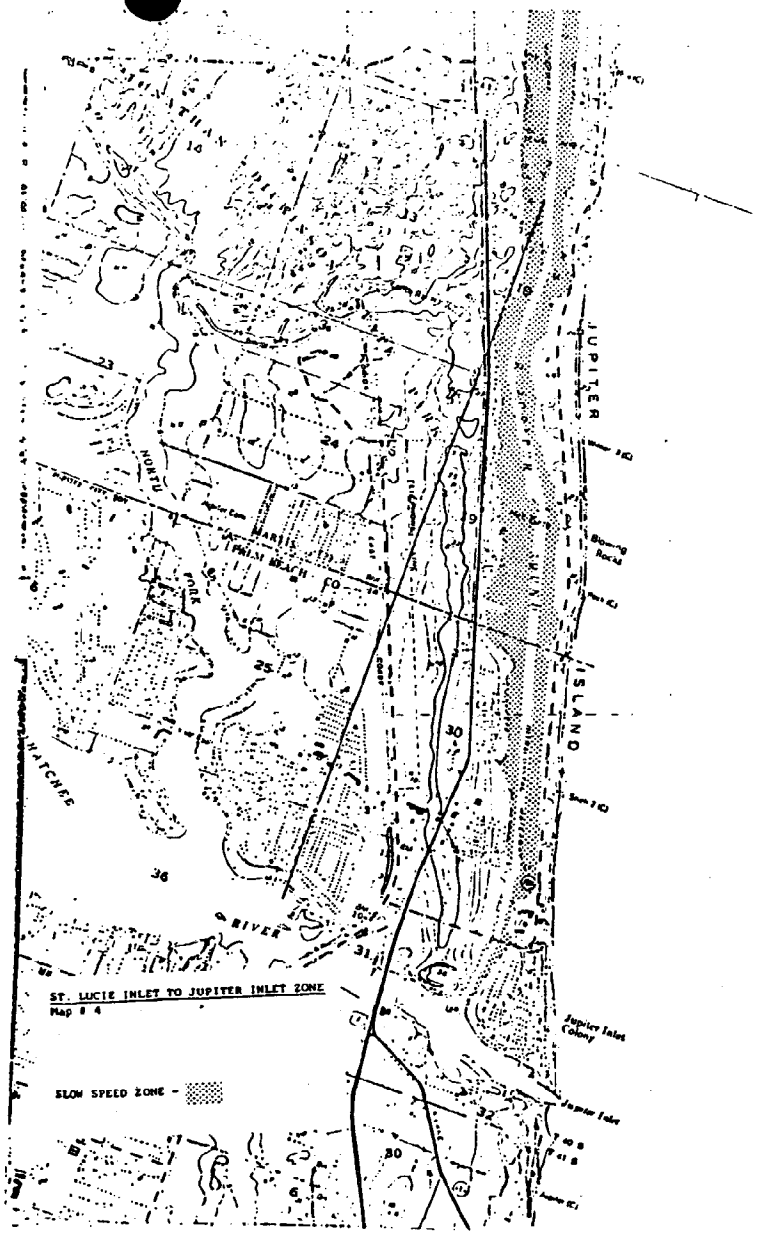
(a) SLOW SPEED ZONE — Those waters of the Indian River from St. Lucie Inlet to Jupiter Inlet with the exception of the Intracoastal Waterway and those sections regulated under authority of Section 371.522, F.S.

(2) The zone described in 16N-22.14(1) herein is depicted on the following maps:




ATLANTIC OCEAN
JUPITER ISLAND
ST. LUCIE INLET TO JUPITER INLET ZONE
Map 82
SLOW SPEED ZONE -


ST. LUCIE INLET TO JUPITER INLET ZONE
Map # 3
SLOW SPEED ZONE -



Specific Authority 370.12(2)(g) FS. Law Implemented 370.12(2)(g) FS. History—New 3-19-79.

16N-22.15 Statutory Violation. Except as authorized by a valid federal or state permit, it shall be unlawful for any person at any time, by any means, or in any manner, intentionally or negligently, to annoy, molest, harass, or disturb any manatee; injure, harm, or attempt to injure or harm any manatee. Any person violating this provision shall be guilty of a misdemeanor of the first degree, punishable as provided in Section 775.082, Section 775.083, or Section 775.084, FS.

Specific Authority 370.12(2)(d) FS. Law Implemented 370.12(2)(d) FS. History—New 3-19-79.

16N-22.16 Rule Violation. Any person violating or otherwise failing to comply with the rules herein promulgated relating to motorboat speed and operation shall be guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082 or Section 775.083, F.S.

Specific Authority 370.21(1) FS. Law Implemented 370.021(1) FS. History—New 3-19-79.

16N-22.15 Statutory Violation.
Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(d) FS. History—New 3-19-79, Transferred to 16N-22.30, 11-23-83.

16N-22.151 Loxahatchee River Zone Established.

(1) For the purpose of regulating the speed and operation of motorboat traffic between the dates of November 15 and March 31 of each year, the Loxahatchee River Zone is established as follows:

(a) SLOW SPEED ZONE:

1. All waters of the Loxahatchee River from the Route A1A bridge westward up the river through the boundaries of the Jonathan Dickinson State Park. All regulated waters in this subparagraph shall be exclusive of the main (posted) navigation channel except that portion of the channel within 1/8 mile of the A1A bridge.

2. Waters of the North Fork from the confluence with the Loxahatchee River north to the Tequesta Drive Bridge. All regulated waters in this subparagraph shall be exclusive of the main (posted) navigation channel.

3. All waters of the Southwest Fork from the confluence with the Loxahatchee River northward of State Route 706 including the C18 Canal.

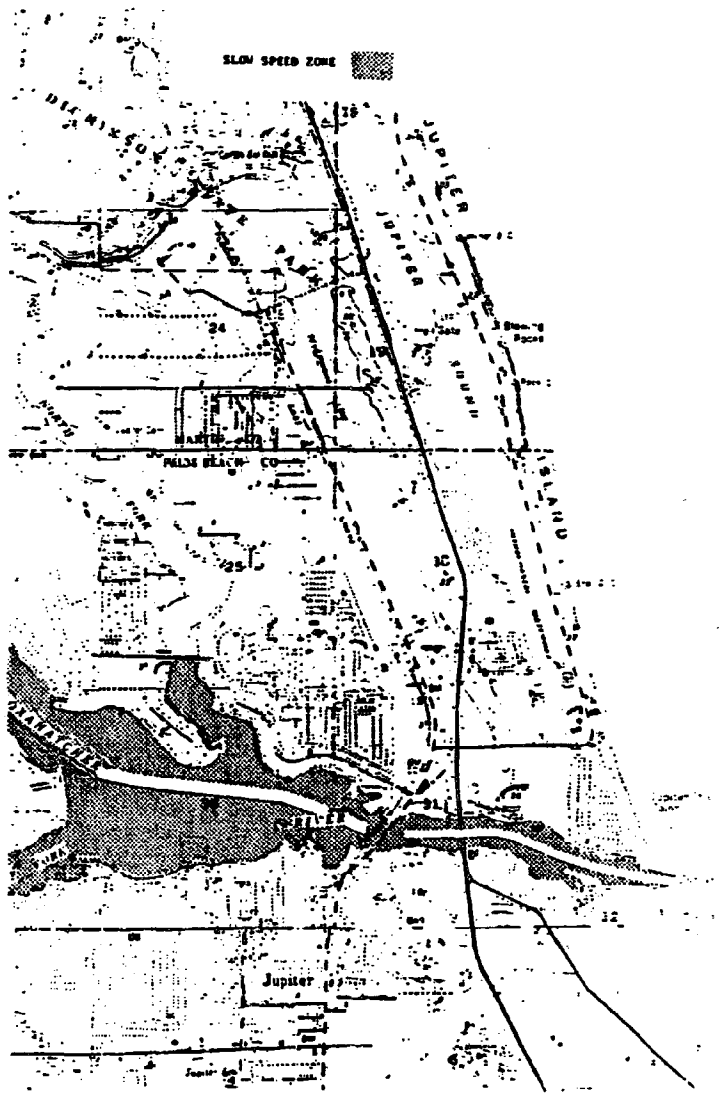
4. Waters of the Loxahatchee River from Jupiter Inlet westward to Route A1A bridge, including those areas already designated as slow or idle speed under otherwise existing authority. All regulated waters in this subparagraph shall be exclusive of the main posted navigation channel except those waters within 1/8 mile east of the A1A bridge and those waters regulated under otherwise existing authority.

(2) The zone described in Rule 16N-22.151(1) herein are depicted on the following maps:

LOXAHATCHEE RIVER ZONES

Loxahatchee River

SLOW SPEED ZONE



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Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(f), (11) FS. History—New 11-23-83.

16N-22.16 Rule Violation.
Specific Authority 370.21(1) FS. Law Implemented 370.021(1) FS. History—New 3-19-79, Transferred to 16N-22.31, 11-23-83.

16N-22.161 Faka Union Canal Zones Established.

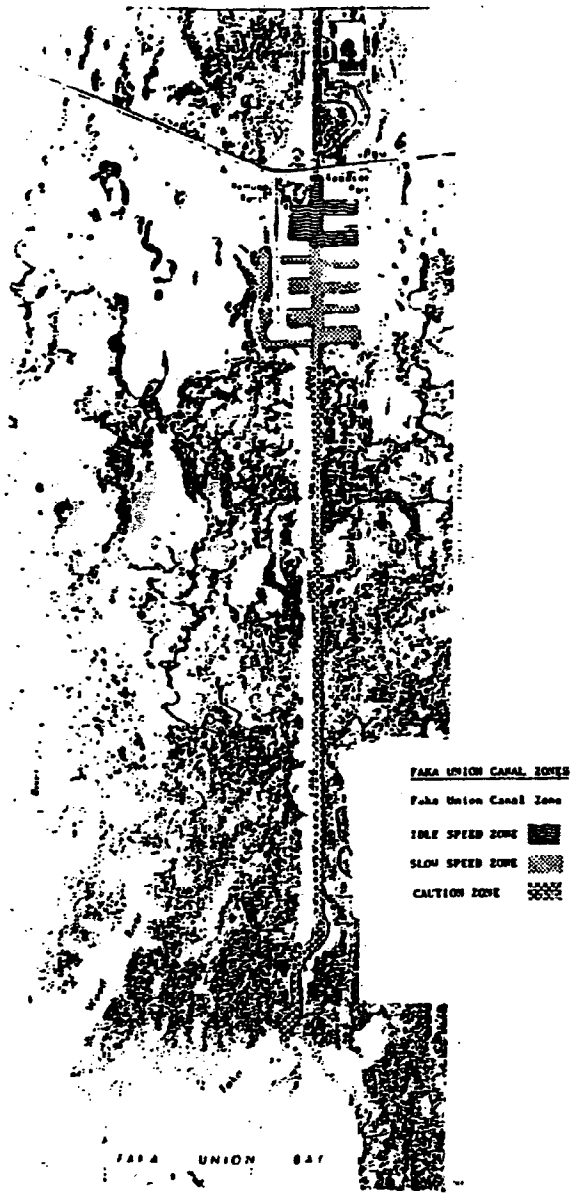
(1) For the purpose of regulating the speed and operation of motorboat traffic between the dates of November 15 and March 31 of each year, the Faka Union Canal Zones are established as follows:

(a) IDLE SPEED ZONE: All waters of the two most northerly east-west canals lying southerly of the Tamiami Trail Bridge, the north-south canal from the Tamiami Trail Bridge through its confluence with the second canal and the dredged boat basin area lying westerly of the north-south canal, all these areas lying within Section 9, Township 52 South and Range 28 East.

(b) SLOW SPEED ZONE: All waters of the north-south canal lying southerly of the IDLE SPEED ZONE through and 200 feet southward of their confluence with and including the east-west canal lying southerly of the IDLE SPEED ZONE, all these areas lying in Section 9, Township 52 South and Range 28 East.

(c) CAUTION ZONE: All waters within the Faka Union Canal not included in idle speed or slow speed zones are designated as a caution zone.

(2) The zones described in Rule 16N-22.161(1) herein are depicted on the following map:



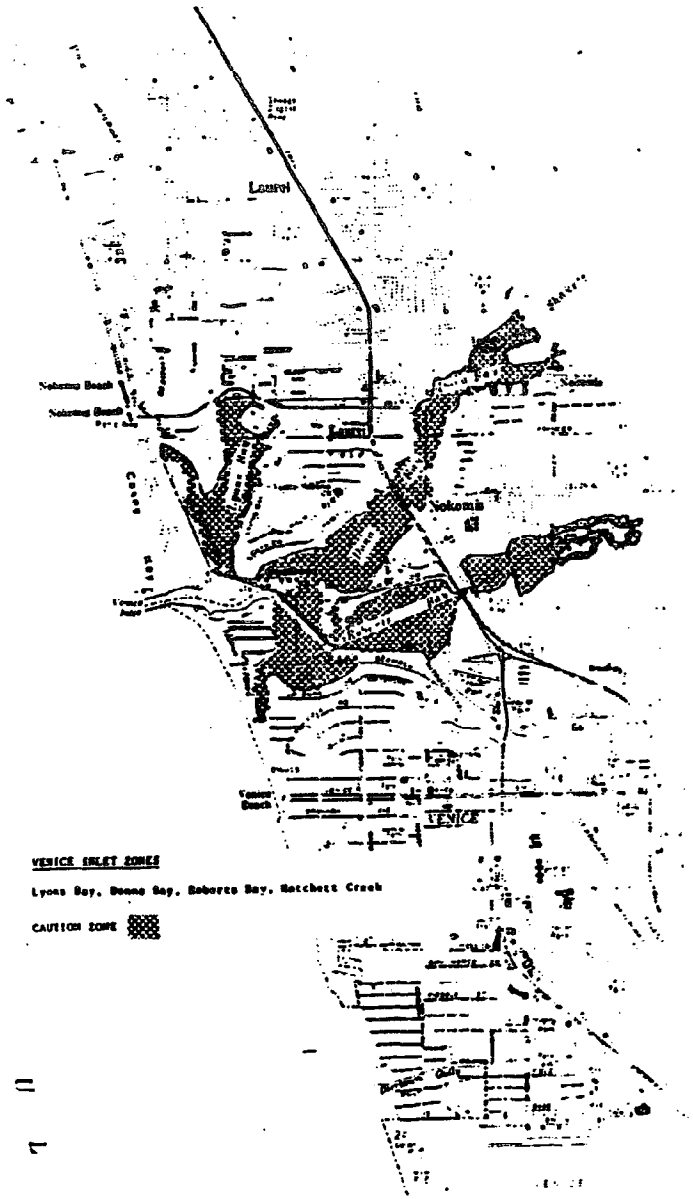
Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(f), (12) FS. History—New 11-23-83.

16N-22.17 Venice Inlet Zone Established.

(1) For the purpose of regulating the year round speed and operation of motorboat traffic, the Venice Inlet Zone is established as follows:

(a) CAUTION ZONE: In Sarasota County, the Venice Inlet and connecting waters within 1 mile thereof, including Lyons Bay, Donna Bay, Roberts Bay, and Hatchett Creek, excluding the waters of the Intracoastal Waterway and the right-of-way bordering the centerline of the Intracoastal Waterway.

(2) The zone described in Rule 16N-22.17(1) herein is depicted on the following map:



Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(f), (13) FS. History—New 11-23-83.

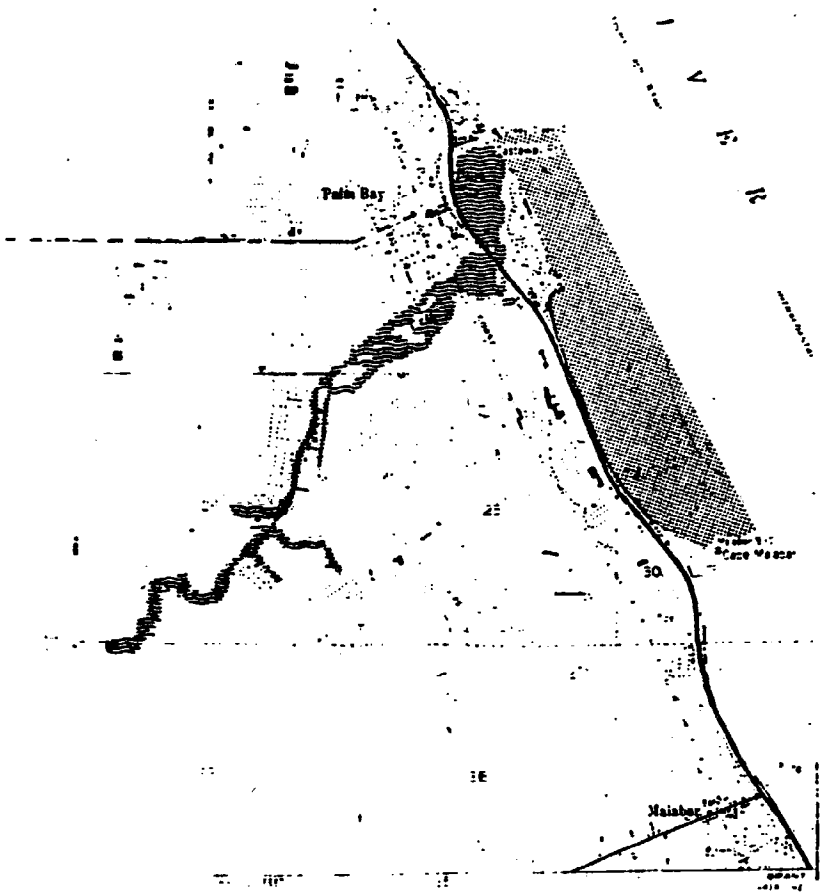
16N-22.18 Turkey Creek Zones Established.

(1) For the purpose of regulating the year round speed and operation of motorboat traffic, the Turkey Creek Zones are established as follows:

(a) IDLE SPEED ZONE: That body of water which starts at Melbourne-Tillman Drainage District structure MS-1, Section 35, Township 28 South, Range 37 East, running east to include all natural waters and tributaries of Turkey Creek, Section 26, Township 28 South, Range 37 East, to the confluence of the Turkey Creek and the Indian River, Section 24, Township 28 South, Range 37 East.

(b) SLOW SPEED ZONE: All lagoon waters of the Indian River bordered on the west by Palm Bay Point, the north by Castaway Point, the east by the four immediate spoil islands, and the south by Cape Malabar, thence northward along the shoreline of the Indian River to Palm Bay Point.

(2) The zones described in Rule 16N-22.18(1) herein are depicted on the following map:



BISCAYNE CREEK ZONES

Biscayne Creek

IDLE SPEED ZONE

SLOW SPEED ZONE

Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(f), (14) FS. History—New 11-23-83.

16N-22.19 Black Creek Zone Established.

(1) For the purpose of regulating the year round speed and operation of motorboat traffic, the Black Creek Zone is established as follows:

(a) IDLE SPEED ZONE: In Dade County, all canals and boat basins connecting to the waters of Black Creek and Goulds Canal lying south and east of the water control dams to a point 1 mile seaward of the Black Creek Water Control Dam.

(2) The zone described in Rule 16N-22.19(1) herein is depicted on the following map:

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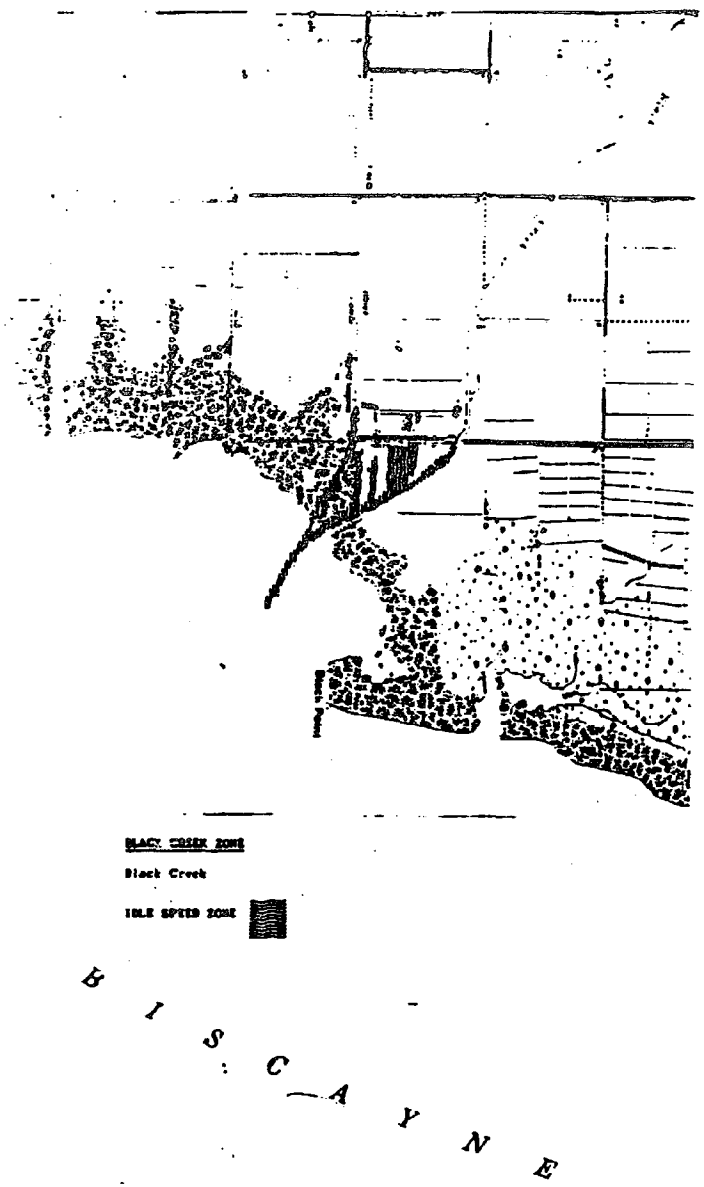

Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(f), (15) FS. History—New 11-23-83.

16N-22.30 Statutory Violation. Except as authorized by a valid federal or state permit, it shall be unlawful for any person at any time, by any means, or in any manner, intentionally or negligently, to annoy, molest, harass, or disturb any manatee; injure, harm, or attempt to injure or harm any manatee. Any person violating this provision shall be guilty of a misdemeanor of the first degree, punishable as provided in Section 775.082, 775.083, or 775.084, F. S.
Specific Authority 370.12(2)(f) FS. Law Implemented 370.12(2)(d) FS. History—New 3-19-79, Formerly 16N-22.15, Amended 11-24-83.

16N-22.31 Rule Violation. Any person violating or otherwise failing to comply with the rules herein promulgated regulating motorboat speed and operation shall be guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082 or 775.083, F. S.
Specific Authority 370.21(1) FS. Law Implemented 370.021(1) FS. History—New 3-19-79, Formerly 16N-22.16, Amended 11-24-83.

RULES OF THE DEPARTMENT OF NATURAL RESOURCES

DIVISION OF STATE LANDS

CHAPTER 16Q-2 CONSERVATION AND RECREATION LANDS

16Q-2.01 General.
16Q-2.02 Definitions.
16Q-2.03 Types and Categories of Lands for Purchase.
16Q-2.04 Selection Committee.
16Q-2.05 Criteria for Evaluation of Proposed Acquisitions.
16Q-2.06 Submittal of Projects to the Committee.
16Q-2.07 Acquisition Project Proposal Information Form.
16Q-2.08 Board Consideration of the Committee Report.
16Q-2.09 Management of Conservation and Recreation Lands.

16Q-2.01 General.

(1) In recognition of the legislative intent expressed in Section 253.023(1), Florida Statutes, this rule is promulgated to set forth the procedures for the selection, acquisition and management of public lands from monies deposited in the Conservation and Recreation Lands Trust Fund, and from monies remaining in the Environmentally Endangered Lands Trust Fund.

(2) To this end the Board of Trustees of the Internal Improvement Trust Fund may allocate from the Fund in any one year in the following categories:

(a) Up to 70 percent of such monies for any interest in lands qualified for purchase as environmentally endangered lands as defined in Section 259.03(2), Florida Statutes, or

(b) Up to 70 percent of such monies for any interest in lands which the Board determines should be acquired in the public interest as defined in Section 253.023(3)(b), Florida Statutes, and

(c) Up to 10 percent of such monies for maintenance and management of any lands acquired pursuant to this rule and Section 253.023, Florida Statutes.

(3) The Board shall allocate 100 percent of any remaining funds in the Environmentally Endangered Lands Trust Fund, for any interest in [illegible] qualified for purchase as defined in [illegible] 259.03(2), Florida Statutes.

Specific Authority 253.03, 259.02, 259.05 FS. Law Implemented 253.023 FS. History—New 4-6-80.

16Q-2.02 Definitions.

(1) "Board" means the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

(2) "Department" means the Department of Natural Resources.

(3) "Division" means the Division of State Lands of the Department of Natural Resources.

(4) "Fund" means the Conservation and Recreation Lands Trust Fund.

(5) "Project" means a parcel or parcels of land in a discrete unit of purchase.

(6) "Committee" means the Selection Committee as set forth in Section 259.035, Florida Statutes.

Specific Authority 253.03 FS. Law Implemented 253.023, 253.025, 259.035 FS. History—New 4-6-80.

16Q-2.03 Types and Categories of Lands for Purchase.

(1) Environmentally Endangered Lands are those lands which shall have as their purpose the conservation and protection of environmentally unique, irreplaceable, and valued ecological resources. They include, but are not limited to:

(a) Those areas of ecological significance the development of which by private or public units would cause the deterioration of submerged lands, inland or coastal waters, marshes or wilderness areas essential to the environmental integrity of the area or of adjacent areas;

(b) Those areas the development of which would require a remedial public works project to limit or correct environmental damages;

(c) Any beaches or beach areas within the State which have been eroded or destroyed by natural forces or which are threatened, or potentially threatened, by erosion or destruction by natural forces; or

(d) Those lands within any area designated as an area of critical state concern under Section 380.05, Florida Statutes, which cannot adequately be protected by application of land development regulations adopted pursuant to Section 380.05, Florida Statutes.

(2) Lands which the Board determines should be acquired in the public interest. Those lands shall be for the following purposes:

(a) For use and protection as natural floodplain, marsh or estuary, if the protection and conservation of such lands is necessary to enhance or protect water quality or quantity or

to protect fish or wildlife which cannot otherwise be accomplished through local and state regulatory programs;

(b) For use as state parks, recreation areas, public beaches, state forests, wilderness areas, or wildlife management areas;

(c) For restoration of altered ecosystems to correct environmental damage that has already occurred; or

(d) For preservation of significant archaeological or historical sites.

(3) Further, a high priority shall be given to the acquisition of lands described in paragraph (2) in or near counties exhibiting the greatest concentration of population in recognition of the legislative intent to provide public lands for people residing in urban and metropolitan areas of the State as well as those residing in less populated rural areas.

Specific Authority 253.03 FS. Law Implemented 253.023, 259.03 FS. History—New 4-6-80.

16Q-2.04 Selection Committee.

(1) The Committee shall be composed of the following persons or their designees:

(a) The Secretary of the Department of Environmental Regulation;

(b) The Executive Director of the Department of Natural Resources;

(c) The Director of the Division of Forestry, Department of Agriculture and Consumer Services;

(d) The Executive Director of the Game and Fresh Water Fish Commission;

(e) The Director of the Division of Archives, History and Record Management, Department of State; and

(f) The Secretary of the Department of Administration.

(2) The chairman of the committee shall rotate annually on October 1 of each year in the order listed above as set forth in Section 259.035, Florida Statutes.

(3) The Committee shall hold periodic meetings at the request of the chairman. The meetings shall be recorded electronically and such records shall be preserved pursuant to Chapters 119 and 267, Florida Statutes.

(a) A transcript of those portions of the recording pertaining to projects selected for the acquisition list shall be made for permanent retention in the project file.

(b) A summary statement of those portions of the recording pertaining to projects not selected for the acquisition list shall be made for the project file.

(4) The time, place and date of the meeting shall be advertised in the Florida Administrative Weekly. Such notice shall be given 10 days prior to the meeting.

(5) Primary staff support for the Committee shall be provided by the Division including but not limited to providing for the recording functions listed in paragraph (3) of this section.

(6) The Committee shall be responsible for preparing a list of acquisition projects each year on a priority basis.

(a) The list shall be prepared and presented to the Board for approval no later than January 1 of each year.

(b) The list shall include lands, the estimated cost of which is at least twice the anticipated revenues for the year. Further, these lands shall be proportionately distributed in the categories as set forth in Section 16Q-2.01(2) of this rule.

(c) An affirmative vote of four members of the Committee shall be required in order to place a proposed project on the list.

(d) All proposals for acquisition projects pursuant to Section 259.03(2) and Section 253.023(3)(b), Florida Statutes, shall originate from the Committee.

(e) The list shall be in ranking order so as to indicate a numerical priority of acquisition. Such priority shall be based on an evaluation done in accordance with Section 16Q-2.05.

(7) The Committee shall prepare a written report on each project selected or considered for acquisition. The report shall be presented to the Board at the time the recommended acquisition list is presented. The Committee shall consider and evaluate in writing:

(a) The merits, both favorable and unfavorable, of each project; and

(b) The public purpose for the preservation of environmentally endangered lands; or the development of outdoor recreation lands; and

(c) The determination of whether the project conforms with the comprehensive plan developed pursuant to Section 259.04(1)(a), Florida Statutes, and the State Lands Management Plan adopted pursuant to Section 253.03(7), Florida Statutes; and

(d) An assessment of the project's ecological value, vulnerability, endangerment, ownership pattern, utilization, location, cost, the sales history of the project for the last six years, and other factors without limit; and

(e) A recommended management agency together with recommended management guidance designed to achieve the stated public purpose for the acquisition; and

(f) The anticipated cost of each project including proposed costs for development of the lands necessary to m[illegible] public purpose for which such lands [illegible] purchased.

(g) A determination of the unavailability of existing suitable state-owned lands.

(8) The Committee shall direct the Division to hold one or more public meetings, after appropriate public notice, for the purpose of taking oral and written testimony from the public at large in opposition to or in support of those projects on the acquisition list proposed for presentation to the Board.

(a) Such meetings shall be held in centrally located places of the greatest population near proposed project sites, and shall be conducted by the Director of the Division or his designee.

(b) Such meetings may be held in conjunction with regularly scheduled meetings of regional or local agencies.

Such meetings shall be advertised in the Florida Administrative Weekly and papers of general circulation in the vicinity of each meeting at least thirty days in advance of the meeting.

(d) A Report summarizing the comments made at the meeting and any materials authorized to be submitted shall be prepared by the person conducting the meeting, who shall submit the Report for consideration by the Committee in making its final determination.

(9) Each Committee member may designate a specific staff member to function as a liaison with the staff of the Division.

(a) Those individuals designated as liaison may assist the Division in compiling data and materials for analysis of a proposed purchase, including field inspections.

(b) Those individuals designated as liaison may review the purchase file and assist the Division in preparing a draft of the written report set forth in paragraph (7) for consideration by the Committee.

Specific Authority 253.03 FS. Law Implemented 253.023, 259.035 FS. History—New 4-6-80.

16Q-2.05 Criteria for Evaluation of Proposed Acquisitions.

(1) Each proposed project shall be evaluated using at least the criteria set forth in Section 259.035, Florida Statutes, this Section. Any project failing to meet any one of the criteria shall be rejected by the Committee. The project may be considered during a subsequent year if additional information which satisfies the criteria is submitted by the person proposing the acquisition.

(2) The criteria are listed in order from Step 1 through Step 7. Evaluation of each project shall begin with the first step and proceed in an orderly manner through each Step. Evaluation of a project shall cease when any Steps, 1 through 6, are not satisfied.

(3) Step 1 — Public Purpose and Conformance to Management Plans in accordance with Sections 259.04(1) and 253.03(7), Florida Statutes.

(a) Projects shall meet one or more stated public purposes for

1. Environmentally endangered lands, such as

a. Those areas of ecological significance the development of which by private or public works would cause the deterioration of submerged lands, inland or coastal waters, marshes or wilderness areas essential to the environmental integrity of the areas or of adjacent areas,

b. Those areas the development of which would require a remedial public works project to limit or correct environmental damage,

c. Those beaches or beach areas within the State which in the judgment of the Committee have been eroded or destroyed by natural forces or which are threatened or potentially threatened by erosion or destruction by natural forces, or

d. Those lands within any area designated as an area of critical state concern under Section 380.05, Florida Statutes, which cannot adequately be protected by application of land development regulations adopted pursuant to Section 380.05, Florida Statutes.

2. Use as outdoor recreation lands;

3. Use and protection as natural floodplain, marsh or estuary, if the protection and conservation of such lands is necessary to enhance or protect water quality or quantity or to protect fish or wildlife habitat which cannot otherwise be accomplished through local and state regulatory programs:

4. Use as a state park;

5. Use as a recreation area or recreation trail;

6. Use as a public beach;

7. Use as a state forest;

8. Use as a wilderness areas;

9. Use as a wildlife management area;

10. Restoration of altered ecosystems to correct environmental damage that has already occurred; or

11. Preservation of significant archaeological or historical sites.

(b) Projects proposed for purchase as environmentally endangered lands shall be in conformance with the comprehensive plan to conserve and protect environmentally endangered lands in this State; and

(c) All projects shall be in conformance with the state lands management plan for acquisition, management and disposition of all state-owned lands to insure maximum benefit and use, when such plan is developed.

(4) Step 2 — Ecological, recreational, archaeological or historic value.

(a) Projects shall be evaluated for their ecological value as natural resources, including consideration of species of fish and wildlife, viable habitat, geological features, water quality and quantity, contribution to viability of adjacent areas, and other such considerations; or

(b) Projects shall be evaluated for their recreational value, including consideration as parks, sites for both primitive camping and recreational vehicular camping, sites for hiking, canoeing, fishing, hunting, and other recreational activities; or

(c) Projects shall be evaluated for their archeaological and historical value including value to the educational and scientific community of the State and to the public as a whole and potential for restoration or maintenance to insure availability for the public use and enjoyment.

(d) Projects shall be evaluated to assume that there is no available existing suitable state-owned lands.

(5) Step 3 — Ownership Pattern.

(a) Projects shall be evaluated for functional usability by the public, including appropriate access, proximity to potential users, sufficient aerial extent for stated public purpose, and other appropriate considerations; and

(b) Projects shall be evaluated for manageability in accordance with stated public purpose, including degree of protection afforded natural or cultural resources, proximity to other parcels of state-owned land, potential for development of public facilities, capability for restoration and maintenance, and other appropriate considerations; and

(c) Projects shall be evaluated to ascertain if any portion of the project may already be in public ownership, including local, state or federal ownership; and

(d) Projects shall be evaluated in relationship to the type of land, the stated public purpose and the quantity of that type already available to the public.

(6) Step 4 — Vulnerability and Endangerment.

(a) Projects shall be evaluated for vulnerability, that is, susceptibility to degradation caused by man's activities, directly or indirectly, including encroaching development of residential or commercial activity, land alteration activities, land use changes and other considerations that may be expected to create an adverse [illegible] on the project; and

(b) Projects shall be evaluated for endangerment, that is, the potential for actual destruction or degradation by man's activities of the resources which form the basis of the stated public purpose, including development plans for the parcel, loss of the resource unless adequately protected or maintained, and other considerations that may result in an irreplaceable loss to the State.

(7) Step 5 — Location.

(a) Projects shall be evaluated for their location within the State to achieve a balance of available resources for the public including consideration of historical or archaeological significance, environmental significance, or recreational significance, and consideration of unique qualities of different areas of the State; and

(b) Projects shall be evaluated for their local, regional or state-wide significance to the public, including consideration of recreational needs, water quality or quantity needs, environmental needs, and other appropriate considerations; and

(c) Projects shall be evaluated for their proximity to urban areas to provide a reasonable balance of available resources for the benefit and welfare of the public.

(8) Step 6 — Cost.

(a) Projects shall be evaluated for their availability for purchase in accordance with the stated public purpose; and

(b) Projects shall be evaluated in view of the availability of other local, state or federal funding to accomplish the stated public purpose; and

(c) Projects shall be evaluated in terms of unit cost in relationship to the regional cost of land and the need of the region for the resources; and

(d) Projects shall be evaluated in terms of their costs for development, restoration, maintenance or management.

(9) Step 7 — Additional Criteria

(a) The Committee may use additional criteria as appropriate to achieve the legislative intent of the availability of public lands for recreation for the people residing in urban and metropolitan areas of the State, more particularly those areas exhibiting the greatest concentration of population, as well as those people residing in less populated, rural areas and to achieve the conservation and protection of valuable archaeological and historical sites and environmentally unique and irreplaceable lands as valued ecological resources.

(b) Criteria under this subsection are

optional and additional to the essential criteria in Steps 1 through 6. Identification of criteria under this subsection shall not be cause to cease further consideration of a proposed project.

(c) Additional criteria used in evaluating a project shall be set forth in writing and included with the materials developed as part of the evaluation process set forth in this section.

(10) The Committee's evaluation of each step shall be written in descriptive detail sufficient to indicate the merits of each project relative to that criteria and the State's need for the particular project.

(11) The Committee recognizes the need to continually examine the above criteria and methodology for consistency, applicability and reliability of the principles used in its decision making process.

Specific Authority 253.03 FS. Law Implemented 259.035 FS. History—New 4-6-80.

16Q-2.06 Submittal of Projects to the Committee.

(1) Proposals for projects for possible purchase from the Fund shall be submitted to the Division in writing on the Project Acquisition Proposal form, Section 16Q-2.07. Proposals shall be accepted from any source. These forms are available free of charge from the Division.

(2) The Division shall distribute a copy of each proposal it receives to each member of the Committee for an initial review by the individual agencies.

(3) Following the initial review of a proposal, any Committee member may notify the chairman of the Committee and the Director of the Division, in writing, that he desires to nominate a proposal for a full review by the Division. The Division shall not undertake a full review of any proposal until it has received such a written nomination from at least three Committee members.

(4) The Division shall notify, in writing, each Committee member of each proposal which has been nominated for full review.

(5) For projects which will undergo a full review by the Division, the Division shall establish a file on each project which shall contain:

(a) The initial Project Acquisition Proposal, together with any documentation submitted in support of the project.

(b) A field inspection report which will address such factors as wildlife habitat; soils; wildlife, both land and marine; water quality and quantity; evidence of stressed conditions, if any; imp[illegible]ents or alterations, if any; recreational potential; forestry sources; archaeological and historical sites; and any other factors pertinent to the analysis of the suitability of the site proposed for purchase;

(c) A basic analysis of the title and any deed restrictions or reservations with regard to the proposed project meeting the needs of the State, together with a statement of the project's compliance with the State Lands Management Plan, when developed, and/or the Environmentally Endangered Lands Comprehensive Plan;

(d) An estimate of the cost for development of the lands necessary to meet the public purpose for which the project is proposed to be purchased;

(e) A report which addresses the proposed project's ecological value as supported by paragraph (b) above, the vulnerability of the proposed project to extensive alteration or degradation, the endangerment of the resources, within the proposed project to destruction and loss, the ownership pattern and any problems which it may present, the current and proposed utilization of the project, the location of the project with regard to urban areas or other state lands, any archaeological or historical significance of the project, or any other pertinent factors;

(f) All correspondence, memos, records of telephone conversations, information and materials without limit, staff reviews, at least one topographic map or Department of Transportation highway map; and

(g) The record of the Committee's action, the Board's action, if any, and subsequent negotiations to completion of the issue.

(6) The file shall be kept and maintained by the Division and shall be freely available upon request to the Committee members or their designated liaison.

(a) The file shall be open to public inspection upon request and under supervision of Division staff.

(b) There shall be a log to document use of the file including the name and address of the user.

(c) Copies of the Project Acquisition Proposal shall be provided to the public upon request.

(7) The Division shall submit the file, together with a draft written report evaluating the reasons for and against purchase of the land, to the Committee at a scheduled meeting for final decision.

(a) Such proposals shall be presented in a timely manner so as to allow the committee to report to the Board by January 1 of each year, but in no case shall a proposal be presented less than sixty days before January 1 for inclusion on that list; however, such a proposal may be considered at a later time.

(b) Upon a decision by the Committee, the Division shall notify, in writing, the person or agency submitting the project of the decision of the Committee.

(8) A project shall be placed in one of three categories:

(a) Approved for inclusion on the list of acquisition projects to be submitted to the Board by January 1; or

(b) Approved as qualifying for purchase from the Fund, but not included on the list of acquisition projects to be submitted to Board due to a lower priority ranking;

(c) Rejected as not qualifying for purchase from the Fund.

(d) Those projects placed in category (a) and not approved for purchase by the Board by March 15, and those projects placed in category (b), shall be reevaluated in the following year by the Committee.

(e) Projects which are not nominated by a Committee member for full review by the Division shall be placed in category (c).

(9) The list of acquisition projects identified in Paragraph (a) shall be the only projects included in the Annual Report to the Board.

(10) The Committee may prepare one or more interim reports to the Board which propose modifications to the list of approved projects.

(a) An Interim Report may propose the adding of one or more projects or deletion of one or more projects, based on new or updated information.

(b) Prior to submitting an Interim Report to the Board, the Committee shall hold a public meeting pursuant to Section 16Q-2.04 on the proposed modification to the list.

(11) Notwithstanding the provisions of subsection (10) above, the Committee shall prepare and submit to the Board an Interim Report following the designation by the Administration Commission of an area of critical state concern, pursuant to 380.05, Florida Statutes.

(a) Following the designation of an area of critical state concern and receipt of the recommendations of the state planning agency relating to proposed purchases of projects within the designated area, pursuant to 380.05, Florida Statutes, the Division shall review the recommendations of the state planning agency.

(b) The Division shall submit to the Committee:

1. Projects recommended by the state planning agency.

2. Any comments or additional information the Division wishes to submit concerning the recommendations of the state planning agency.

3. Any additional projects within the designated area which the Division recommends for purchase.

(c) The Committee shall review the information and recommendations submitted by the Division. Following the review, the Committee shall prepare the Interim Report which may include, as modifications or additions to the present list of projects approved in the Annual Report.

1. Any project recommended by the state planning agency.

2. Any project recommended by the Division.

3. Any other project within the designated area which the Committee, by an affirmative vote of at least four members, wishes to include.

4. A statement that no projects are recommended for purchase within the designated area.

(d) The projects included in this Interim Report shall be recommended as additions or modifications to the Annual Report.

(e) This Interim Report shall be submitted to the Board no later than 45 days following the designation of the area of critical state concern by the Administration Commission.

(12) Within 45 days following completion of the comprehensive and long-range statewide plan for erosion control, beach preservation, and hurricane protection as required by Section 370.02(2)(d)3, Florida Statutes, the Executive Director of the Department shall, in accordance with Section 161.053(11), Florida Statutes, submit to the Committee for its consideration, lands seaward of the coastal construction control line recommended for acquisition.

(a) The Committee shall review the recommendations submitted by the Executive Director of the Department and prepare an interim report which may include, as modifications or additions to the present list of projects approved in the Annual Report.

1. Any project recommended by the Executive Director of the Department.

2. Any other project identified in the comprehensive plan which the Committee, by an affirmative vote of a least four members, wishes to include.

3. A statement that no projects identified in the comprehensive plan are recommended for purchase.

(b) The projects in[illegible] in this interim

report shall be recommended as additions or modifications to the Annual Report.

(c) This interim report shall be submitted to the Board no later than 90 days following completion of the comprehensive plan.

Specific Authority 253.03 FS. Law Implemented 253.03, 259.03, 259.035, 259.045 FS. History—New 4-6-80.

16Q-2.07 Acquisition Project Proposal Information Form. [eff. 4/80, available from Division of State Lands] This form should be completed to the greatest extent possible based on the information available to the applicant. Where sections are not applicable to your proposal, N/A should be used to indicate that the section was considered. If additional space is needed to complete any section, continue the response on a separate sheet and attach to the form. **Please submit 10 copies of this formation.**

Specific Authority 253.03 FS. Law Implemented 259.03, 259.035, 259.045 FS. New 4-6-80.

16Q-2.08 Board Consideration of the Committee Report.

(1) The Committee shall submit to the Board by January 1, of each year an Annual Report. The Annual Report to the Board shall include:

(a) A list of the projects approved for acquisition by the Committee, identified in Subsection 16Q-2.06(5)(a);

(b) The written analysis of each approved project prepared by the Committee, pursuant to 16Q-2.05(10);

(c) A summary of the public meeting.

(2) The Board shall act upon the Committee's Report to the Board by March 15 of each year at a regularly scheduled meeting.

(3) The Board may accept the list of projects; delete any projects from the list; or reject the entire Annual Report; citing the reasons for deletion of projects or rejection of the Annual Report.

(4) The Committee may submit Interim Reports to the Board which propose modifications to the Annual Report.

(a) An Interim Report shall include:

1. The modifications the Committee proposes.

2. The written analysis of each project the Committee proposes for addition or deletion to the list.

3. A summary of the new or up-dated information which the Committee relied upon in determining that a modification to the Annual Report should be made.

4. A summary of the public meeting.

(b) The Board shall act upon an Interim Report within two months of its submittal by the Committee.

(c) The Board may accept the modifications; delete any projects proposed to be added; or reject the Interim Report; citing the reasons for the deletion of projects or rejection of the Interim Report.

(5) The Committee shall submit an Interim Report to the Board, pursuant to Section 259.045, Florida Statutes, 16Q-2.06(11) and shall submit an Interim Report to the Board pursuant to Section 161.053(11) and 16Q-2.06(12).

(a) The Board may accept the recommendations of the Committee, delete any projects proposed to be added, or reject the Interim Report citing the reasons for the deletion of projects or rejection of the Interim Report.

(b) In accepting projects for addition to the list of projects approved for purchase in the Annual Report, the Board shall accept projects conditional upon the satisfactory completion of a full review of the project by the Division, pursuant to 16Q-2.05, where such full review has not been completed. The Board, at its discretion, may direct that conditionally accepted projects be resubmitted to it for final approval following the full review.

Specific Authority 253.03 FS. Law Implemented 253.023, 259.035, 259.045 FS. History—New 4-6-80.

16Q-2.09 Management of Conservation and Recreation Lands.

(1) An agency or agencies designated by the Board to manage lands purchased from the Fund shall develop within ninety days of the acquisition of an individual project a plan for managing the project. The plan shall be in accordance with:

(a) The Board's preliminary determination as to the extent and nature of public use for which the land will be available; and

(b) The best management procedures for conserving and protecting the land and its associated natural resources; and

(c) The Legislature's intent that all lands acquired from the Fund shall be open for public use and enjoyment to the extent compatible with the conservation and protection in subparagraph (b) above. Such public use may include fishing, hunting, camping, hiking, nature study, swimming, boating and canoeing.

(2) Within thirty days after development of the plan and no later than one hundred and twenty days after acquisition of the project, the

public shall be advised of the plan and an opportunity for public hearing shall be given.

(a) Public notice shall be published one time only in the Florida Administrative Weekly and in a newspaper of general circulation in the area of the project.

(b) If requested, a public hearing shall be held in the area of the project for the purpose of taking testimony on the efficacy of the plan.

(3) Within thirty days of public notice or public hearing whichever is later, the agency or agencies shall present the plan to the Board for approval.

(a) The Board shall be advised as to the cost of administering the plan; and

(b) The Board shall be advised as to any comments that may have been received from the public as a result of notice of hearing; and

(c) The Board shall receive a written report and recommendation addressing the legislative intent expressed in Section 253.023, Florida Statutes.

(4) The agency or agencies shall adjust the plan as the Board determines advisable and commence implementation within sixty days of receiving Board approval.

(5) Thereafter, by July 1 or each succeeding year the managing agency or agencies shall report to the Board on the status of the project, including:

(a) A statement of account for any monies authorized by the Board for management purchases;

(b) A statement of anticipated expenditures for future management;

(c) A statement regarding the status of the natural or cultural resources being conserved and protected together with any recommended changes to the plan that may be necessary to achieve the designated purpose; and

(d) A statement regarding the necessity, if any, to purchase additional lands as protective buffers to the project in order to achieve the designated purpose of the project.

Specific Authority 253.03 FS. Law Implemented 253.023 FS. History—New 4-6-80.

RULES OF THE DEPARTMENT OF NATURAL RESOURCES

DIVISION OF STATE LANDS

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

CHAPTER 16Q-3 STATE LAND ACQUISITION PROCEDURES

16Q-3.01 Purpose and Intent.
16Q-3.02 Definitions.
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16Q-3.01 Purpose and Intent. State land acquisition procedures provided for in this rule are for voluntary negotiated acquisitions. Neither the Board of Trustees of the Internal Improvement Trust Fund nor its duly authorized agent shall commit the State, through any instrument of negotiated contract or agreement for purchase, to the purchase of lands, unless the provisions of this rule have been fully complied with. The purpose of this chapter is to provide procedures for the acquisitions of lands, title to which shall vest in the Board of Trustees of the Internal Improvement Trust Fund.

The intent of these procedures is to provide acquisition uniformity, in order to effectuate efficient legal methods in accordance with sound business practice.

Specific Authority 253.03 FS. Law Implemented 253.025 FS. History—New 4-30-80, Amended 12-16-80.

ANNOTATIONS

Scope of authority

F. S. A. § 253.002 does not preempt to Division of State Lands the acquisition of all lands, title to which vests in Board of Trustees, but rather Division has duty to perform all administrative staff functions of Board of Trustees of the Internal Improvement Trust Fund related to such acquisition; other divisions in other departments may continue to perform their statutorily authorized acquisition duties. Op. Atty. Gen., 080-10, February, 1980.

Neither F. S. A. § 253.025 nor §§ 272.124 and 589.07 require the prior adoption of rules by Division of State Lands before acquiring state agency may proceed to acquire lands in accordance with applicable Statutory authority and the acquisition procedures set forth in F. S. A. § 253.025. Op. Atty. Gen., 080-10, February, 1980.

16Q-3.02 Definitions.

(1) "Acquiring Agency" means any state agency initiating any land acquisition, title to which will vest in the Board.

(2) "Appraiser Administrator" means the administrator of the Appraisal Office of the Division of State Lands.

(3) "Board" means the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

(4) "Certified Survey" means a survey which is signed and sealed by a licensed land surveyor authorized to practice surveying in the State of Florida. Such survey shall meet the minimum requirements established by the Florida Society of Professional Land Surveyors and the Florida Land Title Association.

(5) "Division" means the Division of State Lands of the Department of Natural Resources.

(6) "Interim Title Insurance Binder" means a title commitment binding the insurance company to provide a policy insuring marketability of title for a specified time in the name of the Board in the amount of purchase price, providing the schedule of exceptions and reservations.

(7) "Land" means real property and all appurtenances thereto, that are to be acquired.

(8) "Marketability of Title" in the form of title insurance means a Policy of Title insurance in the amount of the purchase price, insuring that the title to the land is good and marketable, with any reservations or exceptions clearly stated, and written by a company authorized to do business in the State of Florida. This insurance shall be of the type commonly referred to as "marketability" insurance, as distinguished from the type commonly referred to as "insurability" insurance.

(9) "Owner" means the owner of the land or his duly authorized agent.

(10) "Title Data" means evidence of marketability of title in the form of an interim binder and title insurance policy or abstract of title with a title opinion or both.

(11) "Value" means Fair Market Value which is the highest price in terms of money which a property will bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus.

(12) "Voluntary Negotiated Acquisition" means an acquisition where the power of eminent domain is not available.

Specific Authority 253.03 FS. Law Implemented 253.025 FS. History—New 4-30-80, Amended 12-16-80.

16Q-3.03 General Requirements.

(1) Prior to any acquiring agency initiating any voluntary negotiated acquisitions, the title to which lands is to vest with the Board, the agency shall coordinate with the Division to determine the availability of existing state-owned lands in the area and the public purpose for which the acquisition is being proposed. In assisting the acquiring agency in assessing the availability of existing state-owned lands suitable for the identified public purpose, the Division shall provide the acquiring agency with existing management plans or information regarding the public purposes for which a parcel was purchased or is currently being used.

(2) Once the acquiring agency has determined and established the public purpose for a proposed acquisition project and the unavailability of existing suitable state-owned lands, the acquiring agency may proceed to acquire the property by employing all available statutory authority for acquisition.

(3) Voluntary negotiated acquisitions shall conform to the requirements of Section 253.025, F. S., and this Chapter. Provided, however, the Board of Trustees may substitute federally mandated acquisition procedures, for the provisions of Section 253.025, Florida Statutes, where federal funds are available and will be utilized for the purchase of lands, title to which will vest in the Board of Trustees, and qualification for said federal funds requires compliance with federally mandated acquisition procedures.

(4) All conveyances to the Board of fee title lands shall be made by no less than a special warranty deed.

Specific Authority 253.03 FS. Law Implemented 253.025 FS., as amended by Chapter 80-356, Laws of Florida. History—New 4-30-80, Amended 12-16-80.

16Q-3.04 Owner Contact. Negotiations by the acquiring agency shall not be conducted until after the appraisals are obtained and approved by the Division.

(1) Initial owner contact by the acquiring agency prior to approval of the required number of appraisal reports, can include, but shall be limited to the following:

(a) To inform the owner of the land acquisition program under which the project is being considered, and to request owner permission for the acquiring agency to inspect the property in order to determine its suitability for the purposes of the acquiring agency.

(b) To ascertain or confirm owner interest in conveying the subject property to the State.

(c) To explain in general terms the possible benefits to the owner of a land donation, either whole or in part, or a bargain sale to the State.

(d) To request written permission from the owner in order to have his property appraised by one or more appraisers to be selected by the Division from the list of Board qualified fee appraisers.

(e) To make clear the owner's land will be in competition with other projects if it is processed under Section 253.023, and Chapter 259, Florida Statutes.

(f) To discuss the matter of owner representation in any eventual negotiations.

(g) To request available title data.

(h) To advise of disclosure requirements.

(i) To request available property survey data.

(j) To discuss other information pertinent to the appraisal.

(2) Owner contacts including personal, by phone or written correspondence shall be documented and placed in the record file of the acquiring agency.

Specific Authority 253.03 FS. Law Implemented 253.025 FS. History—New 4-30-80, Amended 12-16-80.

16Q-3.05 Land Titles.

(1) Title Information

In the event the landowner does not have sufficient title information available prior to any appraisal, the acquiring agency shall purchase title information from an abstract or title company licensed to do business in the State of Florida. This title information should be certified to include the current owner of record, encumbrances, exceptions and reservations, and the p[illegible]-year history of

ownership, if any, and the assessed value for each of the prior ten years.

(2) Title Insurance

When the owner elects to furnish evidence of marketability of title in the form of title insurance policy, an interim title insurance binder, including copies of all exceptions and reservations, must be furnished the acquiring agency pursuant to the executed purchase agreement. The binder shall specify that the title insurance policy to be issued is for marketable title.

(3) Title Abstract

When the owner elects to furnish evidence of marketability of title in the form of a current abstract with title opinion, the abstract is to be prepared by an abstract or title company licensed to do business in the State of Florida.

(4) Evidence of marketability of title, either in the form of the interim title insurance binder or the current abstract with title opinion shall be provided by the landowner before any final agreement for purchase is presented to the Board of Trustees for their confirmation and approval of the purchase. In the event the landowner is unwilling to provide such evidence of marketability of title, the Board of Trustees may waive the requirement that the landowner provide evidence or marketable title and in such case the acquiring agency shall secure and pay for such required title evidence.

Specific Authority 253.03 FS. Law Implemented 253.025 FS. History—New 4-30-80, Amended 12-16-80.

16Q-3.06 Survey.

(1) Because of the influence that the amount and configuration of the land area often have on value, provision for a current certified survey shall be considered of utmost importance. Depending on the characteristics of the owner's land and appraised value allocations to different types of lands, it may be desirable for the acquiring agency to have the owner's land partitioned into distinct tracts by acreage for certain land types.

(2) If the owner does not provide a current certified survey prior to any appraisal work, the acquiring agency shall arrange for the most beneficial survey data that is available, considering the following:

(a) Bona fide plat or map showing boundaries sufficient for legal description verification and staff computation of acreage.

(b) Previous survey when available.

(c) An upland boundary survey provided by the owner, with waterfront analysis performed by qualified state personnel or under state guidance. The analysis may systematically estimate the approximate line of mean high water or ordinary high water line, as the case may be, and the upland acreage.

(d) Acreage determination by photogrammetric means with assistance from any reliable information available.

(e) Survey at the expense of the acquiring agency.

(f) Field verification of boundaries and acreage by qualified state personnel as approved by the Division.

(3) Upon review of the best survey arrangement which can be made, the acquiring agency shall determine whether or not acquisition efforts should be discontinued following consultation with the Division or, if appropriate, process a waiver request to the Division for decision by the Board.

(4) The survey requirements may be waived by the Board only under the following circumstances:

(a) Where the cost of the survey would be prohibitive relative to the expected value of the land to be acquired;

(b) Where the survey cannot practically be completed.

(5) In the event the survey requirement is waived, in part or in whole, by the Board, the acquiring agency, in consultation with the Division, shall then use the best available data in order to develop the approximate acreage of the land to be acquired. The acquisition agency shall provide this information to the fee appraiser that is contracted to do appraisal work.

Specific Authority 253.03 FS. Law Implemented 253.025 FS. History—New 4-30-80, Amended 12-16-80.

16Q-3.07 Appraisals.

(1) Appraisals Required

The following requirements are for non-federally funded acquisitions. In case federal funds are available and will be utilized by the acquiring agency, the federal procedures for appraisal shall be followed if qualification for said federal funds requires the use of federal procedures. In any event, the acquisition procedures pursuant to Section 253.025, F. S., will be used by the acquiring agency where said procedures are not in conflict or considered by the federal procedures. Prior to negotiations with a property owner, an appraisal of the fair market value of the property to be acquired is required. The number of appraisals required shall be determined as follows:

(a) All proposed acquisitions require at least one appraisal.

(b) When the appraised value from the first appraisal exceeds $100,000, a second appraisal shall be required.

(c) When the value from either appraisal exceeds $100,000 and the parcel appraised is of a peculiar or complex nature, or if the divergency between the two appraisals is greater than 20% of the lower value, a third appraisal shall be obtained.

(d) When the appraised value is $100,000 or less and the parcel appraised is of a peculiar or complex nature, additional appraisals may be required by the Appraiser Administrator.

(2) Appraisal Cost

Appraisal fees and all direct incidental expenses shall be paid by the acquiring agency proposing the acquisition. The Board shall not consider an appraisal which has been secured or acquired by an owner whose lands are being acquired by the State.

(3) Qualification of Fee Appraisers

The Board shall approve a list of qualified fee appraisal organizations.

(a) The list of organizations shall include the American Institute of Real Estate Appraisers, the Society of Real Estate Appraisers, the American Society of Appraisers, the American Society of Farm Managers and Rural Appraisers, the National Association of Independent Fee Appraisers, National Society of Fee Appraisers, and the American Association of Certified Appraisers, Inc.

(b) Any other fee appraisal organization may apply to the Appraiser Administrator to be included on the list of approved organizations. The Board shall approve or disapprove applicant organizations based on the criteria by which the organization awards their professional designations.

(4) Implementation of Qualified Appraisers List

The Division shall maintain a current list of all fee appraisers who are members of the professional organizations approved by the Board and who desire to conduct appraisals under contract.

(a) The Appraiser Administrator shall invite applications through broad advertisement.

(b) The Appraiser Administrator shall prepare a resume form for evaluation of applicants qualifications.

(c) The Appraiser Administrator shall write each appraiser on the list annually requesting confirmation of the appraiser's desire to be retained on the list and allowing opportunity for the appraiser to update his qualifications.

(5) Selection of Fee Appraisers

The Appraiser Administrator shall, upon notification from the acquiring agency that the need for an appraisal exists, select appraisers for specific assignments from the list of qualified fee appraisers. Selection procedures shall be as follows:

(a) When the need for an appraisal exists, the Division shall publish notice of such need in the general area of the proposed land acquisition, and in the Florida Administrative Weekly that an assignment is available and specify the substantive requirements of the appraisal and when it must be completed. A deadline for receipt of proposals shall be stated.

(b) When the Division has received at least three responses to the notice from qualified fee appraisers, it shall, following the stated response period, evaluate the various proposals submitted based upon:

1. Professional designations held in good standing, designation requirements, experience, education, demonstrated proficiency, adherence to a code of ethics and standards of practice.
2. Location of practice.
3. Areas of specialization, if any.
4. Business reputation.
5. License to practice in Florida as a real estate broker.
6. Quoted completion date.
7. Quoted fees.
8. Other pertinent factors, that in the opinion of the Appraiser Administrator, bear on the anticipated quality of the appraisal.

(c) The Division shall notify the acquiring agency of the appraiser selected, along with all pertinent information from the proposal, so that the acquiring agency may prepare and issue a contract for appraisal services.

(d) Second or third appraisals, if required, may be selected from the proposals previously submitted for the stated project. If those appraisers are unavailable, the procedures outlined in this subsection shall be repeated.

(e) Prior to contracting with the acquiring agency, each fee appraiser selected by the Division shall submit to the acquiring agency an affidavit substantiating that he has no vested or fiduciary interest in the parcel or parcels he will appraise.

(6) Instructions to Appraisers

After the contract between the acquiring agency and the fee appraiser is executed, the acquiring agency shall transmit to the fee appraiser all pertinent data regarding the assignment:

(a) Title information previously obtained by the acquiring agency, along with project maps, plats, or other identification.

(b) Specification of the title interest to be

appraised.

(c) A list of items, if any, considered to be noncompensable.

(d) Instructions that any questions of applicability of laws affecting an appraisal shall be addressed by the legal office of the acquiring agency.

(e) A certified survey which accurately portrays to the greatest extent practical the condition of the parcel as it currently exists, unless the requirement for a certified survey has been, in part or in whole, waived by the Board. If the Board has waived the requirement for a current certified survey, the acquiring agency must provide the fee appraiser with the best survey data available and the approximate acreage of the land to be appraised.

(f) A statement that the fee appraiser shall not act in any way that may be construed as negotiating with the property owner.

(g) A statement that appraisal reports shall be confidential, for use by the acquiring agency and the Board.

A statement of minimum appraisal [illegible]ment and a suggested appraisal format.

(i) Instructions that all copies of the appraisal reports are to be submitted to the Appraiser Administrator.

(7) A copy of all data provided to the fee appraiser shall be submitted to the Appraiser Administrator.

(8) Appraisal Review

(a) The Appraiser Administrator shall review appraisal reports in accordance with generally accepted professional standards of appraisal review. Omissions of any of the required information or documentation shall be cause of rejection of the appraisal.

(b) If the appraised value is in excess of $100,000, the review shall include a general field inspection of the subject land and those comparable sales given most weight by the fee appraiser. Field review of reports having an appraised value of $100,000 or less may be made at the discretion of the Appraiser Administrator. A field review shall include a check for comparable sales which may have been omitted by the fee appraiser.

(c) The Appraiser Administrator may reject an appraisal report following a desk review, but is prohibited from approving an appraisal in excess of $100,00 without a field review.

(d) Prior to acceptance of an appraisal report, the Appraiser Administrator shall request by certified mail the appropriate local Property [illegible]iser's comments on the value of the prop[illegible]cquisition. If no comments are received within fourteen (14) days, the Appraiser Administrator shall proceed to complete the review.

(e) Upon completion of all review functions, the Appraiser Administrator shall notify the acquiring agency of his acceptance or rejection of the appraisal report. Rejections shall not be made without first contacting the fee appraiser and attempting to remedy the cause for rejection. In the case of rejection of a report, the Appraiser Administrator shall state the basis for rejection in his report to the acquiring agency, with recommendation to contract with another appraiser pursuant to 16Q-3.07.

(f) The Appraiser Administrator shall transmit the necessary copies of the approved appraisal report to the acquiring agency.

Specific Authority 253.03 FS. Law Implemented 253.025 FS. History—New 4-30-80, Amended 12-16-80.

16Q-3.08 Negotiations. The following requirements are for non-federally funded acquisitions. In case federal funds are available and will be utilized by the acquiring agency, the federal procedures for negotiations shall be followed if qualification for said federal funds requires the use of federal procedures. In any event, the acquisition procedures pursuant to Section 253.025, F. S., will be used by the acquiring agency where such procedures are not in conflict or considered by the federal procedures.

The basic premise under which the acquiring agency shall conduct negotiations is to obtain complete fee simple interest in the land, free of encumbrances and conditions of any sort, at the lowest possible price.

The acquiring agency shall obtain the lowest possible price for all lands acquired and, in the course of negotiation, shall discuss the advantages of a donation and a bargain sale.

Upon receipt of the required number of approved appraisal reports, the acquiring agency may initiate negotiations with the owner. Negotiations shall be conducted in accordance with the provisions of Section 253.025(5), Florida Statutes.

(1) For all lands to be acquired pursuant to Section 253.025, Florida Statutes, and this Chapter, the acquiring agency shall:

(a) Upon the initiation of negotiations, the acquiring agency shall notify the owner by registered or certified mail, return receipt requested, that final purchase approval is subject to affirmative action by the Board.

(b) Obtain the owner's written statement concerning his broker's or agent's legal or fiduciary relationship.

(c) Obtain all offers and counter-offers in writing, and under no circumstances shall the final negotiated sale price exceed the value criteria established pursuant to Section 253.025(5)(d), Florida Statutes.

(2) Acquiring agency may execute a purchase-option agreement for acquisition of land.

The Board shall have the sole unilateral right to exercise the option contract. This instrument will be unilateral and subject to the Board approval.

(a) If the Division elects to use a purchase-option agreement, the cost shall be no more than $1,000 per agreement, unless waived by the Board.

(b) If an acquiring agency other than the Division elects to use a purchase-option agreement, the cost shall be an amount as authorized by said agency.

(3) The acquiring agency shall attest in writing that all disclosure provisions have been complied with prior to executing the purchase agreement or purchase-option agreement.

(4) The final sale price shall be put in the form of a written purchase agreement, which shall be signed by the owner and the designated representative of the acquiring agency. All signatures shall be witnessed by at least two persons. If an owner is a corporation, corporate execution shall be in compliance with Chapter 692, Florida Statutes.

Specific Authority 253.03 FS. Law Implemented 253.025 FS. History—New 4-30-80, Amended 12-16-80.

16Q-3.09 Disclosures of Interest. Prior to execution of a purchase agreement or purchase-option agreement, the acquiring agency shall receive all owner disclosures required by Sections 286.23, 375.031(1), and 380.08(2), Florida Statutes. If Sections 375.031(1) and 380.08(2), Florida Statutes, are applicable, the disclosures must be filed with the Department of State before acquisition of the land.

(1) The acquiring agency shall obtain from the owner:

(a) An affidavit stating the total amount of real estate commission including other similar costs and the persons to whom such sums have been or are to be paid.

(b) An affidavit from any real estate broker or salesman to whom a commission has been or is to be paid, disclosing all persons or firms with whom such sums have been or are to be shared.

(c) An affidavit from any attorney to whom a fee has been or is to be paid, disclosing all persons or firms with whom such fees have been or are to be shared.

(d) An affidavit stating the types and amounts of all other costs incidental to the sale and to whom these sums have been or are to be paid.

(2) The owner shall notify the acquiring agency by registered or certified mail immediately in the event that any of the facts provided in the disclosure forms change.

Specific Authority 253.03 FS. Law Implemented 253.025 FS. History—New 4-30-80, Amended 12-16-80.

16Q-3.10 Evaluation of Adverse or Limiting Conditions to Title. The acquiring agency shall negotiate all project details in the best interest of the State with the general direction that it is to obtain all of the owner's rights, title and interest in the property. Any exceptions and reservations and any encroachments or adverse conditions that are disclosed by survey shall be individually examined by the acquiring agency and evaluated in writing for possible adverse effect on project objectives prior to proceeding with acquisition. All such conditions affecting title and subsequent management with the acquiring agency's evaluation and recommendation shall be submitted to the Division in writing and shall be provided to the Board prior to the execution of the purchase agreement.

Specific Authority 253.03 FS. Law Implemented 253.025 FS. History—New 4-30-80, Amended 12-16-80.

16Q-3.11 Donations of Lands.

(1) No dedication, gift, grant, or bequest of lands and appurtenances shall be accepted by the Board without prior evidence of marketability of title being supplied or provided by the receiving agency or the agency having beneficial use of the lands being donated, and will submit a land management plan on the use of the donated lands to the Division of State Lands for review and approval.

(2) The Board of Trustees shall not accept by dedication, gift, grant, or bequest any lands and appurtenances that are determined as being owned by the State either in fee or by virtue of the State's sovereignty, or which are so encumbered so as to preclude use of such land and appurtenances for for any reasonable public purpose.

(3) The State shall not be required to appraise the value of such donated lands and appurtenances as a condition of receipt.

(4) All donations w[illegible] fee simple title is to vest in the Board of T[illegible] shall be made by

no less than a special warranty deed. However, where less than fee simple title is to be donated, the Board of Trustees may accept a quitclaim deed, provided, however, there are no outstanding encumbrances affecting the title to the donated parcel, and if the Department's legal counsel recommends acceptance of the quitclaim conveyance.

(5) The receiving agency or the agency having beneficial use of the lands being donated shall supply or provide a current certified survey of the lands being donated. Survey requirement may be waived by the Executive Director, Department of Natural Resources, if the lands being donated are in their natural, unimproved condition and no improvements are contemplated or if the lands being donated are completely surrounded by state-owned lands.

Specific Authority 253.03 FS. Law Implemented 253.025 FS. History—New 4-30-80, Amended 12-16-80.

16Q-3.12 Exchanges of Land Involving State-Owned Land. The acquiring agency may receive or initiate proposals to exchange private lands for state-owned lands.

(1) The transaction shall comply with the requirements of Chapter 253.025, Florida Statutes, Chapter 258, Florida Statutes, if applicable, and the rules adopted pursuant thereto.

(2) The transaction shall reflect a value-for-value basis rather than acreage-for-acreage exchange.

Specific Authority 253.03 FS. Law Implemented 253.025 FS. History—New 4-30-80, Amended 12-16-80.

16Q-3.13 Purchase Agreement.

(1) The acquiring agency shall prepare the purchase agreement, embodying the terms and conditions of the proposed transaction.

(2) When multiple owners are involved, the purchase agreement for each owner may include, as a condition precedent to purchase, a provision that the State reserves the right to conclude satisfactory purchase agreements with all owners or key owners.

(3) A purchase agreement approved by the Board shall be binding on all parties.

(4) A purchase agreement disapproved by the Board may be resubmitted when identified deficiencies are corrected or or circumstances change.

(5) In the event the requirement for a current certified survey is waived, in part or in whole, by the Board, the acquiring agency, unless otherwise directed in writing by the Division, shall incorporate in the purchase agreement: "the Board has waived the requirement for a current certified survey, and both parties herein mutually agree that the acreage and purchase price set forth in this agreement shall be a binding condition."

Specific Authority 253.03 FS. Law Implemented 253.025 FS. History—New 4-30-80, Amended 12-16-80.

16Q-3.14 Documents for Board Review.

(1) Within ten (10) days after the signing of the purchase agreement, the acquiring agency shall furnish the Division:

(a) The original of the purchase agreement.

(b) A copy of the owner's disclosure forms.

(c) The evidence of title marketability, as furnished by the owner.

(d) The approved appraisal report(s).

(e) The fee appraiser's affidavit(s).

(f) A written statement from the acquiring agency stating the inventory of existing state-owned lands was examined and contained no available suitable land in the area.

(g) A written statement by the acquiring agency outlining the public purpose purpose for which the acquisition is being made, and the agency's statutory authority for such acquisition.

(h) A written statement verifying the owner's legal or fiduciary relationship with his agent, if any.

(i) Written confirmation by the acquiring agency as to the source and availability of funding for the acquisition.

(j) A current certified survey or evidence of survey waiver by the Board.

(k) Acquiring agency minutes of public meetings, wherein such acquisition was authorized for purchase, if applicable.

(l) Recommendations of advisory committees serving the acquiring agency, if applicable.

(m) Any pertinent details not included in the purchase agreement.

(2) The Division shall submit the proposed acquisition project to the Board for its approval or rejection within forty-five (45) days after the Division receives the purchase agreement and the documentation required in (1) above.

(3) The Division shall supply the supporting documentation listed in (1) above to the Board for its review, except that the Division shall retain the original purchase agreement and shall distribute copies of the agreement to the Board.

Specific Authority 253.03 FS. Law Implemented 253.025 FS. History—New 4-30-80, Amended 12-16-80.

16Q-3.15 Board Action.

(1) The Board must authorize all acquisitions of land, title to which will vest in the Board, prior to purchase.

(2) The Board may approve, approve with modifications, or reject the proposed acquisition project. If the Board rejects a proposal, the Board shall state the reasons for its rejection.

(3) In determining the value of a proposed acquisition project, the Board shall not consider an appraisal report, or any part of an appraisal report, acquired by an owner.

(4) The Board may reconsider a rejected proposal at any time after identified deficiencies have been corrected or circumstances change.

(5) The Division shall notify the acquiring agency in writing of the Board's action, including a statement of deficiencies, if any, in the purchase agreement or supporting documents which the Board identifies.

Specific Authority 253.03 FS. Law Implemented 253.025 FS. History—New 4-30-80, Amended 12-16-80.

ANNOTATIONS

Scope of authority

F. S. A. § 253.002 does not preempt to Division of State Lands the acquisition of all lands, title to which vests in Board of Trustees, but rather Division has duty to perform all administrative staff functions of Board of Trustees of the Internal Improvement Trust Fund related to such acquisition; other divisions in other departments may continue to perform their statutorily authorized acquisition duties. Op. Atty. Gen., 080-10, February, 1980.

Board of Trustees of Internal Improvement Trust Fund is not authorized by F. S. A. § 253.025 to purchase land with funds appropriated to another agency for acquisition of land, although such acquisitions are subject to approval of Board. Op. Atty. Gen., 080-10, February, 1980.

16Q-3.16 Recordation and Disposition of Documents. After closing, the acquiring agency shall be responsible for the proper recordation of all legal documents and payment of required recordation fees. After receipt of the recorded instruments and updated title policy, the acquiring agency shall assemble all documents in good order, complete a final review of all documents, and arrange for:

(1) The agency attorney's written approval of the evidence of marketability.

(2) Permanent filing of a closing checklist, closing statement, and copies of all documents in the agency files.

(3) Copies of all legal documents to be provided the Office of the Attorney General, if required.

(4) Originals of all legal documents to be provided the Division, along with pertinent information relative to disposition of the acquired lands.

(5) All recorded deeds and other documents shall be forwarded to the Division within thirty (30) days after receipt of the recorded instruments from the County Clerk.

Specific Authority 253.03 FS. Law Implemented 253.025 FS. History—New 4-30-80, Amended 12-16-80.

RULES OF THE DEPARTMENT OF NATURAL RESOURCES

DIVISION OF STATE LANDS

CHAPTER 16Q-18 BISCAYNE BAY AQUATIC PRESERVE

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16Q-18.01 Intent.

(1) The Biscayne Bay Aquatic Preserve, the boundaries of which are fully described in 16Q-18.02, F. A. C., was established for the purpose of preserving and enhancing Biscayne Bay and all natural waterways tidally connected to the bay in an essentailly natural condition so that its biological and aesthetic values may endure for the enjoyment of future generations.

(2) These rules shall apply to all lands public and private within the boundaries of the preserve. However, privately owned uplands shall be excluded from these rules except as otherwise provided for herein.

(3) In promulgating and implementing these rules, it is the intent of the department to construe the provisions of Sections 258.165 and 258.35 through 258.46, F.S., together and to apply the more stringent statutory provisions for the maintenance of the preserve.

(4) The preserve shall be administered and managed in accordance with the following goals:

(a) To p[illegible]e, protect, and enhance Biscayne Bay and all natural waterways tidally connected to the bay by reasonable regulation of human activity within the *preserve through the development and* implementation of a comprehensive management program;

(b) To protect and enhance the waters of the preserve so that the public may continue to enjoy the traditional recreational uses of those waters such as swimming, boating and fishing;

(c) To coordinate with federal, state, and local agencies to aid in carrying out the intent of the legislature in creating the preserve;

(d) To use applicable federal, state, and local management programs, which are compatible with the intent and provisions of the Act and these rules, to assist in managing the preserve;

(e) To encourage activities that protect or enhance the biological and aesthetic values of the preserve, including but not limited to the modification of existing manmade conditions towards their natural condition, when reviewing applications or developing and implementing management plans for the preserve;

(f) To preserve and promote indigenous life forms and habitats including but not limited to sponges, soft corals, hard corals, seagrasses, mangroves, mud flats, marine reptiles, game and non-game fish species, marine mammals, tropical marine invertebrates, birds and shellfish;

(g) To acquire additional title interests in land wherever such acquisitions would serve to protect or enhance the biological or aesthetic values of the preserve.

Specific Authority 370.021(1), 258.165(4), 258.43 FS. Law Implemented 258.165(1), 258.36, 258.165(2), 258.165(4), 258.39(27) FS. History—New 3-20-80.

16Q-18.02 Boundaries and Scope of the Preserve.

(1) Biscayne Bay Aquatic Preserve shall be comprised of all publicly and privately owned submerged lands, the water column over such lands, and publicly owned islands within the following described boundary. The preserve boundary extends across the mouths of all artificial waterways, but includes all natural waterways tidally connected to Biscayne Bay.

(a) The preserve is described as follows: Biscayne Bay, the northern limit of which is N. E. 163 Street; the Oleta River north to its headwaters in the center of Section 33, Township 51 South, Range 42 East; Arch Creek to salinity control structure at N. E. 135 Street, 175 feet east of the Florida East Coast Railroad tracks; Little Arch Creek to salinity control structure LA—02, approximately 71 feet east of the center line of N. E. 128 Street; Little River to salinity control structure S-27 located at approximately N. E. 82 Terrace, 200 feet east of the Florida East Coast Railroad tracks; Miami River to salinity control structure S-26, located approximately 500 feet south of N. W. 36 Street; South Fork of the Miami River, also known as Comfort Canal, to salinity control structure S-25 located at N. W. 29 Avenue; Indian Creek south to and including Lake Pancoast, but excluding Collins Canal; Coral Gables Waterway to the intersection of Ingram Highway, Old Cutler Road, Sunset and S. W. 42 Avenue, also known as LeJeune; Black Creek to the most easterly salinity control structure located 0.5 miles upstream from the mouth in the eastern 1/2 of Section 21, near the boundary of Section 22, Township 56 South, Range 40 East; and other tidally flushed natural waterways in south Biscayne Bay which have no known name. Begin at the southwest intersection of the right-of-way of State Road 826 and the mean high water line of Biscayne Bay (Township 52 South, Range 42 East, Dade County), thence southerly along the westerly mean high water line of Biscayne Bay to its intersection with the right-of-way of State Road 905A, (Township 59 South, Range 40 East, Monroe County); thence easterly along such right-of-way to the easterly mean high water line of Biscayne Bay; thence northerly along the easterly mean high water line of Biscayne Bay following the westerly shores of the most easterly islands and Keys with connecting lines drawn between the closest points of adjacent islands to the southeasterly intersection of the right-of-way of State Road 826 and the mean high water line of Biscayne Bay, thence westerly to the point of beginning.

(b) This description is not intended to exclude from the preserve any natural waterways tidally connected to the preserve, whether or not artificially altered, which are not identified in the above description.

(c) Excluded from the preserve are those submerged lands of the Biscayne National Monument.

(d) For the purpose of clarification and interpretation, the legal description set forth above does not include any land which is expressly recognized as privately owned upland in a pre-existing recorded mean high water line settlement agreement between the board and a private owner or owners. Provided, however, in those instances wherein a settlement agreement was executed subsequent to the passage of the Florida Coastal Mapping Act, the determination of the mean high water line shall be in accordance with the provisions of such act.

(2) The attached map shows the general location of the preserve. It is included for informational purposes only and is not intended to be, nor is it, an accurate depiction of the legal boundaries of the preserve.

Specific Authority 370.021(1), 258.165(4), 258.43 FS. Law Implemented 258.165(2) FS. History—New 3-20-80.

16Q-18.03 Scope of This Chapter.

(1) These rules are promulgated to clarify the responsibilities of the department in carrying out its land management functions as those functions apply within the preserve. Implementation and responsibility for environmental permitting of activities in the preserve are vested in the Department of Environmental Regulation. Since these rules are considered cumulative with other rules, a person planning or conducting an activity within the preserve should also consult the other applicable department rules as well as applicable rules of the Department of Environmental Regulation.

(2) The rules are prospective in their application and shall not apply to activities for which applications have been submitted to the Trustees or the Department of Environmental Regulation prior to February 22, 1980; and shall not affect previous actions to the Trustees concerning the issuance of any easement or lease, or any disclaimer concerning sovereign lands.

Specific Authority 258.165(4), 258.43 FS. Laws Implemented 258.165(4), 258.43 FS. History—New 3-20-80, Amended 1-4-81.

16Q-18.04 Definitions.

(1) "Act" means the provisions of Section 258.165 and 258.35 through 258.46, F.S. Pursuant to the provisions of Section 258.39(27), F.S., where Sections 258.165 and 258.35 through 258.46, F.S., conflict, the stronger provision for the maintenance of the preserve shall prevail.

(2) "Activity" means any project and such other human action within the preserve which may require a license from the Department of Environmental Regulation.

(3) "Aesthetic values" means scenic characteristics or amenities of the preserve in its essentially natural state or condition, and the maintenance thereof.

(4) "Applicant" means any person making application for a permit, license, conveyance of an interest in state c[illegible]ands or any other

necessary form of governmental approval in order to perform an activity within the preserve.

(5) "Biological values" means the preservation and promotion of indigenous life forms and habitats, including but not limited to, sponges, soft corals, hard corals, seagrasses, mangroves, mud flats, marine reptiles, game and non-game fish species, marine mammals, tropical marine invertebrates, birds and shellfish.

(6) "Board" means the Governor and Cabinet sitting as the Board of Trustees of the internal Improvement Trust Fund.

(7) "Commercial/industrial dock" means a dock which is located on or over submerged lands and which is used to produce income, or serves as an inducement to renting, leasing, or using accompanying facilities including without limitation multi-family residential facilities. This term shall be construed to include any dock not a private dock.

(8) "Department" means the State of Florida Department of Natural Resources, as administrator for the board.

(9) "Dock" means a fixed or floating structure, including moorings, used for the purpose of berthing buoyant vessels either temporarily or indefinitely.

(10) "Essentially natural condition" means those conditions which support the continued existence or encourage the restoration of the diverse population of indigenous life forms and habitats to the extent they existed prior to the significant development adjacent to and within the preserve.

(11) "Extreme hardship" means a significant burden, unique to the applicant and not shared by property owners in the area. Self-imposed circumstances caused to any degree by actions of any person subsequent to the enactment of the Act shall not be construed as an extreme hardship. Extreme hardship under this act shall not be construed to include any hardship which arises in whole or in part from the effect of other federal, state or local laws, ordinances, rules, or regulations. The term may be inherent in public projects which are shown to be a public necessity.

(12) "Fill" means materials deposited by any means onto submerged lands or transitional zones or submerged lands below mean high water within the preserve.

(13) "Lease" means a conveyance of interest in lands, title to which is vested in the board, granted in accordance with specific terms set forth in writing.

(14) "Marine" means a small craft harbor complex used primarily for recreation.

(15) "Person" means individuals, minors, partnerships, corporations, joint ventures, estates, trusts, syndicates, fiduciaries, firms, and all other associations and combinations, whether public or private, including governmental entities.

(16) "Pier" means a structure on or over the submerged lands which is used by the public primarily for fishing, swimming, sunbathing, or viewing the bay. A pier shall not include a dock.

(17) "Preserve" means the Biscayne Bay Aquatic Preserve which is an exceptional area of submerged bay lands and natural waterways tidally connected to the bay, including all privately and publicly owned submerged lands, the water column over such other lands, all publicly owned islands, and such other lands as the board may purchase or approve for inclusion.

(18) "Private dock" means a dock located on or over submerged lands, which is used for private leisure purposes for a single family dwelling unit and does not produce income.

(19) "Project" means any human action within the preserve requiring the use, sale, lease or transfer of interest in sovereignty lands or severence of materials from sovereignty lands.

(20) "Public interest" means demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severence of materials from sovereignty lands, the board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer or severence of materials.

(21) "Public navigation project" means a project primarily for the purpose of navigation which is authorized and funded by the United States Congress or by port authorities as defined by Section 315.02(2), F.S.

(22) "Public necessity" means works or improvements required for the protection of the health and safety of the public, consistent with the Act and these rules, for which no other reasonable alternative exists.

(23) "Quality of the preserve" means the degree of the biological and aesthetic values of the preserve necessary for present and future enjoyment of it in an essentially natural condition.

(24) "Resource management agreement" means a contractual agreement between the board and one or more parties which does not create an interest in real property but merely authorizes conduct of certain management activities on lands held by the board.

(25) "Riparian rights" means those rights incident to lands bordering upon navigable waters, as recognized by the courts of this state and common law.

(26) "Sale" means a conveyance of interests in lands, by the board, for consideration.

(27) "Spoil" means materials dredged from submerged lands which are redeposited or discarded, by any means, onto either submerged lands or uplands not for the purpose of creating new uplands.

(28) "Transfer" means the act of the board by which any interest in lands, including easements, other than sale or lease, is conveyed.

(29) "Upland canal" means an artificial waterway, irrespective of its purpose which is constructed above the mean high water line, and which is connected, or intended to be connected, to the waters of the preserve.

(30) "Utility of the preserve" means fitness of the preserve for the present and future enjoyment of its biological and aesthetic values in an essentially natural condition.

Specific Authority 370.021(1), 258.165(4), 258.43 FS. Law Implemented 258.165(4), 258.43 FS. History—New 3-20-80.

16Q-18.05 General Management Criteria. Before the board approves the sale, lease of transfer of interest in state lands or severance of materials therefrom, or the Executive Director comments favorably concerning activities on private lands within the preserve, an applicant must affirmatively demonstrate, where applicable, that:

(1) Proposed dredging is the minimum necessary to accomplish the stated purpose and that the activity is designed to minimize the need for maintenance dredging;

(2) No new lands will be created by filling or spoiling unless no other alternative exists to accomplish the stated purposes, and project is designed to require the minimum filling to accomplish the stated purpose of the activity consistent with the protection of the preserve;

(3) Marina facilities over water are restricted to those water dependent activities necessary to service boats and allow for fishing or fish cleaning activities and are designed to allow the unimpeded flow of water and minimize bottom shading;

(4) Docks and piers are designed to allow the unimpeded flow of water and minimize bottom shading;

(5) Utility cables are placed within the bottom or laid on the bottom [illegible]ated along a route in a manner which will cause minimum disturbance to the marine habitats;

(6) Dredged spoil materials are disposed of outside of the preserve unless the applicant affirmatively demonstrates that the spoil will not be harmful to or will benefit the quality or utility of the preserve.

Specific Authority 370.021(1), 258.165(4), 258.43 FS. Law Implemented 258.165(3), (4), 258.42 FS. History—New 3-20-80.

16Q-18.06 Uses, Sales, Leases or Transfers of Interests in Lands or Materials Held by the Board.

(1) A use, sale, lease or transfer of sovereign lands or materials shall be subject to such terms, conditions or deed restrictions as the board deems necessary to protect the quality or utility of the preserve and further the intent of the Act and these rules. A condition of a sale, lease or transfer of sovereign land materials shall be the applicant's reimbursement for the department's cost of advertising and notification of adjacent property owners.

(2) The document which manifests a use, sale, lease or transfer of lands or materials shall state, with particularity, the projects to be conducted. Additional projects not expressly included in the document are prohibited and may be conducted only after further approval by the board.

(3) Uses, Sales, Leases, or Transfers of Interests in Lands.

(a) All projects to be conducted on lands held by the board shall require prior approval of the board in the form of a sale, lease, or transfer agreement, or a resource management agreement for the proposed use of such land.

(b) There shall be no further use, sale, lease, or transfer of interests in sovereignty submerged lands unless an applicant affirmatively demonstrates sufficient facts to support a finding by the board that:

(i) An extreme hardship exists for the applicant at the time the application is filed; and

(ii) The use, sale, lease, or transfer of interest and the project planned in conjunction with the use, sale, lease or transfer of interest is in the public interest; and

(iii) The project planned in conjunction with the use, sale, lease, or transfer of interest is consistent with these rules and management plans when developed for the preserve;

(iv) If there are to be structures constructed, or dredging and filling undertaken on the sovereignty submerged land, the project for which a use, sale, lease or transfer of interest of sovereignty submerged lands is sought shall be

one of the following:

1. a public navigation project;

2. creation or maintenance of a commercial/industrial dock;

3. creation or maintenance of a marina;

4. creation or maintenance of a pier;

5. creation or maintenance of a shore protection structure;

6. installation or maintenance of approved navigational aides;

7. creation or replacement of structures required for the installation or expansion of public utilities; and

8. other projects which are a public necessity or which are necessary to enhance the [illegible]lity or utility of the preserve and which are [illegible]nt with the Act and this chapter.

[illegible] case of the projects enumerated [illegible]3)(b)(iv)1., 2., 3., 4., 5., and 6., [illegible], the project is designed so that the [illegible]are or structures to be built in, on, or over [illegible]erged lands are limited to structures [illegible]sary to conduct water dependent [illegible]vities; and no other reasonable alternative exists which would allow the proposed project to be constructed or undertaken outside the preserve.

(c) A commercial/industrial dock on sovereignty lands shall require a lease. Private docks to be constructed and operated on sovereignty lands shall not require a lease of those lands.

(d) The failure of the board to affirmatively find that a project complies with the provisions of 16Q-18.06(3)(b), F. A. C., shall preclude a finding of consistency with these rules and management plans when developed for the preserve.

(4) Sales or Transfers of Materials to be served.

(a) There shall be no severence of bottom sediment or rock unless an applicant affirmatively demonstrates sufficient facts to support a finding by the board that:

(i) Sales or transfer of materials to be severed and the project planned in conjunction with that sale or transfer is in the public interest; and

(ii) The sale or transfer of materials to be severed and the project planned in conjunction with the sale of transfer of those severed materials is consistent with these rules and the management plans when developed for the preserve.

(b) There shall be no excavation of shell or minerals.

(c) There shall be no sale or transfer of materials to be [illegible]d for the sole or primary purpose of prov[illegible]ll or creating new lands.

(d) There shall be no drilling of wells within the preserve.

(e) Spoil disposal within the preserve is discouraged by the board. Spoil disposal will be approved within the preserve only where:

(i) the placement of spoil is on a self-contained upland site; or

(ii) the placement of spoil will enhance the quality or utility of the preserve.

(5) The failure of the board to affirmatively find that a project complies with the provisions of Section 16Q-18.06(3)(b), F. A. C., shall preclude approval of the project by the board.

Specific Authority 370.021(1), 258.165(4), 258.43 FS. Law Implemented 258.165(3), 258.42 FS. History—New 3-20-80.

16Q-18.07 Activities Involving Lands and Materials Not Held by the Board.

(1) The applicant for activities on lands not owned by the board must be the owner of record, or his authorized agent. The applicant shall submit to the department evidence of ownership or other forms of legal entitlement as part of the application for activities on lands not owned by the board.

(2) Applications for activities on lands not owned by the board shall be reviewed by the department for consistency with these rules and management plans when developed for the preserve. The findings shall be forwarded in writing to the Department of Environmental Regulation by the Executive Director.

(3) Nothing in these rules shall be construed to impose any of the requirements set forth in (1) and (2) above upon development undertaken on upland portions of islands not owned by the board in the preserve that does not require a license pursuant to the water quality, dredge and fill and solid waste provisions of Chapter 253 or 403, F.S.

Specific Authority 370.021(1), 258.165(4), 258.43 FS. Law Implemented 258.165(2), (3), (4), (5) FS. History—New 3-20-80.

16Q-18.08 Cumulative Impacts. In evaluating applications for activities within the preserve, the department recognizes that, while a particular alteration of the preserve may constitute a minor change, the cumulative effect of numerous such changes often results in major impairments to the resources of the preserve. Therefore, the department shall evaluate a particular site for which the activity is proposed with the recognition that the activity is part of a complete and interrelated system. The impact of a proposed activity shall be considered in light of its cumulative impact on the preserve's natural systems. The department shall include as a part of its

evaluation of an activity:

(1) The number and extent of similar human actions within the preserve which have previously affected or are likely to affect the preserve, whether considered by the department under its current authority or which existed prior to or since the enactment of the Act; and

(2) The similar activities within the preserve which are currently under consideration by the department; and

(3) Direct and indirect effects upon the preserve which may be reasonably expected to result from the activity; and

(4) The extent to which the activity is consistent with management plans for the preserve when developed; and

(5) The extent to which the activity is permissible within the preserve in accordance with comprehensive plans adopted by affected local governments.

Specific Authority 370.021(1), 258.165(4), 258.43 FS. Law Implemented 258.165(1), (4), 258.36 FS. History—New 3-20-80.

16Q-18.09 Exchange of Lands. The board in its discretion may exchange lands for the benefit of the preserve, provided that:

(1) In no case shall an exchange result in any land or water area being withdrawn from the preserve; and

(2) Exchange shall be in the public interest and shall maintain or enhance the quality or utility of the preserve.

Specific Authority 370.021(1), 258.165(4), 258.43 FS. Law Implemented 258.165(3)(c)(2), 258.41(6) FS. History—New 3-20-80.

16Q-18.10 Gifts of Lands. The board in its discretion may accept any gifts of lands or interests in lands within or contiguous to the preserve to maintain or enhance the quality and utility of the preserve.

Specific Authority 370.021(1), 258.165(4), 258.43 FS. Law Implemented 258.165(3)(c)(3) FS. History—New 3-20-80.

16Q-18.11 Agreements. The board may enter into written agreements with owners of lands lying within or contiguous to the boundaries of the preserve for any private or public use of such lands and for their management as part of the preserve.

Specific Authority 370.021(1), 258.165(4), 258.43 FS. Law Implemented 258.165(3)(e)(4) FS. History—New 3-20-80.

16Q-18.12 Fishing.

(1) Fishing involving the use of seines or nets is prohibited in the preserve, except when the fishing is for shrimp or mullet.

(2) Taking of fin fish by fish traps, setting of fish traps, or causing such fish traps to be used within the preserve is prohibited, except that fish traps no larger than two (2) cubic feet with a maximum opening size of one (1) inch by four (4) inches may be used for obtaining bait, provided that such traps must be equipped with a biodegradable door or panel.

(3) Fishing activities from boats using seines or nets shall not be conducted within 1,000 feet of a bridge or fishing pier.

(4) Taking of indigenous life forms for sale or commercial use is prohibited, except that this prohibition shall not extend to the taking of fin fish or crustacea which may be taken commercially under applicable laws, rules or regulations.

(5) Members of the public may exercise their rights to fish, subject to statutory and regulatory provisions controlling such activities.

Specific Authority 380.021(1), 258.165(4), 258.43 FS. Law Implemented 258.165(4)(c), 258.43(1) FS. History—New 3-20-80.

16Q-18.13 Additional Provisions.

(1) Neither the establishment nor the management of the preserve shall operate to unreasonably infringe upon the riparian rights of upland property owners adjacent to or within the preserve.

(2) The board encourages the creation of further management criteria or plans to enhance or protect the preserve. A management plan, which includes an inventory of resources and a management scheme to further aid in the maintenance and enhancement of the biological and aesthetic qualities of the preserve, shall be developed for the preserve. This management plan shall be prepared by the department or by other public or private entities in cooperation with the department. Such criteria and plans, when developed, may be submitted to the board for consideration and inclusion in the board's management plan for the preserve.

(3) Nothing in these rules shall serve to eliminate or alter the requirements or authority of other governmental agencies, including counties and municipalities, to protect or enhance the preserve provided that such requirements or authority are not inconsistent with the Act and these rules.

Specific Authority 370.021(1), 258.165(4), 258.43 FS. Law Implemented 258.165(4) 258.43, 258.44 FS. History—New 3-20-80.

16Q-18.14 Procedures.

(1) Applications for activities within the preserve shall be made to the Department of Environmental Re[illegible]n upon the

application form specified in Chapter 17 and Section 16Q-18.16, F. A. C. These forms shall be available at the department and the Department of Environmental Regulation.

(2) The department shall review all information provided by the applicant to determine if the application supplies the information necessary to evaluate the applicant for matters within the purview of the department. Within 30 days of receipt of the application, the department shall notify the applicant in writing of any additional information it requires.

(3) No application shall be considered complete until the department receives the following:

(a) All information requested by the ...nt in accordance with 16Q-18.14(2), ...

... The hydrographic and/or biological ... if required or performed by the ...rtment of Environmental Regulation ...ding the Department of Environmental ...lation evaluation thereof, if any.

...) To be considered complete, applications for uses, sales, leases, or transfers of land held by the board shall include evidence of all necessary local government approvals. This provision shall not be construed to include local approvals which, by local ordinance or resolution, cannot be granted until state permits are issued or which are contingent upon approval of the board of the use, sale, lease, or transfer of interest in lands held by the board.

(5) Within 30 days of receipt of a completed application for sale, lease, or transfer of lands held by the board, or a request to dredge, fill, or spoil in the preserve, or perform an activity specified in Section 258.165(5), F.S., the department shall publish notice of the pending application and the public hearing thereon as specified below.

(6) All notices will be sent to the applicant and published in a newspaper of general circulation in the county in which the activity is located and in the Florida Administrative Weekly. Those individuals who requested, in writing, notices concerning the particular activity or all activity within the preserve shall also be notified.

(7) Notices shall include the name of the applicant, general location of the activity, type of activity, action requested of the board and the date, time and place of the proposed public hearing.

(8) Notices of requests for sale, lease or transfer of lands shall be published in accordance with Section 253.115, F.S. All other notices shall be published by a single newspaper publication at least 14 days prior to the hearing.

(9) Hearings on applications for dredge, fill, or spoil projects in the preserve or activities specified in Section 258.165(5), F.S., shall be held as specified in the notice. Hearings on applications for sale, lease or transfers of land shall only be held if the department is notified, in writing, that a hearing is requested. The request must be received by the department at least 7 days prior to the date for the hearing specified in the notice.

(10) All public hearings shall be held jointly with the Department of Environmental Regulation to the greatest extent possible.

Specific Authority 370.021(1), 258.165(4), 258.43 FS. Law Implemented 258.165(3), (4), 258.43, 253.03, 253.115 FS. History—New 3-20-80.

16Q-18.15 Public Hearings.

(1) The provisions of this section shall apply to public hearings conducted pursuant to Section 253.115 and Section 258.165(3)(b), F.S. for activities within the preserve.

(2) The public hearings shall be conducted in accordance with the following:

(a) The hearing shall be conducted in the county in which the activity would occur by a hearing officer who is a department staff member or a hearing officer assigned by the Division of Administrative Hearings. The hearing officer may not participate in any other department consideration of the application apart from duties as a hearing officer.

(b) The public hearing shall be mechanically recorded and be transcribed by any person at his cost.

(c) The order of presentation of testimony shall be as follows:

(i) The applicant shall proceed first, presenting as a minimum the description of the project and surrounding land uses, its benefits or detriments to the preserve, the extreme hardship resulting from a failure to grant the relief sought and the public interest, if applicable.

(ii) The department staff shall proceed second and may present whatever information it wishes to present on matters concerning the application.

(iii) Representatives of other federal, state, or local agencies shall proceed third and may present whatever information they wish to present on matters concerning the application.

(iv) Any other interested persons or members of the public may make their presentation at the conclusion of the agencies' presentation.

(v) The hearing officer may permit any person to present testimony at times other than those specified above for the convenience of the applicant, agencies, or members of the public if the presentation would not disrupt the orderly flow of information.

(d) Written documents may be submitted to the hearing officer as long as the hearing record is held open.

(e) The hearing officer may allow limited questions of witnesses presenting factual or expert testimony, if, in the opinion of the hearing officer, the questions would add substantively to the information upon which the decision will be based. Questions may be allowed at the conclusion of the witnesses' testimony or at some later time during the hearing.

(f) Objections to testimony shall not be available to any person participating in the hearing; however, the hearing officer shall limit testimony to those matters which are relevant to the proceeding.

(3) The hearing officer shall prepare and submit a report to the department within 14 days from the completion of the hearing or preparation of the hearing transcript, if any, which ever later occurs.

(4) The Executive Director shall submit a recommendation concerning a project to the board for its consideration or comments to the Department of Environmental Regulation in accordance with Section 16Q-18.07, F. A. C.

(5) A copy of the agenda item shall be sent to each individual requesting a copy in writing. The agenda item with the department recommendation, and the consistency review shall contain a statement which allows substantially affected persons to request a hearing, pursuant to Section 120.57, F.S., within 14 days from receipt. The agenda item shall also contain any response to the request for comments on the activity from the Game and Fresh Water Fish Commission as well as from the county municipal ...nments in which the activity would occur. Failure to request a hearing during the time period shall bar such relief.

Specific Authority 370.021(1), 258.165(4), 258.43 FS. Law Implemented 258.165(3), (4), 258.43, 253.03, 253.115 FS. History—New 3-20-80.

16Q-18.16 Enforcement. These rules shall be enforced as provided in Sections 258.165(7), 258.46, 370.021, and 775.082 or 775.083, F.S.

Specific Authority 370.021(1), 258.165(4), 258.43 FS. Law Implemented 258.165(7), 258.46, 370.021(1) FS. History—New 3-20-80.

16Q-18.17 Application Form.

(1) The application form is comprised of the joint Department of Army/Florida Department of Environmental Regulation forms for activities in waters of the State of Florida [SAJ Form 983, eff. 7/77, available from Department of Environmental Regulation] and the department's application for activities within the Biscayne Bay Aquatic Preserve [eff. 3/80, available from Division of State Lands]. It is the intent of these rules to adopt a single form which shall be filed with the Department of Environmental Regulation to include all activities within the preserve. It is the further intent of the department to adopt any new Department of Environmental Regulation forms for activities within the preserve, as rules, when formally adopted by the Department of Environmental Regulation.

(2) Department of Natural Resources/Board of Trustees of the Internal Improvement Trust Fund

Application for Activities in Biscayne Bay Aquatic Preserve [eff. 3/80, available from Division of State Lands]

Specific Authority 258.165(4), 258.43, 370.021 FS. Law Implemented 258.165, 258.35, 258.46 FS. History—New 3-20-80.

RULES OF THE DEPARTMENT OF NATURAL RESOURCES

DIVISION OF STATE LANDS

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RULES OF THE DEPARTMENT OF NATURAL RESOURCES

DIVISION OF STATE LANDS

CHAPTER 16Q-20
FLORIDA AQUATIC PRESERVES

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16Q-20.01 Intent.

(1) All sovereignty lands within a preserve shall be managed primarily for the maintenance of essentially natural conditions, the propagation of fish and wildlife, and public recreation, including hunting and fishing where deemed appropriate by the board, and the managing agency.

(2) The aquatic preserves which are described in Sections 258.39, 258.391, and 258.392, F. S., and in 16Q-20.02, F. A. C., were established for the purpose of being preserved in an essentially natural or existing condition so that their aesthetic, biological and scientific values may endure for the enjoyment of future generations.

(3) The preserves shall be administered and managed in accordance with the following goals:

(a) To preserve, protect, and enhance these exceptional areas of sovereignty submerged lands by reasonable regulation of human activity within the preserves through the development and implementaion of a comprehensive management program;

(b) To protect and enhance the waters of the preserves so that the public may continue to enjoy the traditional recreational uses of those waters such as swimming, boating, and fishing;

(c) To coordinate with federal, state, and local agencies to aid in carrying out the intent of the Legislature in creating the preserves;

(d) To use applicable federal, state, and local management programs, which are compatible with the intent and provisions of the act and these rules, and to assist in managing the preserves;

(e) To encourage the protection, enhancement or restoration of the biological, aesthetic, or scientific values of the preserves, including but not limited to the modification of existing manmade conditions toward their natural condition, and discourage activities which would degrade the aesthetic, biological, or scientific values, or the quality, or utility of a preserve, when reviewing applications, or when developing and implementing management plans for the preserves;

(f) To preserve, promote, and utilize indigenous life forms and habitats, including but not limited to: sponges, soft coral, hard corals, submerged grasses, mangroves, salt water marshes, fresh water marshes, mud flats, estuarine, aquatic, and marine reptiles, game and non-game fish species, estuarine, aquatic and marine invertebrates, estuarine, aquatic and marine mammals, birds, shellfish and mollusks;

(g) To acquire additional title interests in lands wherever such acquisitions would serve to protect or enhance the biological, aesthetic, or scientific values of the preserves;

(h) To maintain those beneficial hydrologic and biologic functions, the benefits of which accrue to the public at large.

(4) Nothing in these rules shall serve to eliminate or alter the requirements or authority of other governmental agencies, including counties and municipalities, to protect or enhance the preserves provided that such requirements or authority are not inconsistent with the act and this chapter.

Specific Authority 120.53, 258.43(1) Law Implemented 258.35, 258.36, 258.37, 258.38, Ch. 80-280, Laws of Florida. History—New 2-23-81.

16Q-20.02 Boundaries and Scope of the Preserves.

(1) These rules shall only apply to those sovereignty lands wi[illegible] preserve, title to which is vested in the [illegible] and those lands for

which the board an appropriate instrument in writing, executed by the owner, authorizing the inclusion of specific lands in an aquatic preserve pursuant to Sections 258.40(1), and 258.41(5), F.S., and pursuant to 16Q-20.08, F. A. C. Any publicly owned and maintained navigation channel authorized by the United States Congress, or other public works project authorized by the United States Congress designed to improve or maintain commerce and navigation shall be deemed excluded from the provisions of this chapter, pursuant to Subsection 258.40(2), F.S. Furthermore, all lands lost by avulsion or by artificially induced erosion shall be deemed excluded from the provisions of this chapter pursuant to Subsection 258.40(3), F.S.

(2) These rules do not apply to Boca Ciega Bay, Lake Jackson (Leon County), Pinellas County, or Biscayne Bay Aquatic Preserves. use each of these preserves are established separate acts, each will be subject to a rule.

These rules are promulgated to clarify responsibilities of the board in carrying out land management functions as those actions apply within the preserves. Implementation and responsibility for environmentally permitting of activities and water quality protection within the preserves are vested in the Department of Environmental Regulation. Since these rules are considered cumulative with other rules, a person planning an activity within the preserve should also consult the other applicable department rules (16C-12, F. A. C., for example) as well as the rules of the Department of Environmental Regulation. (Chapter 17-3 and 17-4, F. A. C.)

(4) These rules are prospective in their application and shall not apply to activities for which applications have been submitted to the Board or the Department of Environmental Regulation prior to the adoption date of these rules; and shall not affect previous actions of the board concerning the issuance of any easement or lease; or any disclaimer concerning sovereignty lands.

(5) The intent and specific provisions expressed in 16Q-20.01(e) and (f) apply generally to all existing or future aquatic preserves within the scope of this chapter. Upon completion of a resource inventory and approval of a management plan for a preserve, pursuant to 16Q-20.14, the type designation and the resource sought to be preserved may be readdressed by the board.

(6) For the purpose of clarification and interpretation, the legal description set forth as follows do not include any land which is expressly recognized as privately owned upland in a pre-existing recorded mean high water line settlement agreement between the board and a private owner or owners. Provided, however, in those instances wherein a settlement agreement was executed subsequent to the passage of the Florida Coastal Mapping Act, the determination of the mean high water line shall be in accordance with the provisions of such act.

(7) The attached map (Figure 1) shows the general location of the preserves. It is included for informational purposes only and is not intended to be, nor is it, an accurate depiction of the legal boundaries of the preserves. Persons interested in obtaining details of particular preserves should contact the Bureau of State Lands Management, Department of Natural Resources, 3900 Commonwealth Blvd., Tallahassee, FL 32303 (telephone 904-488-2297).

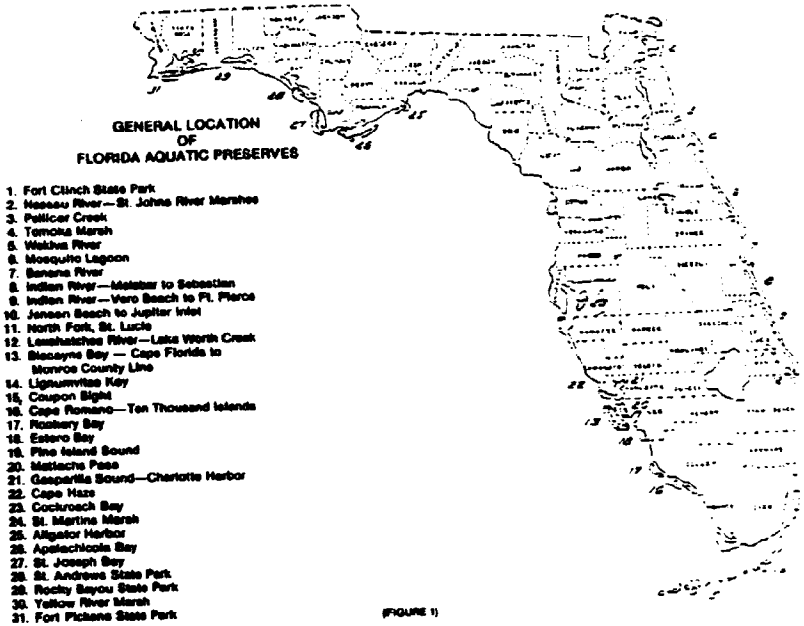
(a) The preserves are described as follows:

1. Fort Clinch State Park Aquatic Preserve, as described in the Official Records of Nassau County in Book 108, pages 343-346, and in Book 111, page 409.

2. Nassau River — St. Johns River Marshes Aquatic Preserve, as described in the Official Records of Duval County in Volume 3183, pages 547-552, and in the Official Records of Nassau County in Book 108, pages 232-237.

3. Pellicer Creek Aquatic Preserve, as described in the Official Records of St. Johns County in Book 181, pages 363-366, and in the Official Records of Flagler County in Book 33, pages 131-134.

4. Tomoka Marsh Aquatic Preserve, as described in the Official Records of Flagler County in Book 33, pages 135-138, and in the Official Records of Volusia County in Book 1244, pages 615-618.



(FIGURE 1)

5. Wekiva River Aquatic Preserve, as described in Section 258.39(30), F.S.

6. Mosquito Lagoon Aquatic Preserve, as described in the Official Records of Volusia County in Book 1244, pages 619-623, and in the Official Records of Brevard County in Book 1143, pages 190-194.

7. Banana River Aquatic Preserve, as described in the Official Records of Brevard County in Book 1143, pages 195-198, less those lands dedicated to the U. S. A. prior to the enactment of the act, until such time as the U. S. A. no longer wishes to maintain such lands for the purpose for which they were dedicated, at which time such lands would revert to the board, and be managed as part of the preserve.

8. Indian River — Malabar to Sebastain Aquatic Preserve, as described in the Official Records of Brevard County in Book 1143, pages 199-202, and in the Official Records of Indian River County in Book 368, pages 5-8.

9. Indian River — Vero Beach to Fort Pierce Aquatic Preserve, as described in the Official Records of Indian River County in Book 368, pages 9-12, and in the Official Records of St. Lucie County in Book 187, pages 1083-1086.

10. Jensen Beach to Jupiter Inlet Aquatic Preserve, as described in the Official Records of St. Lucie County in Book 218, pages 2865-2869.

11. North Fork, St. Lucie Aquatic

Preserve, as described in the Official Records of Martin County in Book 337, pages 2159-2162, and in the Official Records of St. Lucie County in Book 201, pages 1676-1679.

12. Loxahatchee River — Lake Worth Creek Aquatic Preserve, as described in the Official Records of Martin County in Book 320, pages 193-196, and in the Official Records of Palm Beach County in Volume 1860, pages 806-809.

13. Biscayne Bay — Cape Florida to Monroe County Line Aquatic Preserve, as described in the Official Records of Dade County in Book 7055, pages 852-856, less, however, those lands and waters as described in Section 258.165, F. S., (Biscayne Bay Aquatic Preserve Act of 1974), and those lands and waters within the Biscayne National Park.

14. Lignumvitae Key Aquatic Preserve, as described in the Official Records of Monroe [illegible]v in Book 502, pages 139-142.

[illegible]oupon Bight Aquatic Preserve, as [illegible] in the Official Records of Monroe [illegible] Book 502, pages 143-146.

[illegible]e Romano — Ten Thousand [illegible] Aquatic Preserve, as described in the [illegible]cial Records of Collier County in Book [illegible] pages 298-301.

17. Rookery Bay Aquatic Preserve, as described in Section 258.39(31), FS.

18. Estero Bay Aquatic Preserve as described in Section 258.39(31), F.S.

19. Pine Island Sound Aquatic Preserve, as described in the Official Records of Lee County in Book 648, pages 732-736.

20. Matlacha Pass Aquatic Preserve, as described in the Official Records of Lee County in Book 800, pages 725-728.

21. Gasparilla Sound — Charlotte Harbor Aquatic Preserve, as described in Section 258.392, F.S.

22. Cape Haze Aquatic Preserve, as described in Section 258.39(29), F.S.

23. Cockroach Bay Aquatic Preserve, as described in Section 258.391, F.S.

24. St. Martins Marsh Aquatic Preserve, as described in the Official Records of Citrus County in Book 276, pages 238-241.

25. Alligator Harbor Aquatic Preserve, as described in the Official Records of Franklin County in Volume 98, pages 82-85.

26. Apalachicola Bay Aquatic Preserve, as described in the Official Records of Gulf County in Book 46, pages 77-81, and in the Official Records of Franklin County in Volume 98, pages 102-106.

27. St. Joseph Bay Aquatic Preserve, as described in the Official Records of Gulf County in Bo[illegible] pages 73-76.

28. St. Andrews State Park Aquatic Preserve, as described in the Official Records of Bay County in Book 379, pages 547-550.

29. Rocky Bayou State Park Aquatic Preserve, as described in the Official Records of Okaloosa County in Book 593, pages 742-745.

30. Yellow River Marsh Aquatic Preserve, as described in the Official Records of Santa Rosa County in Book 206, pages 568-571.

31. Fort Pickens State Park Aquatic Preserve, as described in the Official Records of Santa Rosa County in Book 220, pages 60-63, in the Official Records of Escambia County in Book 518, pages 659-662, less the lands dedicated to the U. S. A. for the establishment of the Gulf Islands National Seashore prior to the enactment of the act, until such time as the U. S. A. no longer wishes to maintain such lands for the purpose for which they were dedicated, at which time such lands would revert to the board and be managed as part of the preserve.

Specific Authority 120.53, 258.43(1) FS. Law Implemented 258.39, 258.40, 258.41, 258.42, 258.43, 258.44, 258.45 FS. History—New 2-23-81.

16Q-20.03 Definitions. When used in these rules, the following words shall have the indicated meaning unless the context clearly indicates otherwise:

(1) "Act" means the provisions of Section 258.35 through 258.46, F.S., the Florida Aquatic Preserve Act.

(2) "Activity" means any project and such other human action within the preserve requiring board approval for the use, sale, lease or transfer of interest in sovereignty lands or materials, or which may require a license from the Department of Environmental Regulation.

(3) "Aesthetic values" means scenic characteristics or amenities of the preserve in its essentially natural state or condition, and the maintenance thereof.

(4) "Applicant" means any person making application for a permit, license, conveyance of an interest in state owned lands or any other necessary form of governmental approval in order to perform an activity within the preserve.

(5) "Beneficial biological functions" means interactions between flora, fauna and physical or chemical attributes of the environment, which provide benefits that accrue to the public at large, including, but not limited to: nutrient, pesticide and heavy metal uptake; sediment retention; nutrient conversion to biomass; nutrient recycling and oxygenation.

(6) "Beneficial hydrological functions" means interactions between flora, fauna and physical geological or geographical attributes of the environment, which provide benefits that accrue to the public at large, including, but not limited to: retardation of storm water flow; storm water retention; and water storage, and periodical release;

(7) "Biological values" means the preservation and promotion of indigenous life forms and habitats including, but not limited to: sponges, soft corals, hard corals, submerged grasses, mangroves, saltwater marshes, fresh water marshes, mud flats, marine, estuarine, and aquatic reptiles, games and non-games fish species, marine, estuarine, and aquatic mammals, marine, estuarine, and aquatic invertebrates, birds and shellfish.

(8) "Board" means the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

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

(10) "Commercial/industrial dock" means a dock which is located in, on, or over sovereignty lands and which provides fueling or sewage pump-out facilities, or which is used to produce income, or which serves as an inducement to renting; purchasing, or using accompanying facilities. This term shall be construed to include any dock not a private dock.

(11) "Department" means the State of Florida Department of Natural Resources, as administrator for the board.

(12) "Division" means the Division of State Lands, which performs all staff duties and functions related to the administration of lands title to which is, or will be, vested in the board, pursuant to section 253.002, F.S.

(13) "Dock" means a fixed or floating structure, including moorings, used for the purpose of berthing buoyant vessels either temporarily or indefinitely.

(14) "Essentially natural condition" means those functions which support the continued existence or encourage the restoration of the diverse population of indigenous life forms and habitats to the extent they existed prior to the significant development adjacent to and within the preserve.

(15) "Fill" means materials caused to be deposited by a person, by any means onto sovereignty lands, below mean high water line within the preserve.

(16) "Lease" means a conveyance of interest in lands, title to which is vested in the board, granted in accordance with specific terms set forth in writing.

(17) "Marina" means a small craft harbor complex used primarily for recreation.

(18) "Oil and gas transportation facilities" means those structures necessary for the movement of oil and gas from the production site to the consumer.

(19) "Person" means individuals, minors, partnerships, corporations, joint ventures, estates, trusts, syndicates, fiduciaries, firms, and all other associations and combinations, whether public or private, including governmental entities.

(20) "Pier" means a structure in, on, or over sovereignty lands, which is used by the public primarily for fishing, swimming, or viewing the preserve. A pier shall not include a dock.

(21) "Preserve" means any and all of those areas which are exceptional areas of sovereignty lands and the associated water body so designated in Section 258.39, 258.391, and 258.392, F.S., including all sovereignty lands, title to which is vested in the board, and such other lands as the board may acquire or approve for inclusion, and the water column over such lands, which have been set aside to be maintained in an essentially natural or existing condition of indigenous flora and fauna and their supporting habitat and the natural scenic qualities and amenities thereof.

(22) "Private dock" means a dock located in, on, or over sovereignty lands, which is used for private leisure purposes for a dwelling and which does not provide fueling or sewage pump-out facilities, and does not produce income, and does not serve as an inducement to renting, purchasing or using accompanying facilities.

(23) "Public interest" means demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severence of materials from sovereignty lands, the board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials.

(24) "Public navigation project" means a project primarily for the purpose of navigation which is authorized and funded by the United States Congress or by port authorities as defined by Section 315.02(2), F.S.

(25) "Public necessity" means the works or improvements require[illegible] the protection of

the health and safety [illegible] public, consistent with the Act and these rules, for which no other reasonable alternative exists.

(26) "Public utilities" means those services, provided by persons regulated by the Public Service Commission, or which are provided by rural cooperatives, municipalities, or other governmental agencies, including electricity, telephone, public water and wastewater services, and structures necessary for the provision of these services.

(27) "Quality of the preserve" means the degree of the biological, aesthetic and scientific values of the preserve necessary for present and future enjoyment of it in an essentially natural condition.

(28) "Resource management agreement" means a contractual agreement between the board and one or more parties which does not [illegible] e an interest in real property but merely [illegible]izes conduct of certain management [illegible] on lands held by the board.

[illegible] "Riparian rights" means those rights [illegible] lands bordering upon navigable [illegible] as recognized by the courts of this state [illegible] common law.

(30) "Sale" means a conveyance of interest in lands, by the board, for consideration.

(31) "Scientific values" means the preservation and promotion of certain qualities or features which have scientific significance.

(32) "Shore protection structure" means a type of coastal construction designed to minimize the rate of erosion. Coastal construction includes any work or activity which is likely to have a material physical effect on existing coastal conditions or natural shore processes.

(33) "Sovereignty lands" means those lands including, but not limited to: tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean highwater line, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and of which it has not since divested its title interest. For the purposes of this rule sovereignty lands shall include all submerged lands within the boundaries of the preserve, title to which is held by the board.

(34) "Spoil" means materials dredged from sovereignty lands which are redeposited or discarded by any means, onto either sovereignty lands or uplands.

(35) "Transfer" means the act of the board by which any interest in lands, including easements, other than sale or lease, is conveyed.

(36) "Utility of the preserve" means fitness of the preserve for the present and future enjoyment of its biological, aesthetic and scientific values, in an essentially natural condition.

Specific Authority 258.43(1) FS. Law Implemented 258.37, 258.43(1) FS. History—New 2-25-81.

16Q-20.04 General Management Criteria.

(1) Before the board approves the use, sale, lease, or transfer of interest in sovereignty lands or severance of materials therefrom, an applicant must affirmatively demonstrate, where applicable, that:

(a) The proposed dredging is the minimum necessary to accomplish the stated purpose and that the activity is designed to minimize the need for maintenance dredging;

(b) No new lands will be created by filling or spoiling within the preserve unless no reasonable alternative exists to accomplish the stated purpose, and the project is designed to require the minimum filling to accomplish the stated purpose of the activity consistent with the protection of the preserve;

(c) Marina facilities over water are restricted to those structures which are necessary to support water dependent activities and which are designed to allow the unimpeded flow of water, and minimize bottom shading;

(d) Docks, piers, and other structures are designed to allow the unimpeded flow of water and minimize bottom shading;

(e) Utility cables or pipes are constructed and placed in a manner, and located along a route, which will cause minimum disturbance of the habitats and life forms sought to be preserved pursuant to 16Q-20.01(3)(f), F. A. C., or those identified in resource inventories and management plans for the preserve, when developed. The board recognizes that plants and other life forms have certain regenerative capabilities that can survive minimal disturbances.

(2) The board shall discourage any project which involves the cutting or removal of seagrasses, mangroves, marsh grasses or rushes. Only those activities which have no reasonable alternative and in which adequate mitigation and subsequent monitoring measures are also proposed as a part of the project, shall be considered by the board.

(3) The board shall encourage the stabilization of shorelines, where possible, with natural vegetation or riprap materials. Where natural vegetation does not appear to be capable of preventing shoreline erosion, the board shall recommend the use of riprap materials.

(4) It shall be the policy of the board not to approve the use, sale, lease or transfer of state owned lands within a preserve for the purpose of providing private or public road access to islands where such access did not previously exist.

Specific Authority 258.43(1), FS. Law Implemented 253.03, 253.123, 253.124, 258.42, 258.43 FS. History—New 2-25-81.

16Q-20.05 Uses, Sales, Leases, or Transfer of Interests in Lands, or Materials, Held by the Board.

(1) A use, sale, lease or transfer of sovereignty lands, or materials, shall be subject to such terms, conditions, or deed restrictions, as the board deems necessary to protect the quality or utility of the preserve and further the intent of the act of these rules. A condition of a sale, lease or transfer of sovereignty lands, or materials, shall be the applicant's reimbursement for the department's cost of advertising and notification of adjacent property owners. Unless a sale of lands is approved by the legislature, a condition of the deed of sale shall be that the lands shall continue to be managed as a part of the preserve.

(2) The document which manifests a use, sale, lease or transfer of lands or materials shall state, with particularity, the activities to be conducted. Additional activities not expressly included in the document are prohibited and may be conducted only after further approval by the board.

(3) Uses, Sales, Leases, or Transfer of Interests in Lands.

(a) All activities to be conducted on lands held by the board shall require prior approval of the board in the form of a sale, lease, transfer, letter of consent to use, or resource management agreement, for the proposed activities on sovereignty lands.

(b) There shall be no further use, sale, lease, or transfer of interest in sovereignty lands unless an applicant affirmatively demonstrates sufficient facts to support a finding by the board that:

1. The use, sale, lease, or transfer of interest and the activity planned in conjunction with the use, sale, lease or transfer of interest is in the public interest; and

2. The activity planned in conjunction with the use, sale, lease, or transfer of interest is consistent with these rules and management plans when developed for the preserve; and

3. If there are to be structures constructed, or dredging and filling undertaken on sovereignty lands, the activity for which a use, sale, lease, or transfer of interest in sovereignty lands or materials is sought shall be one of the following:

(i) a public navigation project;

(ii) maintenance of an existing navigation channel;

(iii) creation or maintenance of a commercial/industrial dock, or a pier, or a marina;

(iv) creation or maintenance of a private dock for reasonable ingress and egress of riparian owners;

(v) creation or maintenance of a shore protection structure;

(vi) installation or maintenance of approved navigational aides;

(vii) installation or maintenance of oil and gas transportation facilities;

(viii) creation, maintenance, or replacement of structures required for the installation or expansion of public utilities;

(ix) restoration of land as authorized by Subsection 258.124(8), F.S.; and

(x) other activities which are a public necessity or which are necessary to enhance the quality or utilty of the preserve and which are consistent with the act and this chapter;

(xi) reasonable improvements for mosquito control.

4. In the case of the activities enumerated in 16Q-20.05(3)(b)3., (i), (ii), (iii), (iv), (v), (vi), and (vii), F. A. C., the activity is designed so that the structure or structures to be built in, on, or over sovereignty lands are limited to structures necessary to conduct water dependent activities; and

5. No other reasonable alternative exists which would allow the proposed activity to be constructed or undertaken outside the preserve; and

(c) Docks in, on, or over sovereignty lands:

1. A commercial/industrial dock on sovereignty lands shall require a lease;

2. A private dock in excess of 500 square feet may not require a lease if the applicant affirmatively demonstrates that the particular physical geography of the location necessitates the excess in order to obtain reasonable ingress and egress to and from the upland riparian property. Without such affirmative demonstration a lease shall be required;

3. A private dock of 500 square feet or less shall not require a lease, but shall require a letter of consent to use sovereignty lands.

(d) The failure of the board to affirmatively find that an activity complies with the provision of 16Q-20.05(3)(b), F. A. C., shall preclude a finding of consistency with these rules and management plans when developed for the preserves.

(4) Sales or Transfer of Materials to be

Severed.

(a) There shall be no severance of bottom sediment or rock unless an applicant affirmatively demonstrates sufficient facts to support a finding by the board that:

1. Sales or transfer of materials to be severed and the activity planned in conjunction with that sale or transfer is in the public interest; and

2. The sale or transfer of materials to be severed and the activity planned in conjunction with the sale or transfer of those severed materials is consistent with these rules and the management plans when developed.

(b) There shall be no excavation of shell or minerals, except the dredging of dead oyster shells as approved by the department, subject the formal approval of the board.

(c) There shall be no sale or transfer of materials to be severed for the sole or primary purpose of providing fill or creating new lands.

(d) There shall be no drilling of gas or oil wells within the preserves.

(e) Spoil disposal within the preserves is discouraged by the board. Spoil disposal will only be approved within the preserve where the applicant affirmatively demonstrates that the spoil will not be harmful to, or may benefit, the quality or utility of the preserve.

(5) The failure of the board to affirmatively find that an activity complies with the provisions of 16Q-20.05(3)(b), F. A. C., shall preclude approval of the activity by the board.

Specific Authority 258.43(1) FS. Law Implemented 253.02, 253.12, 258.42 FS. History—New 2-25-81.

16Q-20.06 Cumulative Impacts. In evaluating applications for activities within the preserves or which may impact the preserves, the department recognizes that, while a particular alteration of the preserve may constitute a minor change, the cumulative effect of numerous such changes often results in major impairments to the resources of the preserve. Therefore, the department shall evaluate a particular site for which the activity is proposed with the recognition that the activity may, in conjunction with other activities adversely affect the preserve which is part of a complete and interrelated system. The impact of a proposed activity shall be considered in light of its cumulative impact on the preserve's natural system. The department shall include as a part of its evaluation of an activity:

(1) The number and extent of similar human actions within the preserve which have previously affected or are likely to affect the preserve, which are considered by the department under its current authority or which existed prior to or since the enactment of the Act; and

(2) The similar activities within the preserve which are currently under consideration by the department; and

(3) Direct and indirect effects upon the preserve and adjacent preserves, if applicable, which may reasonably be expected to result from the activity; and

(4) The extent to which the activity is consistent with management plans for the preserve, when developed; and

(5) The extent to which the activity is permissible within the preserve in accordance with comprehensive plans adopted by affected local governments, pursuant to section 163.3161, F.S., and other applicable plans adopted by local, state, and federal governmental agencies;

(6) The extent to which the loss of beneficial hydrologic and biologic functions would adversely impact the quality or utility of the preserve; and

(7) The extent to which mitigation measures may compensate for adverse impacts.

Specific Authority 258.43(1) FS. Law Implemented 258.36, 258.43, 258.44 FS. History—New 2-25-81.

16Q-20.07 Protection of Riparian Rights. Neither the establishment nor the management of the aquatic preserves under the provisions of the act shall operate to unreasonably infringe upon the traditional riparian rights of upland property owners adjacent to or within the preserves.

Specific Authority 258.43(1) FS. Law Implemented 258.123, 258.124(8), 258.44 FS. History—New 2-25-81.

16Q-20.08 Inclusion of Lands, Title to Which Is Not Vested in the Board, in a Preserve.

(1) Lands and water bottoms which are within designated aquatic preserve boundaries, or adjacent thereto and which are owned by other governmental agencies, may be included in an aquatic preserve upon specific authorization for inclusion by an appropriate instrument in writing executed by the agency.

(2) Lands and water bottoms which are within designated aquatic preserve boundaries or adjacent thereto, and which are in private ownership, may be included in an aquatic preserve upon specific authorization for inclusion by an appropriate instrument in writing executed by the owner.

(3) The appropriate instrument shall be either a dedication in perpetuity, or a lease. Such lease shall contain the following conditions:

(a) The term of the lease shall be for a minimum period of ten years.

(b) The board shall have the power and duty to enforce the provisions of each lease agreement, and shall additionally have the power to terminate any lease if the termination is in the best interest of the aquatic preserve system, and shall have the power to include such lands in any agreement for management of such lands.

(c) The board shall pay no more than $1 per year for any such lease.

Specific Authority 258.43(1) FS. Law Implemented 258.40, 258.41 FS. History—New 2-25-81.

16Q-20.09 Establishment or Expansion of Aquatic Preserves.

(1) The board may expand existing preserves or establish additional areas to be included in the aquatic preserve system, subject to confirmation by the legislature.

(2) The board may, after public notice and public hearing in the county or counties in which the proposed expanded or new preserve is to be located, adopt a resolution formally setting aside such areas to be included in the system.

(3) The resolution setting aside an aquatic preserve area shall include:

(a) A legal description of the area to be included. A map depicting the legal description shall also be attached.

(b) The designation of the type of aquatic preserve.

(c) A general statement of what is sought to be preserved.

(d) A statement that the area established as a preserve shall be subject to the management criteria and directives of this chapter.

(e) A directive to develop a natural resource inventory and a management plan for the area being established as an aquatic preserve.

(4) Within 30 days of the designation and establishment of an aquatic preserve, the board shall record in the public records of the county or counties in which the preserve is located a legal description of the preserve.

Specific Authority 258.43(1) FS. Law Implemented 258.41 FS. History—New 2-25-81.

16Q-20.10 Exchange of Lands. The board in its discretion may exchange lands for the benefit of the preserve, provided that:

(1) In no case shall an exchange result in any land or water area being withdrawn from the preserve; and

(2) Exchanges shall be in the public interest and shall maintain or enhance the quality or utility of the preserve.

Specific Authority 258.43(1) FS. Law Implemented 258.41(5), 258.42(1) FS. History—New 2-25-81.

16Q-20.11 Gifts of Lands. The board in its discretion may accept any gifts of lands or interests in lands within or contiguous to the preserve to maintain or enhance the quality and utility of the preserve.

Specific Authority 258.43(1) FS. Law Implemented 258.42(5) FS. History—New 2-25-81.

16Q-20.12 Protection of Indigenous Life Forms. The taking of indigenous life forms for sale or commercial use is prohibited, except that this prohibition shall not extend to the commercial taking of fin fish, crustacea or mollusks, except as prohibited under applicable laws, rules or regulations. Members of the public may exercise their rights to fish, so long as not contrary to other statutory and regulatory provisions controlling such activities.

Specific Authority 258.43(1) FS. Law Implemented 258.43(1) FS. History—New 2-25-81.

16Q-20.13 Development of Resource Inventories and Management Plans for the Preserves.

(1) The board authorizes and directs the division to develop a resource inventory and management plan for each preserve.

(2) The division may perform the work to develop the inventories and plans, or may enter into agreements with other persons to perform the work. In either case, all work performed shall be subject to board approval. Within six months from the effective date of this rule the division shall present a report to the board detailing:

(a) an estimate of the length of time, staff requirements, and cost, to develop an inventory and plan for each preserve; and

(b) an indication of which persons might be interested in performing work on the inventories and the plans; and

(c) a conceptual strategy for the development, implementation and enforcement of the plans; and

(d) criteria for designating urban and wilderness types of preserves. The criteria shall be related to those factors or functions necessary for the maintenance of essentially natural conditions. The type designation for each preserve according to these criteria shall be indicated in the report. Additional management criteria for wilderness preserves shall be drafted for inclusion in the rule; and

(e) additional management criteria for those preserves within designated Manatee Critical Habitat areas.

(3) Each resource inventory shall contain at

a minimum:

(a) the current geographic distribution of flora; and

(b) the current geographic distribution of fauna; and

(c) the presence of any rare, endangered or threatened species; and

(d) information on changes through history of the extent, composition and periodicity of the distribution of flora and fauna, if possible; and

(e) the physical geography of the area, including maps and cross-sections to illustrate system-interrelationships; and

(f) human alterations of the natural conditions including:

1. a list of all types of human alterations; and

2. the timing and geographical distribution of the human alterations; and

3. the intensity of each type of human rations.

a detailed resource survey could

EOGRAPHY

Location: latitude and longitude, wnship, range and sections

B. Definition: descriptions of available maps and aerial images

C. Placenames and Landmarks

1. Promontories

2. Islands

3. Passes

4. Beaches and bars

5. Embayments

D. Physical Setting

1. Position on coast

2. Position on estuary or estuarines

3. Position on drainage basin(s)

E. Political Setting

1. Municipalities

2. County or counties

3. Regional authorities

4. Federal interests

(II) PHYSICAL FEATURES

A. Total area

1. Land (stated in absolute terms, like sq. km., and relatively, as percent total)

a. Emergent and submerged

i. public (city, county, state, federal, other)

ii. private

iii. vegetated

iv. disturbed

2. Water

a. Fresh

b. Brackish and marine

B. Meteorology

1. Temperature

2. Rainfall

3. Winds

4. Catastrophes

a. freezes

b. hurricanes

5. Micrometeorology

C. Geology

1. Stratigraphy

2. Topography and bathymetry

3. Islands

4. Soils and sediments

5. Mineral resources

6. Wells and artesian springs

D. Hydrography

1. Sealevel (mean high water line)

2. Tides

3. Currents

4. Erosion and deposition patterns

5. Existing deep waters

E. Chemistry

1. Water

a. water quality classification

b. abiotic parameters

c. biotic parameters

d. best water quality conditions

e. average water quality conditions

f. worst water quality conditions

i. sources and amounts

ii. permit status

2. Air

a. air quality classification

b. best air quality conditions

c. average air quality conditions

d. worst air quality conditions

i. sources and amounts

ii. permit status

(III) BIOLOGICAL FEATURES

A. Setting

1. Biogeographic

2. Relation to parks, preserves, etc.

B. Perimeter

1. Preserve boundaries

a. biological condition

b. disturbed area

2. Internal shorelines

a. biological condition

b. disturbed area

C. Diversity

1. Verified present

a. fungi

b. plants

c. animals

2. Probably present

a. fungi

b. plants

c. animals

3. Composition

a. numerical

i. dominant species

ii. rare species

b. community analysis

4. Habitats

a. subtidal

i. mud, sand, peats

ii. oyster

iii. seagrass

iv. water column

b. intertidal

i. saltmarsh

ii. mangrove

iii. beach

c. supratidal

i. salt barren

ii. coastal hammock/barrier island

iii. uplands

D. Productivity

1. Primary production

a. rates

b. area

c. total

2. Secondary productivity

a. rates

b. compartments

c. total

3. Export and import

E. Rare and endangered plants and animals

1. Names

2. Records and occurrence

3. Habitat

4. Refugia and corridors

5. Sensitive areas

F. Adverse conditions

1. Exotic plants and animals

2. Pest populations

3. Undesirable habitat

4. Biocide concentrations and activities

(IV) NATURAL FEATURES OF SOCIO-ECONOMIC IMPORTANCE

A. Uplands and perimeters

1. Population size and growth rate

2. Existing and projected land-use

a. types of land-use

b. location and characteristics of upland canals

c. interceptor and spreader waterways

d. existing points of access/egress

B. Existing uses

1. Park, preserves, etc.

2. Scenic vistas

3. Recreation

a. birding and nature study areas

b. fishing areas

c. boating and swimming areas

4. Areas used for commercial fishing

5. Areas closed to commercial fishing

6. Private leases of state lands

a. number, location and size

b. uses

7. Privately owned lands preserves' designated boundaries

a. access

b. area

c. use

C. Activities with potentially adverse impact

1. Shoreline protection structures

2. Commercial and industrial docks

3. Marinas

4. Bridges and causeways

5. Channels and spoil areas

6. Utility installations

7. Oil and pipe lines

(4) Each management plan shall contain at a minimum:

(a) A description of what "an essentially natural condition" consists of for each preserve; and

(b) An evaluation of the impacts upon flora, fauna, and physical geography caused by human alterations; with an estimate of the point in time at which the preserve became or will become, "no longer in an essentially natural condition"; and

(c) An evaluation of the preserve's ability to provide benefits for future generations; and

(d) An evaluation of:

1. Local authorities

2. Local conservation and nature study groups

3. Local educational and research facilities

4. Available bibliographies

5. Current research

6. Resources of value

7. Vulnerability of resources

8. Archaeological sites

9. Interactions between contiguous preserves

10. Distinguishable impacts on preserves divided by political boundaries.

(e) An evaluation of the goals, policies and implementation tools of the local government for managing activities which are either in, or which impact upon a preserve; and recommended policies and implementation techniques for dealing with the findings of the above evaluations and inventory.

(f) An evaluation of any restoration needs, and available techniques and costs.

(g) An evaluation of any needs for preserve expansion to include further sensitive aesthetic, biological or scientific areas. Such evaluation should include consideration of the current pattern and other legal encumbrances, as well as possible cumulative effects of such expansion.

(h) Recommended management techniques for aesthetic, biological or scientific

types of preserves, as appropriate.

(5) Only those management plans developed pursuant to 16Q-20.13, F.A.C., or those found by the board to be consistent with the provisions of 16Q-20.13, F.A.C., and which are adopted by order of the board, shall be implemented. The board may enter into contracts or resource management agreements with any person to assist in the implementation of an adopted management plan for a preserve.
Specific Authority 258.43(1) FS. Law Implemented 253.03(7), 253.03(8) FS. History—New 2-25-81.

16Q-20.14 Enforcement. The rules shall be enforced as provided in Section 258.46.
Specific Authority 258.43(1) FS. Law Implemented 258.46 FS. History—New 2-25-81.

16Q-20.15 Application Form.

(1) The application form in 16C-12, F.A.C., is to be submitted to the department for activities which require board approval for the use of sovereignty lands. Applicants are advised to check with the Department of Environmental Regulation (DER) to determine whether a permit is required from that agency. It is comprised of the department's application for activities upon sovereignty lands and the joint Department of Army/Florida Department of Environmental Regulation forms for activities within waters of the State of Florida. It is the intent of these rules to adopt a single form which shall be filed with the department and with the Department of Environmental Regulation for all projects upon sovereignty lands. It is the further intent of the department to adopt any new Department of Environmental Regulation forms for activities upon sovereignty lands, as rules, when formally adopted by the Department of Environmental Regulation.
Specific Authority 253.43(1) FS. Law Implemented 258.43 History—New 2-25-81.

16Q-20.16 Coordination with Other Governmental Agencies. Where a Department of Environmental Regulation permit is required for activities on sovereignty lands the department will coordinate with the Department of Environmental Regulation to obtain a copy of the joint Department of Army/Florida Department of Environmental Regulation permit application and the biological survey. The information contained in the joint permit application and biological assessment shall be considered by the department in preparing its staff recommendations to the board. The board may also consider the reports of other governmental agencies that have related management or permitting responsibilities regarding the proposed activity.
Specific Authority 253.43(1) FS. Law Implemented 258.43 FS. History—New 2-25-81.

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CHAPTER 16Q-21
SOVEREIGNTY SUBMERGED LANDS MANAGEMENT

Library References: Lakes: Distinguishing Them from Wet Prairies, James R. Brindell, 57 Fla. Bar J. 724 (December, 1983).

16Q-21.01 Intent. The intent and purpose of this rule is:

(1) To aid in fulfilling the trust and fiduciary responsibilities of the Board of Trustees of the Internal Improvement Trust Fund for the administration, management and disposition of sovereignty lands;

(2) To insure maximum benefit and use of sovereignty lands for all the citizens of Florida;

(3) To manage, protect, and enhance sovereignty lands so that the public may continue to enjoy traditional uses including, but not limited to, navigation, fishing and swimming;

(4) To manage and provide maximum protection for all sovereignty lands, especially those important to public drinking water supply, shellfish harvesting, public recreation, and fish and wildlife propagation and management;

(5) To insure that all public and private activities on sovereignty lands which generate revenues or exclude traditional public uses provide just compensation for such privileges; and,

(6) To aid in the implementation of the State Lands Management Plan.

Specific Authority 253.03(7) FS, Art. X, Sec. 11, Fla. Const. Law Implemented 253.03, 253.12 FS. History—New 3-27-82.

16Q-21.02 Scope and Effective Date.

(1) These rules are to implement the administrative and management responsibilities of the board and department regarding sovereignty lands. Responsibility for environmental permitting of activities and water quality protection on sovereignty and other lands is vested with the Department of Environmental Regulation. These rules are considered cumulative; therefore, a person planning an activity should consult other applicable department rules (Chapter 16Q-20, Florida Administrative Code and others) as well as the rules of the Department of Environmental Regulation.

(2) These rules are prospective in their application and shall not apply to activities for which applications have been submitted to the department or the Department of Environmental Regulation prior to the adoption date of these rules and shall not affect previous actions of the board concerning private docks or the issuance of any easement, lease, or any disclaimer concerning sovereignty lands. Fee arrangements in existing leases are not subject to the fees of this rule until expiration of said leases unless otherwise specified in the lease instrument.

(3) Docks, piers, and other such structures on sovereignty lands in existence prior to March 10, 1970 shall be subject to the provisions of this rule commencing on January 1, 1998. Any expansions to such structures shall be subject to the provisions of this rule, if any expansion thereto requires the use of any Additional sovereignty lands.

(4) Docks, piers and other such structures on sovereignty lands in existence prior to March 10, 1970, and which would require a lease pursuant to Section 16Q-21.05(1)(b), Florida Administrative Code, shall be required to register the structures with the department before September 30, 1984.

(5) Any expansion of an existing activity shall be subject to the provisions of this rule.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.12, 253.77 FS. History—New 3-27-82, Amended 8-1-83, 9-4-84.

16Q-21.03 Definitions. When used in these rules, the following shall have the indicated meaning unless the context clearly indicates otherwise:

(1) "Accretion" means the process of gradual and imperceptible additions of sand, sediment, or other material to riparian lands made by the natural action of water which

results in dry lands formerly covered by water.

(2) "Activity" means any use of sovereignty lands which requires board approval for consent of use, lease, easement, sale, or transfer of interest in such sovereignty lands or materials. Activity includes, but is not limited to, the construction of docks, piers, boat ramps, board walks, mooring pilings, dredging of channels, filling, removal of logs, sand, silt, clay, gravel or shell, and the removal or planting of vegetation on sovereignty lands.

(3) "Applicant" means any person making application for a lease, sale, or other form of conveyance of an interest in sovereignty lands or any other necessary form of governmental approval for an activity on sovereignty lands.

(4) "Artificial accretion" means the addition of sand, sediment, or other material to riparian lands caused by man-made projects and operations which results in dry lands formerly covered by water.

(5) "Artificial erosion" means the loss or washing away of sand, sediment, or other material from riparian property caused by man-made projects and operations which result in submerged lands formerly not covered by water.

(6) "Avulsion" means the addition to or loss of riparian property caused by the sudden and perceptible natural action of water.

(7) "Aquaculture" means the cultivation of animal or plant life in an aquatic environment.

(8) "Board" means the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

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

(10) "Coastal barrier islands" means a depositional geologic feature consisting of unconsolidated sedimentary materials in an island configuration which is subject to direct attack by wave, tidal, and wind energies originating from the Atlantic Ocean or Gulf of Mexico, and which serves to protect landward aquatic habitats, such as bays and estuaries, and the interior uplands of the mainland from oceanic wave, tidal, and wind forces.

(11) "Consent of use" means a nonpossessory interest in sovereignty lands created by an approval which allows the applicant the right to erect specific structures or conduct specific activities on said lands.

(12) "Department" means the State of Florida Department of Natural Resources, as administrator for the board.

(13) "Division" means the Division of State Lands which performs all staff duties and functions related to the administration of lands, title to which is or will be vested in the board pursuant to Section 253.002, Florida Statutes.

(14) "Dock" means a fixed or floating structure, including moorings, used for the purpose of berthing buoyant vessels.

(15) "Easement" means a non-possessory interest in sovereignty lands created by a grant or agreement which confers upon the applicant the limited right, liberty, and privilege to use said lands for a specific purpose and for a specific time.

(16) "Energy production" means the exploration for, and extraction of, hydrocarbons, including necessary transmission through pipelines, or the water-oriented activities related to the generation of electricity.

(17) "Fill" means materials from any source, deposited by any means onto sovereignty lands, either for the purpose of creating new uplands or for any other purpose, including spoiling of dredged materials.

(18) "First come, first served" means any water dependent facility operated on the sovereign lands of the state the services of which are open to the general public on a first come, first served basis. This is intended to cover services offered to various types, classes or groups of public users and such services need not be comprehensive. The service offered may be a specialty service such as boat repair, seafood purchasing, marine slip rentals or shipping terminals as long as all services offered are open to the general class of users without any qualifying requirements such as club membership or stock ownership.

(19) "Lease" means an interest in sovereignty lands designated by a contract creating a landlord-tenant relationship between the board as landlord and the applicant as tenant whereby the board grants and transfers to the applicant the exclusive use, possession, and control of certain specified sovereignty lands for a determinate number of years, with conditions attached, at a definite fixed rental.

(20) "Management agreement" means a contractual agreement between the board and one or more parties which does not create an interest in real property but merely

authorizes conduct of certain management activities on lands held by the board.

(21) "Marginal dock" means a fixed or floating structure placed immediately contiguous and parallel to an established seawall, bulkhead or revetment.

(22) "Mean high water" means the average height of the high tides over a 19-year period. For shorter periods of observation, "mean high water" means the average height of the high waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19-year value.

(23) "Mean high water line" means the intersection of the local elevation of mean high water with the shore. Mean high water line along the shore of land immediately bordering on navigable waters is recognized and declared to be the boundary between the foreshore owned by the State of Florida in its sovereign capacity and the uplands subject to private ownership. However, no provision of this rule shall be deemed to impair the title to privately owned submerged lands validly alienated by the State of Florida or its legal predecessors.

(24) "Nomination" means a proposal for an oil and gas lease.

(25) "Person" means individuals, minors, partnerships, corporations, joint ventures, estates, trusts, syndicates, fiduciaries, firms, and all other associations and combinations, whether public or private, including governmental entities.

(26) "Preempted area" means the area of sovereignty lands from which the traditional public uses have been or would be excluded to any extent by an activity. The area may include, but is not limited to, the sovereignty lands occupied by the docks and other structures, the area between the docks and out to any mooring pilings, and the area between the docks and the shoreline. If the activity is required to be moved waterward to avoid dredging or disturbance of nearshore habitat, a reasonable portion of the nearshore area that is not impacted by dredging or structures shall not be included in the preempted area.

(27) "Public interest" means demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severance of materials from sovereignty lands, the board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials.

(28) "Public navigation project" means an activity primarily for the purpose of navigation which is authorized and funded by the United States Congress or by port authorities as defined by Section 315.02(2), Florida Statutes.

(29) "Public utilities" means those services, provided by persons regulated by the Public Service Commission, or which are provided by rural cooperatives, municipalities, or other governmental agencies, including electricity, public water and wastewater services, and structures necessary for the provision of these services and transmission lines for public communication systems such as telephone, radio and television.

(30) "Public water management project" means an activity primarily for the purpose of flood control, conservation, recreation, water storage and supply, and allied purposes, which is authorized and funded by the United States Congress, the State of Florida, or a water management district as defined by Section 373.069, Florida Statutes.

(31) "Revenue generating/income related activity" means an activity on sovereignty lands which produces income, through rental or any other means, or which serves as an accessory facility to other rental, commercial, or industrial operations. It shall include, but not be limited to, docking for marinas, restaurants, hotels, motels, commercial fishing, shipping, and boat or ship construction, repair and sales.

(32) "Reclamation of lands" means restoring the upland shoreline to a condition that existed prior to avulsion or artificial erosion.

(33) "Riparian rights" means those rights incident to lands bordering upon navigable waters, as recognized by the courts and common law.

(34) "Sale" means a conveyance or transfer of title of sovereignty lands in fee simple by the board, for consideration.

(35) "Satisfactory evidence of title" means a current title insurance policy issued by a title insurance company authorized to do business in the State of Florida, or an opinion of title prepared by a member of the Florida Bar, covering title to lands involved and indicating, at least, such minimum interest in the applicant which may entitle the applicant to the relief sought, or such affidavits as may be required by the department to establish the currency of title status of an applicant.

(36) "Sovereignty lands" means those lands including but not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, under navigable fresh and salt waters, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated.

(37) "Spoil island" means any artificially created island having an elevation above water upon formerly submerged sovereignty lands, title to which is vested in the board.

(38) "Water dependent activity" means an activity which can only be conducted on, in, over, or adjacent to water areas because the activity requires direct access to the water body or sovereignty lands for transportation, recreation, energy production or transmission, or source of water, and where the use of the water or sovereignty lands is an integral part of the activity.

Specific Authority 253.03(7) FS. Law Implemented 253.03 FS. History—New 9-26-77, Formerly 16C-12.01; 16Q-17.01, Amended 3-27-82, 8-1-83.

16Q-21.04 Management Policies, Standards, and Criteria. The following management policies, standards, and criteria shall be utilized in determining whether to approve, approve with conditions or modifications, or deny all requests for activities on sovereignty lands.

(1) General Proprietary

(a) For approval, all activities on sovereignty lands must be not contrary to the public interest, except for sales which must be in the public interest.

(b) All leases, easements, deeds or other forms of approval for sovereignty land activities shall contain such terms, conditions, or restrictions as deemed necessary to protect and manage sovereignty lands.

(c) Equitable compensation shall be required for leases and easements which generate revenues, monies or profits for the user or that limit or preempt general public use. Public utilities and state or other governmental agencies exempted by law shall be excepted from this requirement.

(d) Activities on sovereignty lands shall be limited to water dependent activities only unless the board determines that it is in the public interest to allow an exception as determined by a case by case evaluation. Public projects which are primarily intended to provide access to and use of the waterfront may be permitted to contain minor uses which are not water dependent if:

1. located in areas along seawalls or other nonnatural shorelines;

2. located outside of aquatic preserves or class III waters; and,

3. the nonwater dependent uses are incidental to the basic purpose of the project, and constitute only minor nearshore encroachments on sovereign lands.

(e) Stilt house, boathouses with living quarters, or other such residential structures shall be prohibited on sovereignty lands.

(f) The State Lands Management Plan shall be considered and utilized in developing recommendations for all activities on sovereignty lands.

(g) The use of sovereignty lands for the purpose of providing road access to islands, where such access did not previously exist, shall be prohibited. The board may grant an exception to this prohibition if the board makes a finding that:

1. Construction and use of road access is the least damaging alternative and more protective of natural resources and sovereignty lands than other access activities; and,

2. In the case of coastal barrier islands, such use of sovereignty lands and any upland development facilitated thereby is in the public interest, or in the case of other islands, not contrary to the public interest.

(h) When one or more expansions to existing grandfathered lease facilities equal 50 percent or more of the grandfathered facility then the grandfathered facility will be required to come under lease.

(i) All existing licenses shall be converted to leases upon the expiration or renewal date of the license.

(2) Resource Management

(a) All sovereignty lands shall be considered single use lands and shall be managed primarily for the maintenance of essentially natural conditions, propagation of fish and wildlife, and traditional recreational uses such as fishing, boating, and swimming. Compatible secondary purposes and uses which will not detract from or interfere with the primary purpose may be allowed.

(b) Activities which would result in significant adverse impacts to sovereignty lands and associated resources shall not be approved unless there is no reasonable alternative and adequate mitigation is proposed.

(c) The Department of Environmental Regulation biological assessments and reports by other agencies with related statutory, management, or regulatory authority may be considered in evaluating specific requests to use sovereignty lands. Any such reports sent to the department in a timely manner shall be considered.

(d) Activities shall be designed to minimize or eliminate any cutting, removal, or destruction of wetland vegetation (as listed in Rule 17-4.02(17), Florida Administrative Code) on sovereignty lands.

(e) Reclamation activities on sovereignty lands shall be approved only if avulsion or artificial erosion is affirmatively demonstrated. Other activities involving the placement of fill material below the ordinary high water line or mean high water line shall not be approved unless it is necessary to provide shoreline stabilization, access to navigable water, or for public water management projects.

(f) To the maximum extent possible, shoreline stabilization should be accomplished by the establishment of appropriate native wetland vegetation. Rip-rap materials, pervious interlocking brick systems, filter mats, and other similar stabilization methods should be utilized in lieu of vertical seawalls wherever feasible.

(g) Severance of materials from sovereignty lands shall be approved only if the proposed dredging is the minimum amount necessary to accomplish the stated purpose and is designed to minimize the need for maintenance dredging.

(h) Severance of materials for the primary purpose of providing upland fill shall not be approved unless no other reasonable source of materials is available or the activity is determined to be in the public interest.

(i) Activities on sovereignty lands shall be designed to minimize or eliminate adverse impacts on fish and wildlife habitat. Special attention and consideration shall be given to endangered and threatened species habitat.

(j) To the maximum extent feasible, all beach compatible dredge materials shall be placed on beaches or within the nearshore sand system.

(k) Oil and gas drilling leases on state-owned submerged lands shall be approved only when the proposed lease area is at least one mile seaward of the outer coastline of Florida as defined in United States v. Florida, 425 U. S. 791, 48 L. Ed. 2d 386, 96 S. Ct. 1840, upon adequate demonstration that the proposed activity is in the public interest, that the impact upon aquatic resources has been thoroughly considered, and that every effort has been made to minimize potential adverse impacts upon sport and commercial fishing, navigation, and national security. Drilling leases may be issued in the prohibited area if said lease stipulates that any drilling shall be conducted from outside said area.

(3) Riparian Rights

(a) None of the provisions of this rule shall be implemented in a manner that would unreasonably infringe upon the traditional, common law riparian rights of upland property owners adjacent to sovereignty lands.

(b) Applications for activities on sovereignty lands riparian to uplands can only be made by and approved for the upland riparian owner, their legally authorized agent, or persons with sufficient title interest in uplands for the intended purpose.

(c) All structures and other activities must be within the riparian rights area of the applicant and must be designed in a manner that will not restrict or otherwise infringe upon the riparian rights of adjacent upland riparian owners.

(d) All structures and other activities must be set back a minimum of 25 feet from the applicant's riparian rights line. Marginal docks may be set back only 10 feet. There shall be no exceptions to the setbacks unless the applicant's shoreline frontage is less than 65 feet or a sworn affidavit of no objection is obtained from the affected adjacent upland riparian owner, or the proposed structure is a subaqueous utility line.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.12, 253.14, 253.47, 253.67—.75 FS. History—New 3-27-82, Amended 8-1-83.

16Q-21.05 Procedures.

(1) All activities on sovereignty lands shall require a lease, easement, consent of use, or other form of approval. The following shall be used to determine the form of approval required:

(a) Consent of Use — is required for the following activities, provided that any such activity not located in an Aquatic Preserve or Manatee Sanctuary and which is exempt from Department of Environmental Regulation permitting requirements under Section 403.813(2)(a), (b), (c), (d), (e), (g), (h), (i), and (k), Florida Statutes, is hereby exempted from any requirement to make application for consent of use, and such consent is herein granted by the board:

1. A single dock or access channel which is no more than the minimum length and size necessary to provide reasonable access to navigable water;

2. Docks, access channels, boat ramps, or other activities which preempt no more than 1,000 square feet of sovereignty land area for each 100 linear feet of shoreline in the applicant's ownership (see "preempted area" definition Rule 16Q-21.03(25), Florida Administrative Code). Proportional increases in the 1,000 square foot threshold can be added for fractional shoreline increments over 100 linear feet;

3. Marginal docks and mooring pilings along an existing seawall, bulkhead or revetment;

4. Replacement or construction of bulkheads or seawalls at or within three feet waterward of the line of mean high water;

5. Placement of riprap at or within ten feet waterward of the line of mean high water;

6. Dredging or other removal of sovereignty materials;

7. Renourishment of publicly owned beaches; and

8. Artificial reefs for public use.

(b) Lease — is required for:

1. Docks, boat ramps, or other such activities which are larger than those which can be approved under consent of use (Section 16Q-21.05(1)(a), Florida Administrative Code);

2. All revenue generating/income related activities;

3. Grandfather structures upon sale, reassignment or other form of conveyance or transfer;

4. Existing licenses upon the date of expiration or renewal.

5. Aquaculture;

6. Oil and gas exploration and development; and

7. Dead shell and other mining.

(c) Easement — is required for:

1. Utility crossings and rights of way;

2. Road and bridge crossings and rights of way;

3. Groins, breakwaters, and other such shoreline protection structures;

4. Public navigation project channels;

5. Oil, gas and other pipelines;

6. Spoil disposal sites;

7. Borrow areas for beach renourishment; and

8. Canals, channels, and other public water management structures.

(d) Management Agreement — is required for:

1. Management and protection activities which do not require title interest in state lands. Such activities may include, but are not limited to, endangered species, rookery, preserve, or sanctuary protection, and management of educational, recreational, or scientific study areas.

(e) Grandfather structure registration — is required for:

1. Docks, piers and other such structures on sovereignty lands in existence prior to March 10, 1970 which do not now have a lease but would require a lease pursuant to Section 16Q-21.05(1)(b), Florida Administrative Code.

2. Docks, piers and other such structures which were approved by the Board or department between March 10, 1970 and March 27, 1982 which would now require a lease pursuant to Section 16Q-21.05(1)(b), Florida Administrative Code.

(2) All requests for purchases, disclaimers, and quitclaims of sovereignty lands shall be processed in accordance with Rules 16Q-21.13, 16Q-21.14, and 16Q-21.15, Florida Administrative Code, respectively.

(3) All requests for sales, exchanges, leases, and private bridge or road easements on sovereignty lands shall be processed in accordance with the notice and hearing requirements of Section 253.115, Florida Statutes.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 177.27 FS. History—New 9-26-77, Formerly 16C-12.01, 16Q-17.01, Amended 3-27-82, 8-1-83.

16Q-21.06 Applications — General Information.

(1) Most activities on sovereignty lands will also require a permit from the Department of Environmental Regulation. Much of the information required for applications under this rule has been intentionally designed to be identical to information required for the Department of Environmental Regulation permit applications. Therefore, if a Department of Environmental Regulation permit is also required, a copy of the application on file with the Department of Environmental Regulation will satisfy many of the information items required by this rule.

Specific Authority 253.03(7) FS. Law Implemented 253.03 FS. History—New 3-27-82.

16Q-21.07 Applications for Consent of Use.

(1) Applications for consent of use shall include the following:

(a) Name, address and telephone number of applicant and applicant's authorized agent, if applicable;

(b) Location of the proposed activity including: county; section, township and range; affected waterbody; and a vicinity map, preferably a reproduction of the appropriate portion of United States Geological Survey quadrangle map;

(c) Satisfactory evidence of title in subject riparian upland property or demonstration of sufficient title interest in uplands for the intended purpose;

(d) A detailed statement of the proposed activity;

(e) Multiple boat slip facilities may require an affidavit certifying that the facility will not be a revenue generating/income producing facility;

(f) Two copies of a dimensioned site plan drawing(s) with the following requirements:

1. utilizing an appropriate scale on 8 1/2" X 11" size paper;

2. showing the approximate water's edge;

3. showing the location of the shoreline vegetation, if existing;

4. showing the location of the proposed structures and any existing structures;

5. showing the applicant's upland parcel property lines; and,

6. showing the primary navigation channels or direction to the center of the affected waterbody.

(g) If dredging is proposed, an estimate of the number of cubic yards of sovereignty materials to be removed showing how the amount was calculated.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.12, 253.77 FS. History—New 3-27-02.

16Q-21.08 Application for Lease. Applications for leases are divided into four categories. All leases, except aquaculture, oil and gas, and dead shell mining, are handled under the standard lease provisions.

(1) Standard Lease

(a) Applications for standard leases shall include the following:

1. Name, address and telephone number of applicant and applicant's authorized agent, if applicable.

2. Location of the proposed activity i[illegible]ing: county; section, township and [illegible] affected waterbody; and a vicinity map, preferably a reproduction of the appropriate portion of United States Geological Survey quadrangle map.

3. Satisfactory evidence of title in applicant's riparian upland property.

4. Two prints of a survey prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors with the following requirements:

i. utilizing an appropriate scale on 8 1/2" X 11" size paper (unless a larger size is necessary to provide sufficient clarity and detail);

ii. showing the line of ordinary or mean high water;

iii. showing the location of the shoreline vegetation, if existing;

iv. showing the location of the proposed structures and any existing structures;

v. showing the applicant's upland parcel property lines;

vi. showing the primary navigation channels or direction to the center of the affected waterbody; and,

vii. including a legal description of preempted area to be leased (see definition, Rule 16Q-21.03(25), Florida Administrative Code).

5. A list of names and addresses of all property owners within a 1,000 foot radius of the proposed lease area, verified by the County Property Appraiser's Office, that these names came from the latest tax assessment rolls. The names and addresses shall be clearly typed and acceptable to the department, preferably on labels suitable for mailing.

6. Current local zoning and status of any local government approvals necessary for activities.

7. Florida Department of Revenue registration number. Leases without sales tax exemption certificate shall be subject to the Florida State sales tax.

8. A $200.00 non-refundable processing fee.

9. Computation of lease fee including the total square footage of preempted sovereignty land to be leased (see Rule 16Q-21.11(1) and definition, Rule 16Q-21.03(25), Florida Administrative Code).

10. If dredging is proposed, an estimate of the number of cubic yards of sovereignty materials to be removed showing how the amount was calculated.

(b) Terms and conditions shall include but not be limited to the following:

1. Initial payment of annual lease fe[illegible] shall be made within 90 days of lea[illegible] approval by the Board. A validated lease wi[illegible] be transmitted to the applicant upon receipt of initial payment and acknowledgment of issuance of the Department of Environmental Regulation permit, where applicable.

2. Leases shall be for a term of up to 25 years and renewable at the option of the board. Leases shall include provisions for lease fee adjustments and payments annually.

3. All leases shall be assignable, in whole or in part, upon the approval of the board. Non-compliance with any term of an executed lease may be grounds for cancellation of the lease.

4. Upon expiration or cancellation of a lease, the lessee shall remove all structures and equipment from the leased area within 180 days after such expiration or cancellation, at the option of the board. If the lessee fails to remove the structures and equipment thereon, the board shall at its option and after 10 days from receipt of written notice by certified mail to the lessee, have the structures and equipment removed at the expense of the lessee.

(2) Aquaculture Lease

(a) Applications for aquaculture leases shall include the following:

1. Name and address of the applicant;

2. Legal description and acreage of the parcel sought;

3. Two prints of a survey of the parcel sought prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors or an agent of the federal government acceptable to the department;

4. Description of the aquaculture activities to be conducted, including whether such activities are to be experimental or commercial, and an assessment of the current capability of the applicant to conduct such activities;

5. Statement evidencing that the lease is in the public interest;

6. Names and addresses, as shown on the latest county tax assessment roll, of each owner of property lying within 1,000 feet of the parcel sought, certified by the county property appraiser;

7. Statement of the impact of the proposed use of the parcel sought on the ecology of the area; and

8. A $200 non-refundable processing fee.

(b) If the board determines to lease the parcel sought, the lease shall be by competitive bid. The department shall cause notice of such lease to be published in a newspaper in the county in which the parcel is situated once a week for four consecutive weeks. A copy of the notice shall also be sent to the county commission. Such notice shall contain the following:

1. Legal description and acreage of parcel sought;

2. Terms of the lease acceptable to the board;

3. Deadline, time, and date, for the receipt of all bids;

4. Address to which all bids shall be sent; and

5. The date, time, and place of the opening of bids.

(c) Competitive bids for aquaculture leases shall be written offers of a cash consideration which shall include the advertised fee for the first lease year, the amount offered above such fee for said first year being a competitive bid. The cash consideration offered shall accompany the written offer and shall be returned to the unsuccessful bidders either upon award of the lease or upon rejection of all bids.

(d) A lease shall not be approved by the board when a resolution of objection, adopted by a majority of the county commissioners of the county in which the parcel sought is situated, has been filed with the department within 20 days of the date of first publication of the notice of lease.

(e) A lease shall not be approved for a parcel larger than the applicant can utilize efficiently; however, the board may reserve a reasonable amount of submerged land adjacent to a parcel under experimental lease for the lessee when beginning operation under a commercial lease.

(f) Each lease shall contain the following:

1. The term of the lease which shall not exceed 10 years;

2. The amount of fee per acre leased to be paid on or before January 1 each year which shall take the form of:

i. Fixed fee to be paid throughout the term of the lease; or

ii. Basic fee to be paid throughout the term of the lease plus royalties based upon the productivity of the aquaculture after the first year;

3. The disposition to be made of all improvements and animal and plant life upon the termination or cancellation of the lease.

4. The right to assignment, in whole or in part, upon the approval of the board.

(g) Failure to perform [illegible] aquaculture activities for which the [illegible] was granted

shall be grounds for cancellation of the lease and forfeiture to the State of Florida of all the work, improvements, animal and plant life in and upon the parcel leased. In addition, a surety bond is required.

(h) The parcel leased shall be identified, well marked, and shall have, except when it will interfere with the development of the animal and plant life being cultivated by the lessee, reasonable public access for boating, swimming, and fishing. All limitations on the public use of the parcel leased as set forth in the lease shall be clearly posted in conspicuous places by the lessee. Each parcel leased shall be marked in compliance with the rules and regulations of the Department, U. S. Coast Guard, and U. S. Army Corps of Engineers.

(3) Oil and Gas Lease

(a) Applications for nominations for the lease of sovereignty lands in which the State of Florida holds an interest in the petroleum or petroleum products shall include the following:

1. Name and address of the applicant or nominee;

2. Legal description of the parcel sought including the surface acreage; this description may utilize the submerged land blocks approved by the board on March 17, 1981;

3. Identification of the state agency vested with the ownership of the petroleum products;

4. Percentage of the petroleum interests held by the State;

5. Identification of any municipal corporation in which all or part of the parcel sought is located or within 10 miles thereof;

6. Identification of any improved beach outside a municipal corporation or lands in the tidal waters of the State of Florida abutting on or immediately adjacent to any improved beach in which or part of the parcel sought is located or within 3 miles thereof; and

7. A $200 non-refundable processing fee.

(b) Competitive bids for oil and gas leases shall be written offers of a cash consideration including the advertised fee for the first lease year, the amount offered above said fee being the competitive bid. The cash consideration offered shall accompany the written offer by certified or cashier's check made payable to the department and shall be returned to the unsuccessful bidder upon award of the lease or upon rejection of any and all bids. All bids must contain a certified statement as to the bidder's state lease holdings pursuant to Section 253.512, Florida Statutes.

(4) Dead Shell Lease

Applications for leases to remove dead shells shall be submitted to and processed by the Division of Marine Resources of the Department. The issuance of all such leases is subject to approval by the board.

Specific Authority 253.03(7), 253.73 FS. Law Implemented 253.03, 253.12, 253.115, 253.47, 253.67—.75, 370.16 FS. History—New 12-20-78, Formerly 16C-12.14, 16Q-17.14, Amended 3-27-82, 8-1-83.

16Q-21.081 Applications for Grandfather Structure Registration.

(1) Applications for grandfather structure registration shall include the following:

(a) Name, address and telephone number of applicant and applicant's authorized agent, if applicable.

(b) Location of the proposed activity including: county; section, township and range; affected waterbody; and a vicinity map, preferably a reproduction of the appropriate portion of United States Geological Survey quadrangle map.

(c) Satisfactory evidence of title in applicant's riparian upland property.

(d) Two copies of a dimensioned site plan drawing(s) with the following requirements:

1. Utilizing an appropriate scale on 8 1/2" × 11" size paper;

2. Showing the approximate waters edge;

3. SHowing the location of the grandfathered structures;

4. Showing the applicant's upland parcel property lines;

(e) Dated aerial photography, previously issued permits or authorizations, or other satisfactory information which verifies that the structures qualify as grandfathered structures.

(f) A $200.00 non-refundable processing and registration fee.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.71 FS. History—New 8-1-83.

16Q-21.09 Applications for Public Easement.

(1) Applications for easements across sovereignty land for public purposes such as utilities, bridges, and roads, shall include the following:

(a) Name, address, and telephone number of applicant and applicant's authorized agent;

(b) Location of the proposed activity including: county; section, township and range; affected waterbody; and a vicinity map, preferably a reproduction of the appropriate portion of a United States Geological Survey Quadrangle Map;

(c) Satisfactory evidence of title or extent of interest of the applicant to the riparian uplands or consent of upland owners for proposed use;

(d) A detailed statement of proposed use. If the applicant is a local governing body, the request shall be by official resolution;

(e) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors meeting the following requirements:

1. utilizing an appropriate scale on 8 1/2" × 11" size paper;

2. showing boundaries of the parcel sought;

3. showing ownership lines of the riparian uplands;

4. showing the line of ordinary or mean high water;

5. showing the location of the shoreline vegetation, if existing;

6. showing the location of any proposed or existing structures; and,

7. including a legal description and acreage of the parcel sought;

(f) Written comments from the Department of Environmental Regulation, when applicable, in the form of:

1. permit appraisal or biological assessment; and,

2. letter of intent, if issued;

(g) A $200.00 non-refundable processing fee. The processing fee may be waived for state agencies established pursuant to Chapter 20, Florida Statutes, and local governments; and,

(h) If dredging is proposed, an estimate of the number of cubic yards of sovereignty material to be removed showing how the amount was calculated.

(2) All easements across sovereignty lands shall be subject to reverter upon failure of the applicants to use the parcels sought as proposed in the applications.

(3) The terms of the easements shall be limited to the life of the proposed project or amortization of the improvements.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.12 FS. History—New 9-26-77, Formerly 16C-12.09 and 16Q-17.09, Revised 3-27-82.

16Q-21.10 Applications for Private Easement.

(1) Applications for easements across sovereignty lands for private purposes shall include the following:

(a) Name, address and telephone number of applicant and applicant's authorized agent;

(b) Location of the proposed activity including: county; section, township and range; affected waterbody; and a vicinity map, preferably a reproduction of the appropriate portion of a United States Geological Survey Quadrangle map;

(c) Satisfactory evidence of title or extent of interest of the applicant to the riparian uplands or consent of upland owners for proposed use;

(d) A detailed statement of proposed use;

(e) A statement evidencing that the easement sought is in the public interest;

(f) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors meeting the following requirements:

1. utilizing an appropriate scale on 8 1/2" × 11" size paper (unless a larger size is necessary to provide sufficient clarity and detail);

2. showing boundaries of the parcel sought;

3. showing ownership lines of the riparian uplands;

4. showing the line of ordinary or mean high water;

5. showing the location of the shoreline vegetation, if existing;

6. showing the location of any proposed or existing structures; and,

7. including a legal description and acreage of the parcel sought.

(g) Written comments from the Department of Environmental Regulation, when applicable, in the form of:

1. permit appraisal or biological assessment; and,

2. letter of intent, if issued;

(h) A list of names and addresses of all property owners within a 1,000 foot radius of the proposed easement area, verified by the County Property Appraiser's Office that these names came from the latest tax assessment rolls. The names and addresses shall be clearly typed and acceptable to the Department, preferably on labels suitable for mailing;

(i) A $200.00, non-refundable processing fee;

(j) If dredging is proposed, an estimate of the number of cubic yards of sovereignty material to be removed showing how the

amount was calculated;

(k) If the application is for an easement of right-of-way for private access from a public road to lands of the applicant, proof of approval from the agency having jurisdiction over the public road; and,

(l) Payment for the value of the easement in the amount stated on an appraisal performed by an independent appraisal firm contracted by the applicant and approved by the department.

(2) Applications shall be granted upon such terms and conditions, including payment of the value of the easement, if any, that the board sees fit. If required by the board, full payment shall be made within 90 days after receipt of notification that the easement has been granted by the board or the granting of the easement shall be invalid.

(3) All easements across sovereignty lands shall be subject to reverter upon failure of the applicant to use the parcels sought as proposed in the applications.

(4) The terms of all the easements shall be limited to a reasonable period of time related to the life of the proposed project or amortization of the improvements.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.12 FS. History—New 12-20-78, Formerly 16C-12.10 and 16Q-17.10, Revised 3-27-82.

16Q-21.11 Payments and Fees for Standard Leases, Easements, and Severed Dredge Materials.

(1) Standard Leases

(a) The annual lease fee shall be computed at a base rate of $0.065 per square foot.

(b) There shall be a discount of 30 percent per square foot per year for all leases that are open to the public on a first come, first served basis. Marinas constructed in conjunction with owner occupied multi-family residential buildings, shall be considered open to the public on a first come, first serve basis if no less than 50 percent of its berths are made available to the general public on a rental basis.

(c) An additional 20% of the lease fee shall be charged for the first annual fee on all leases.

(d) The per square foot base rate shall be revised March 1 of each year and increased or decreased based on the Consumer Price Index-All Items pursuant to paragraph (f) below.

(e) The rate for all new leases shall be determined according to the appropriate base schedule for the year in which the lease is granted.

(f) The rate charged for individual leases shall be adjusted annually based upon the average increase in the Consumer Price Index-All Items for the previous five years with a 10% cap.

(g) A rate of two times the existing rate shall be applied to aquatic preserve leases where 75% or more of the subject lease shoreline and the adjacent 1,000 feet on both sides of the lease area is in a natural, unbulkheaded, nonseawalled or nonriprapped condition. A rate of up to three times the base rate may be used in Class 1 or 2 Resource Protection Areas as designated in an aquatic preserve management plan adopted by the board.

(h) Nonwater dependent uses shall be assessed a fee that is ten times the appropriate base rate or a fee calculated by multiplying the square footage of the preempted area times the appraised per square foot value of the unimproved adjacent upland property times ten per cent, whichever is greater. The fees shall be adjusted annually pursuant to either 16Q-21.11(1)(d) or the revised annual assessed value as appropriate. Grandfathered nonwater dependent uses shall be treated as water dependent uses when grandfather status is lost for any reason.

(i) There shall be a minimum annual fee of $225.00.

(j) Waivers, partial waivers, or exclusions from payment of the lease fees for government, research, educational or charitable organizations may be granted by the Board in the event that the proposed uses are in the public interest.

(k) If a facility occupies sovereign submerged lands portions of which are exempted from payment by virtue of grandfathered status and portions of which are leased, and grandfathered status is lost, the lease fee and rate schedule for the entire property shall be the appropriate base rate at the time the renegotiated lease is executed.

(l) There shall be an assessment for prior unauthorized use of sovereignty land for after-the-fact lease applications. The minimum assessment for such applications shall include:

1. Payment of retroactive lease fees;

2. Payment of an assessment computed as the number of square feet in the lease area times the lease fee per square foot at the time construction was commenced times ten; and,

3. Payment of an additional annual percentage on retroactive lease fees and the assessment calculated under 2., computed at a rate of 12%. Such rate shall be adjusted annually to a rate equal to the two percentage points above the Federal Reserve Bank discount rate to member banks.

(m) Any grandfather structures which are not registered according to this rule shall lose any grandfathered rights.

(n) Any grandfathered structures which are not registered according to this rule shall be considered a prior unauthorized use as September 30, 1984 and may be treated according to the provisions of Rule 16Q-21.11, Florida Administrative Code.

(o) The board may, at its discretion, consider equities and particular circumstances on a case by case basis to determine whether an adjustment of the assessment provisions set forth in (l) above would be warranted and may increase or lower the assessment accordingly.

(2) Private Easements

(a) The fee for private easements shall be determined by an appraisal obtained by the applicant. The appraiser must be selected from the division's approved list of appraisers and the appraisal must be reviewed and approved by the division.

(b) In addition to standard appraisal requirements and procedures, the following factors shall be considered in determining the easement fee:

1. the extent to which the easement is exclusionary; i.e., the degree to which the proposed easement precludes, in whole or in part, traditional or future public uses of the easement area or other submerged land; and

2. the enhanced property value or profit gained by the applicant if the proposed easement is approved.

(3) Severed Dredge Materials

(a) When an activity involves the removal of sovereignty materials to upland property by dredging or any other means, payment per cubic yard of material shall be as follows:

1. Monroe County	$3.25
2. Bay, Brevard, Broward, Charlotte, Collier, Dade, Duval, Escambia, Lee, Manatee, Palm Beach, Pasco, Pinellas and Sarasota Counties	$2.25
3. All other counties	$1.25
4. Minimum payment	$50.00

(b) These payments shall not be used for dead shell and mining leases which will be subject to individual royalty or other compensation payments.

(c) A waiver of the severed dredge material payment may be requested and approved when:

1. the materials are being placed on public property and used for public purposes; or

2. it is affirmatively demonstrated that the severed dredge material has no economic value.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.71 FS. History—New 3-27-82, Amended 5-18-82, 8-1-83, 9-4-84.

16Q-21.12 Spoil Islands.

(1) No spoil islands shall be developed except upon a clear showing that the development is in the public interest and hardship would result if the development was not authorized.

(2) Proposals for public development of spoil islands may be authorized after comments have been solicited and received from the appropriate public agencies determining that the public interest would be served by the development.

(3) Unauthorized structures that have been constructed on spoil islands shall be removed. The procedure for removal shall be as follows:

(a) The individual claiming a possessory interest in any structure shall be served notice by certified mail that he is trespassing and that he must remove the structure within 120 days of receipt of the notice.

(b) If the individual fails or refuses to remove the structure within 120 days of receipt of the notice, the board shall have the structure removed at the individual's expense.

(c) If the individual cannot be located, notice of trespass and intent to remove the structure shall be posted on the structure for 120 days prior to removal.

(4) Continuing human habitation of any spoil islands is prohibited.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.115 FS. History—New 9-26-77, Formerly 16C-12.05 and 16Q-17.05, Revised 3-27-82.

16Q-21.13 Applications to Purchase Lands Riparian to Uplands.

(1) Applications to purchase lands riparian to uplands may be made by the riparian owners only. The board reserves the right to reject any and all such applications. The following shall be included in each application:

(a) Name and address of the applicant;

(b) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the State of Florida Board of

Land Surveyors or an agent of the federal government approved by the department clearly showing:

1. the boundaries of the parcel sought;

2. land tie referenced, by ground survey, to an established accessible section corner, subsection corner, other U. S. Government Land Office survey corner, or other controlling corner(s);

3. boundary lines of the applicant's adjacent uplands;

4. existing mean high water line, surveyed and approved in accordance with Chapter 177, Part II, Florida Statutes, between the applicant's uplands and the parcel sought extending 1,000 feet from both sides of the parcel;

5. U. S. Government Land Office meander line.

(c) Five maps, no larger than 8 1/2" × 14" in size, showing the location of the parcel sought for purchase. These maps need not be certified;

(d) Legal description and acreage of the filled parcel.

(e) Aerial photograph showing the date of flight, if available, with the parcel sought identified thereon;

(f) One copy of the recorded subdivision plat with any dedication data, if the applicant's uplands are part of the subdivision;

(g) Satisfactory evidence of title in the applicant to the riparian uplands;

(h) Statement of the applicant's proposed use of the parcel sought;

(i) Statement evidencing that the sale of the parcel is in the public interest;

(j) Names and addresses, as shown on the latest county tax assessment roll, of all owners of land lying within 1,000 feet of the parcel sought, certified by the county appraiser; and

(k) An appraisal of the current market value of the parcel sought made within 3 months after the date of application by an appraiser with designations acceptable to the department.

(l) A non-refundable processing fee of $200 shall accompany each application, except for applications from state agencies.

(2) If the parcel sought is located in Pinellas or Sarasota County, the applicant shall simultaneously file an application with the respective water and navigation control authority having jurisdiction over the parcel.

(3) When state-owned submerged lands have been filled without authority after June 11, 1957 (state-owned submerged lands filled before June 11, 1957 are addressed in Rules 16Q-21.14 and 16Q-21.15, Florida Administrative Code), the board, by law may:

(a) Direct the fill be removed by or at the expense of the applicant;

(b) Direct the fill remain as state-owned and have it surveyed at the expense of the applicant; or

(c) Sell the filled lands. The following sale prices shall be recommended by the department to the board:

1. One and one-half times the present appraised value of the lands excluding building improvements if the unauthorized filling was done by the applicant's predecessor in title between June 11, 1957 and July 14, 1967.

2. Two times the present appraised value of the lands excluding building improvements if the unauthorized filling was done by the applicant's predecessor in title after July 14, 1967.

3. Three times the present appraised value of the lands excluding building improvements if the unauthorized filling was done by the applicant after June 11, 1957.

(4) Full payment for the deed shall be made within 90 days after notification of confirmation of the sale by the board or the sale shall be invalid.

Specific Authority 253.03, 253.12, 370.021 FS. Law Implemented 253.115, 253.12 FS. History—New 9-26-77, Formerly 16C-12.04 and 16Q-17.04, Revised 3-27-82.

16Q-21.14 Disclaimers to Confirm Title to Filled Formerly Sovereignty Lands.

(1) Applications for disclaimers to confirm title of formerly sovereignty lands filled prior to May 29, 1951 (prior to June 11, 1957 in Dade and Palm Beach Counties), or subsequent to these dates under authority of a U. S. Army Corps of Engineers permit issued prior to these dates, must be supported by documentary evidence acceptable to the department including the following:

(a) Name and address of the applicant;

(b) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors or an agent of the federal government acceptable to department clearly showing:

1. present mean high waterline, surveyed and approved in accordance with Chapter 177, Part II, Florida Statutes;

2. applicant's ownership to the former mean high water line shown or indicated;

3. U. S. Government Land Office meander line; and

4. traverse of fill, showing the location of the former mean high water line, which is properly riparian to the applicant's uplands, with a land tie to an established accessible section corner, subsection corner, other U. S. Government Land Office Survey corner, or other controlling corner(s);

(c) Five maps, no larger than 8 1/2" × 14" in size, showing the location of the parcel sought. The maps need not be certified;

(d) Legal description and acreage of the filled parcel;

(e) Aerial photograph showing the date of flight, if available, evidencing the date of filling;

(f) Satisfactory evidence of title in the applicant to the riparian uplands to the mean high water line as it existed prior to filling;

(g) Two affidavits executed by disinterested parties evidencing the date, as accurately as possible from personal knowledge, when the filling of the parcel sought was completed;

(h) Copy of the U. S. Army Corps of Engineers permit issued prior to May 29, 1951 (June 11, 1957 in Dade and Palm Beach Counties) authorizing the fill, if applicable; and

(i) A non-refundable processing fee of $200 shall accompany each application, except for applications from state agencies.

Specific Authority 253.03(7) FS. Law Implemented 253.12, 253.129 FS. History—New 9-26-77, Formerly 16C-12.06 and 16Q-17.06, Revised 3-27-82.

16Q-21.15 Quitclaims to Clear Title to Filled Formerly Sovereignty Lands.

(1) Applications for quitclaim deeds to clear title to sovereignty lands filled after May 29, 1951, but prior to June 11, 1957 (except in Dade and Palm Beach Counties) or subsequent to these dates under authority of a U. S. Army Corps of Engineers permit issued prior to these dates, must be supported by documentary evidence acceptable to the department and including the following:

(a) Name and address of the applicant:

(b) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors or an agent of the federal government acceptable to the department clearly showing:

1. present mean high water line surveyed and approved in accordance with Chapter 177, Part II, Florida Statutes;

2. applicant's ownership to the mean high water line prior to filling;

3. U. S. Government Land Office Meander line; and,

4. traverse of fill, showing the location of the former mean high water line, which is properly riparian to the applicant's upland ownership, with a tie to an established accessible section corner, subsection corner, other U. S. Government Land Office survey corner, or other controlling corner(s);

(c) Five maps, no larger than 8 1/2" × 14" in size, showing the location of the parcel sought. The maps need not be certified;

(d) Legal description and acreage of the filled parcel;

(e) Aerial photograph showing the date of flight, if available, and showing the land as it existed prior to and after the filling;

(f) Satisfactory evidence of title in the applicant to the riparian uplands;

(g) Two affidavits executed by disinterested parties evidencing the date, as accurately as possible from personal knowledge, of commencement and completion of the fill;

(h) Copy of a U. S. Army Corps of Engineers permit issued after May 29, 1951, but prior to June 11, 1957, authorizing the fill, if applicable; and,

(i) A non-refundable processing fee of $200 shall accompany each application, except for applications from state agencies.

(2) The consideration for the parcel sought shall be the appraised value of the parcel in its unfilled state prior to June 11, 1957. The appraisal of the parcel shall be made within 3 months after the date of application by an appraiser with designations acceptable to the department.

(3) Full payment for the deed shall be made within 90 days after notification of confirmation of the conveyance by the board or the conveyance shall be invalid.

Specific Authority 253.03(7) FS. Law Implemented 253.12 FS. History—New 9-26-77, Formerly 16C-12.07 and 16Q-17.07, Revised 3-27-82.

16Q-21.16 Applications to Reclaim Lands Lost Due to Avulsion or Artificial Erosion.

(1) Applications to reclaim lost lands as defined in Section 253.124(8), Florida Statutes, may be submitted only by the riparian upland owner or the legally authorized agent thereof.

(2) Applications to reclaim lands lost due to avulsion or artificial erosion shall include the following:

(a) Name and address of applicant;

(b) Satisfactory evidence of title in the applicant to the existing upland, such as:

1. current title insurance policy issued by a title insurance company authorized to do business in Florida; or

2. opinion of title prepared by a member of the Florida Bar; or

3. affidavit of ownership;

(c) A survey prepared, signed, and sealed by a registered land surveyor showing the applicant's upland, U. S. Meander survey line, the approximate original mean high water line and the existing approximate mean high water line, and a traverse showing the location of the former mean high water line which is properly riparian to the applicant's uplands with a land tie to an established reference point;

(d) Legal description as shown by original survey which shall include the area to be reclaimed;

(e) Copy of a recorded subdivision plat showing the original recorded shoreline if the applicant's upland is part of a subdivision, or a copy of a map taken from an R. E. D. I. Real Estate Atlas map showing ownership lines and shorelines;

(f) Statement of proposed methods of reclaiming the subject lost lands, if not indicated in an attached Department of Environmental Regulation permit application;

(g) Two affidavits executed by disinterested parties evidencing the manner, as accurately as possible from personal knowledge, that the loss of land occurred by avulsion (storms, hurricanes), artificial erosion (caused by the emplacement of bulkheads, jetties and other structures), dredging, or artificial land cutting of uplands; and

(h) Accurate aerial photographs showing the date of flight evidencing the location and configuration of the original shoreline before and after avulsion or artificial erosion. Suggested sources: local tax assessor's office, local offices of the State Departments of Transportation and Agriculture and Consumer Services, and local offices of the U. S. Army Corps of Engineers.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.12 FS. History—New 3-27-82.

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CHAPTER 16Q-22
SPOIL SITE ACQUISITION AND IMPROVEMENT

16Q-22.01 General.

(1) The Florida Legislature, through passage of Chapter 81-228, Laws of Florida, has determined that it is essential to preserve and maintain authorized water depth in the existing navigation channels, port harbors, turning basins, and harbor berths of this State in order to provide for continued safe navigation of deep water shipping commerce. The Legislature further provided for the development of environmental standards and other requirements for maintenance dredging, the issuance of maintenance dredging permits for periods up to 25 years and for the acquisition of, and improvements to, spoil disposal sites.

(2) The Department of Natural Resources is required to establish a priority acquisition and improvement program for spoil disposal sites to be acquired using funds from the Florida Coastal Protection Trust Fund.

(3) The Board of Trustees of the Internal Improvement Trust Fund is authorized to make expenditures from the Fund for the acquisition and improvement of spoil disposal sites.

(4) This rule sets forth procedures and considerations for the prioritization and acquisition of spoil disposal sites and improvements to existing and future sites.

Specific Authority 253.03(7) FS. Law Implemented 376.11(3) FS. History—New 3-7-84.

16Q-22.02 Intent.

(1) The intent of Chapter 81-228 is to facilitate maintenance dredging in Florida waters used for deep water shipping commerce. It is therefore the intent of the Department that highest priority be given to the acquisition or improvement of spoil disposal sites serving the maintenance dredging needs of Florida's ports, including, but not limited to, the ports of St. Petersburg Bayboro Harbor, Jacksonville, Port Canaveral, Ft. Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, Port St. Joe, Tampa, Panama City, and Pensacola.

(2) It is further the intent to:

(a) Aid in fulfilling the trust and fiduciary responsibilities of the Board of Trustees of the Internal Improvement Trust Fund for the administration, management and disposition of State-owned lands;

(b) Implement the administrative a

management responsibilities of the Board and Department regarding the establishment of a priority acquisition and improvement program for spoil disposal sites;

(c) Aid in continuing the viability of Florida's deep water ports in an environmentally sound manner;

(d) Insure maximum benefit and use of spoil disposal sites;

(e) Establish a program and procedures for the equitable distribution of disposal site acquisition and improvement funds;

(f) Establish a selection advisory committee and criteria for evaluating and prioritizing disposal site acquisition and improvement projects;

(g) Encourage and enhance long term management and use of disposal sites, including perpetual management;

(h) Aid in the implementation of the State Lands Management Plan, and other State environmental and land management programs; and

(i) Implement fully the specific provisions of Chapter 81-228, Laws of Florida, regarding disposal site acquisition and improvement.

Specific Authority 253.03(7) FS. Law Implemented 376.11(3) FS. History—New 3-7-84.

16Q-22.03 Definitions.

(1) "Advisory Committee" shall mean the Advisory Committee as set forth in Rule 16Q-22.06 of this chapter.

(2) "Board" shall mean the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

(3) "Department" shall mean the State of Florida Department of Natural Resources.

(4) "Eligible Projects" shall mean acquisition of or improvements to existing or future disposal sites for the ports of St. Petersburg Bayboro Harbor, Jacksonville, Port Canaveral, Ft. Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, Port St. Joe, Tampa, Panama City, Pensacola and other navigable waters of the State.

(5) "Disposal Site" shall mean the site upon which spoil material produced from maintenance dredging within ports and other navigable waters is to be deposited.

(6) "Disposal Site Improvement" shall mean any improvement to a disposal site designed to facilitate the management of dredged material produced from maintenance dredging within ports and other navigable waters.

Specific Authority 253.03(7) FS. Law Implemented 376.11(3) FS. History—New 3-7-84.

16Q-22.04 Eligible Project Selection Criteria.

(1) In developing the priority list of eligible projects for submission to the Board, the Department shall take into account all written recommendations received from the Department of Environmental Regulation and those ports specified in Section 376.11(3), F. S. The Department may also consider the recommendations of the Advisory Committee established pursuant to Rule 16Q-22.06 and any comments received during public hearings.

(2) The following factors shall be considered:

(a) Each applicant's demonstrated need for disposal sites relative to proposals from other applicants, including, but not limited to, the following:

1. Critical or emergency disposal needs which may exist;

2. Potential loss of the proposed disposal site to competing uses if the site is not acquired;

3. Whether the proposed acquisition or improvement is needed in support of a maintenance dredging permit from the Department of Environmental Regulation;

4. The degree to which the volume and frequency of maintenance dredging creates disposal problems;

5. Historical volumes of maintenance dredged material and frequency of dredging relative to other applicants;

6. The extent to which the proposed acquisition or improvement provides a permanent solution to, or satisfies a significant portion of, the applicant's existing and projected disposal site needs.

(b) Permit requirements of Chapters 403 and 253, F. S., including:

1. Whether the eligible project has received all necessary permits or easements, or other consent of use; or

2. Whether the eligible project can reasonably be expected to be permittable pursuant to Chapters 403 and 253, F. S.

(c) The degree to which the need for maintenance dredging presents problems associated with movement of petroleum and other pollutant hazards, including:

1. Shoaling and other conditions related to channel maintenance;

2. Documented occurrences of groundings, spills, and other pollution events related to channel maintenance;

3. Whether volumes of petroleum and

other pollutant hazards shipped poses significant environmental risk; and

4. Whether the movement of petroleum products and other pollutant hazards constitutes a major part of the applicant's shipping activity.

(d) Protection of recreational and environmental quality, including:

1. Impact of the proposed acquisition or improvement on environmentally sensitive areas;

2. The degree to which the proposed acquisition or improvement addresses management of contaminated or difficult-to-control dredged sediments; and

3. Whether the proposed acquisition or improvement is part of a port-wide, long-term dredged material management plan.

(e) Relationship with local plans, including:

1. Consistency with local government comprehensive plans adopted pursuant to Chapter 163, F. S.; and

2. Consistency with local zoning and other local government programs.

Specific Authority 253.03(7) FS. Law Implemented 376.11(3) FS. History—New 3-7-84.

16Q-22.05 Requirements and Limitations for Acquisitions and Improvements.

(1) Disposal sites shall be acquired pursuant to Section 253.025, F. S., and Chapter 16Q-3, F. A. C.

(2) Funding Requirements and Limitations:

(a) The recipient port authority or other appropriate applicant shall contribute not less than 50 percent of the cost of acquisition of, or improvements to, a disposal site. Such contributions may include land owned or improvements to the disposal site. Contributions shall not include the cost of environmental or engineering studies, surveys, or appraisals.

(b) A reserve of $500,000 of the total funds available for each fiscal year shall be maintained for emergency actions to protect public investments and to meet commitments on approved projects in the event of revenue shortfalls. This reserve shall not be cumulatively compiled from one fiscal year to another.

(c) Disposal site improvements

1. All funds expended for improvements by the applicant for the purposes contained herein shall be subject to preaudit review and approval by the Comptroller of Florida in accordance with Section 17.03, F. S. Supporting documentation for expenditures shall be provided by the applicant in accordance with the applicable provisions of Chapter 16A-11. Purchases of goods and services will be pursuant to Chapter 287, F. S.

2. Funding for disposal site improvements shall be limited to improvement projects on State-owned lands. Where improvement projects are approved for existing disposal sites owned by the applicant, fee title to such lands must be conveyed to the Board prior to the release of any improvement funds.

3. Exceptions may be granted where the spoil site is owned by a public agency and the Board determines on a case-by-case evaluation that:

a. State ownership is not in the public interest; and

b. State land management and environmental objectives can be accomplished without conveyance of title to the State.

Specific Authority 253.03(7) FS. Law Implemented 376.11(3) FS. History—New 3-7-84.

16Q-22.06 Advisory Committee.

(1) To assist the Department in establishing a priority listing of eligible projects, there is hereby established an Advisory Committee which shall be composed of the following persons or their designees:

(a) The Executive Director of the Department of Natural Resources;

(b) The Secretary of the Department of Environmental Regulation;

(c) The Secretary of the Department of Community Affairs;

(d) The Secretary of the Department of Commerce;

(e) The Executive Director of the Florida Game and Fresh Water Fish Commission;

(f) A representative of the Jacksonville District Office of the United States Army Corps of Engineers;

(g) A representative of the Mobile District Office of the United States Army Corps of Engineers;

(h) A representative of the Marine Fisheries Commission; and

(i) A representative of a recognized State-wide environmental organization.

(2) The Chairman of the Advisory Committee shall be the Executive Director of the Department of Natural Resources or his designee.

(3) The Advisory Committee shall hold periodic meetings at the request of the Chairman.

(4) The responsibilities of the Committee shall include:

(a) Reviewing eligible project applications and other relevant information pertaining to acquisition and improvement proposals, including overall funding capabilities in terms of long-term commitments, projections of earnings, and the most effective use of funds.

(b) Recommending to the Department a priority listing of eligible project applications and management conditions taking into consideration the project selection criteria in Rule 16Q-22.04 and other applicable portions of this rule.

(5) The Department shall provide necessary staff support to the Advisory Committee.

Specific Authority 253.03(7) FS. Law Implemented 376.11(3) FS. History—New 3-7-84.

16Q-22.07 Disposal Site Management.

(1) All leases, easements, or other forms of approval for disposal site activities shall contain such terms, conditions, or restrictions as deemed necessary by the Department to protect and manage the disposal site and other State-owned lands.

(2) Disposal of maintenance dredged material shall be the priority use of disposal sites acquired or improved pursuant to this rule, and other uses which may interfere with this function shall not be allowed.

(3) A site-specific, long term dredged material management plan shall be a condition of Board approval of requests for acquisition or improvement funds. Management and use of disposal sites shall be consistent with such plan.

(4) Dredged material management plans shall address, as appropriate, acceleration of dewatering and consolidation of dredged material, removal of consolidated material to maintain capacity, site maintenance and other measures as are necessary to maximize service life of the site in an environmentally sound manner.

(5) Site maintenance shall include, but not be limited to, control of dike erosion, assurance that weirs and other such improvements remain in working order and control of mosquito breeding and other public health/nuisance problems.

Specific Authority 253.03(7) FS. Law Implemented 376.11(3) FS. History—New 3-7-84.

16Q-22.08 Application for Disposal Site Acquisition and Improvement Funds.

(1) Each application shall include the following general information:

(a) A narrative description of the proposed project which addresses each of the selection criteria listed in Rule 16Q-22.04;

(b) A discussion of the rationale used in selecting the proposed project over such reasonable alternatives as may be available;

(c) An evaluation of site ownership considerations;

(d) Delineation of site management responsibilities;

(e) A discussion of any port and Corps of Engineers agreements affecting the use and management of the disposal site;

(f) A listing of eligible project costs and methods of estimating costs; and

(g) A listing of matching funds.

(2) In addition, each application shall include the following detailed information:

(a) Name, address and telephone number of applicant and applicant's authorized agent;

(b) Two prints of a survey on 8-1/2 × 14 inch engineer's paper) delineating the area to be acquired or improved, certified and sealed by a person properly licensed by the Florida State Board of Land Surveyors or an agent of the Federal Government acceptable to the Department;

(c) A legal description certified and sealed by a person properly licensed by the Florida State Board of Land Surveyors or an agent of the Federal Government, acceptable to the Department;

(d) Maps to scale and aerial photos of the site and adjoining areas, including, if applicable, location of mean high water line;

(e) Identification of navigational areas contributing maintenance dredged materials to the proposed site, projected volumes and physical characteristics of material to be disposed, and estimated capacity and anticipated life of the site; and

(f) Any evidence that the proposed project will meet the requirements as outlined in Rule 16Q-22.04(2)(d)3. and (2)(e) of this chapter.

(3) For applications for disposal site improvements, the following additional information is required:

(a) A narrative description and engineering drawings or sketches to scale of the improvements; and

(b) Maps and drawings, to scale, showing the acreage and boundaries of area included in the improvement(s).

Specific Authority 253.03(7) FS. Law Implemented 376.11(3) FS. History—New 3-7-84.

16Q-22.09 Processing of Applications.

(1) Immediately after the effective date of this rule and annually thereafter, the Department shall publish notice in the Florida Administrative Weekly requesting that applications for eligible projects be submitted to the Department no later than 45 days following publication of notice.

(2) Within 120 days following the effective date of this rule and annually thereafter, the Department shall schedule a public hearing for the purpose of receiving public comments regarding applications received.

(3) Within 150 days following the effective date of this rule and annually thereafter, the Department shall publish, in the Florida Administrative Weekly, the priority list of eligible projects to be submitted to the Board.

(4) The schedules set forth above for the initial public hearing and initial publication of a priority list are advisory in nature and may be adjusted if the Board determines that particular circumstances so warrant.

(5) Board approval of eligible projects shall be contingent on applicant's receipt of all local government approvals, environmental permits required pursuant to Chapters 403 and 253, F. S., all easements or other consent of use of State lands required pursuant to Chapter 253, F. S., and submission of a dredged material management plan acceptable to the Department in accordance with Rule 16Q-22.07(3) of this chapter.

Specific Authority 253.03(7) FS. Law Implemented 376.11(3) FS. History—New 3-7-84.

CHAPTER 16Q-23
LAND MANAGEMENT ADVISORY COMMITTEE

16Q-23.01 Intent. The intent and purpose of this rule is to:

(1) Aid in fulfilling the trust and fiduciary responsibilities of the Board of Trustees of the Internal Improvement Trust Fund for the administration, management, and disposition of State-owned lands;

(2) Establish operating procedures and responsibilities of the Land Management Advisory Committee pursuant to Section 253.034(4), F. S.;

(3) Insure maximum protection, benefit and use of State lands for all of the citizens of Florida;

(4) Insure that all activities on State lands, which generate revenues or exclude public uses provide just compensation for such privileges; and,

(5) Aid in the implementation of the State Lands Management Plan.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.022, 253.034 FS. History—New 4-4-84.

16Q-23.02 Scope and Effective Date. These rules will implement the administrative and management responsibilities of the committee regarding State lands and outline the management plan and sublease requirements for agencies managing State lands. These rules are considered cumulative; therefore, a person or an agency developing management plans and subleases should consult other applicable department rules (Chapter 16Q-21, F. A. C. and others).

Specific Authority 253.03(7), 253.034(4), (5) FS. Law Implemented 253.03(7), 253.034(4), (5) FS. History—New 4-4-84.

16Q-23.03 Definitions.

(1) "Agency" means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or another unit or entity of government.

(2) "Board" means the Board of Trustees of the Internal Improvement Trust Fund.

(3) "Committee" means the Land Management Advisory Committee pursuant to Section 253.034, F. S.

(4) "Conveyance" means an instrument or transfer of title of land from one party to another.

(5) "Cooperating agency" means an agency which, as party to a management agreement/multiple agency lease has designated management responsibilities to be carried out under the guidance of the lead agency.

(6) "Cooperative management" means single or multiple use management by more than one agency so that each utilizes its particular expertise in order to achieve a particular management goal.

(7) "Department" means the State of Florida Department of Natural Resources.

(8) "Division" means the Division of State Lands which performs all staff duties and functions related to the administration of lands, title to which is or will be vested in the Board, pursuant to Section 253.02, F. S.

(9) "Lead agency" means that agency

designated by the Board as being responsible for coordinating the development of a management plan for a cooperative management area with input from cooperating agencies pursuant to the terms of the management agreement/multiple agency lease.

(10) "Lease" means an interest in lands designated by a contract creating a landlord-tenant relationship between the Board as landlord and the applicant as tenant whereby the Board grants and transfers to the agency the exclusive use, possession, and control of certain specified lands, for a determinate number of years, with conditions attached. On those properties which considerable capital improvements are to be made, the term of a lease shall be limited to the expected amortization or life cycle of the improvement.

(11) "Management agreement/multiple agency lease" means the legal instrument by which the management purpose(s) of a property and the responsibilities of each managing party are delineated in a cooperative management situation. It is a contractual agreement between the Board and one or more agencies which does not create an interest in real property but merely authorizes conduct of certain management activities on lands owned by the Board.

(12) "Multiple use" means management for two or more primary purposes in order to insure that the greatest possible combination of public benefits are derived from the use of State lands. These uses may include, but are not limited to management for: timber, wildlife habitat, forage, open space, recreation, public facilities, archeological and historic sites, or water resources. Individual resources in multiple use management areas may be managed at less than full potential in order to provide the most beneficial combination of uses.

(13) "Plan" means a management plan as required by Section 253.034, F. S.

(14) "Release" means the relinquishment, concession, or giving up of a right, claim, or privilege, by the party in whom it exists or to whom it accrues.

(15) "Single use" means management for one primary purpose. Single use properties may be managed for compatible secondary uses as long as those uses do not interfere or detract from the designated primary purpose. Single use properties will most often be managed by a single agency but may be placed under cooperative management if the expertise of two or more agencies is required to carry out the primary purpose.

(16) "Sole management" means management by one agency on a single or multiple use management tract.

(17) "State land" as used in this rule means land to which the title is vested in the Board.

(18) "Sublease" means a lesser than leasehold interest in lands executed by the lessee to a third party for a definite time period with specific conditions attached.

(19) "Surplus lands" means lands which are not needed by any State agency, and are recommended for disposal, pursuant to Rule 16Q-23.10.

Specific Authority 253.03(7) FS. Law Implemented 253.022, 253.034 FS. History—New 4-4-84.

16Q-23.04 Land Management Advisory Committee Composition and Procedures.

(1) The committee shall be composed of the following persons or their designees:

(a) The Executive Director of the Department of Natural Resources;

(b) The Commissioner of the Department of Agriculture and Consumer Services;

(c) The Secretary of State;

(d) The Executive Director of the Game and Fresh Water Fish Commission;

(e) The Secretary of the Department of Environmental Regulation;

(f) The Secretary of the Department of Corrections;

(g) The Commissioner of the Department of Education.

(2) The Chairmanship of the committee shall rotate annually on October 1 of each year in the order listed above as set forth in Section 253.034, F. S.

(3) The committee shall hold periodic meetings at the request of the chairman. The meetings shall be recorded electronically and such records shall be preserved pursuant to Chapters 119 and 267, F. S.

Specific Authority 253.03(7) FS. Law Implemented 253.022(1), (2) FS. History—New 4-4-84.

16Q-23.05 Land Management Advisory Committee Responsibilities and Procedures.

(1) The responsibilities of the committee shall include:

(a) Reviewing each plan or sublease over 160 acres, and each surplus land determination within 60 days after receipt from the division.

(b) Considering the propriety of the agency's recommendations regarding the future use of the land, protection of fragile and non-renewable resources, maintenance and use of renewable resources.

(c) Identifying the potential for alternative or multiple uses not recognized by the managing agency.

(d) Identifying lands surplus to the agency's need which could be used by or reserved for other agency use or disposed of as surplus.

(e) Considering whether lands would be more appropriately owned or managed by a county or other local government and whether a sale, lease, or other conveyance would be in the interests of the State and local government.

(2) The procedures of the committee shall include:

(a) All management plans and subleases for areas over 160 acres in size, and all surplus land determinations shall be reviewed by the committee prior to submittal to the Board. Utilizing the policies, standards, and criteria of Rule 16Q-23.08, the committee shall specifically recommend to the Board whether to approve, approve with modifications, or reject a management plan, sublease, or surplus lands determination.

(b) Management plans and subleases for areas less than 160 acres in size, may at the request of three (3) or more committee members, be submitted to the committee for review and recommendations.

(c) A recommendation to the Board on management plans, subleases and surplus land designations by the committee shall be by the concurrence of at least four (4) members.

(d) The use of State-owned land in a manner which is inconsistent with the existing lease or the approved land management plan, shall cause the lease to be subject to termination by the Board. The committee shall recommend to the Board when such uses are not in accordance with the approved management plan or lease/agreement.

Specific Authority 253.03(7), 253.034(4), (5) FS. Law Implemented 253.022(1), 253.034(3), (4), (5) FS. History—New 4-4-84.

16Q-23.06 Agency Duties.

(1) Primary staff support for the committee shall be provided by the division, including the recording functions listed in paragraph (3) of Rule 16Q-23.04.

(2) The managing agency should be prepared to respond to any inquiries or issues.

(3) The managing agency shall prepare executive summaries which highlight important management facts, issues, or problems, and any public input which went into developing the plan or sublease.

Specific Authority 253.03(7) FS. Law Implemented 253.022(2), 253.034(4) FS. History—New 4-4-84.

16Q-23.07 Management Plans. Plans submitted to the division for committee review under the requirements of Section 253.034, F. S., should contain, where applicable to the management of resources, the following:

(1) The common name of the property.

(2) A map showing the location and boundaries of the property plus any structures or improvements to the property.

(3) The legal description and acreage of the property.

(4) The degree of title interest held by the Board, including reservations and encumbrances such as leases.

(5) The land acquisition program (e.g., C. A. R. L., E. E. L., Save Our Coast), if any, under which the property was acquired.

(6) The designated single use or multiple use management for the property, including other managing agencies.

(7) Proximity of property to other significant State, local, or federal land or water resources.

(8) A statement as to whether the property is within an aquatic preserve or a designated area of critical State concern or an area under study for such designation.

(9) The location and description of known and reasonably identifiable renewable and non-renewable resources of the property including, but not limited to, the following:

(a) Brief description of soil types, using U. S. D. A. maps when available;

(b) Archaeological and historical resources;

(c) Water resources including the water quality classification for each water body and the identification of any such water body that is designated as an Outstanding Florida Waters;

(d) Fish and wildlife and their habitat;

(e) State and federally listed endangered or threatened species and their habitat;

(f) Beaches and dunes;

(g) Swamps, marshes and other wetlands;

(h) Mineral resources, such as oil, gas and phosphate;

(i) Unique natural features, such as coral reefs, natural springs, caverns, large sinkholes, virgin timber stands, scenic vistas, and natural rivers and streams; and

(j) Outstanding native landscapes containing relatively unaltered flora, fauna, and geological conditions.

(10) A description of actions the agency plans, to locate and identify unknown resources such as surveys of unknown archaeological and historical resources.

(11) The identification of resources on the property that are listed in the Natural Area Inventory.

(12) A description of past uses, including any unauthorized uses of the property.

(13) A detailed description of existing and planned use(s) of the property.

(14) A description of alternative or multiple uses of the property considered by the managing agency and an explanation of why such uses were not adopted.

(15) A detailed assessment of the impact of planned uses on the renewable and non-renewable resources of the property and a detailed description of the specific actions that will be taken to protect, enhance and conserve these resources and to mitigate damage caused by such uses.

(16) A description of management needs and problems for the property.

(17) Identification of adjacent land uses that conflict with the planned use of the property, if any.

(18) A description of legislative or executive directives that constrain the use of such property.

(19) A finding regarding whether each planned use complies with the State Lands Management Plan, particularly whether such uses represent "balanced public utilization", specific agency statutory authority, and other legislative or executive constraints.

(20) An assessment as to whether the property, or any portion, should be declared surplus.

(21) Identification of other parcels of land within or immediately adjacent to the property that should be purchased because they are essential to management of the property.

(22) A description of the management responsibilities of each agency and how such responsibilities will be coordinated, including a provision that requires that the managing agency consult with the Division of Archives, History and Records Management before taking actions that may adversely affect archaeological or historic resources.

(23) A statement concerning the extent of public involvement and local government participation in the development of the plan, if any, including a summary of comments and concerns expressed.

Specific Authority 253.03(7), 253.034(4), (5) FS. Law Implemented 253.034(4) FS. History—New 4-4-84.

16Q-23.08 Policies, Standards, and Criteria. The following management policies, standards, and criteria will be used by the committee to determine whether to recommend approval, approval with conditions or modifications, or to reject any agency management plan, sublease or surplus land determination.

(1) The policies, standards, and criteria that are enumerated in the "Upland Management Rules of the Department of Natural Resources".

(2) The policies, standards, and criteria that are enumerated in the "Sovereignty Submerged Lands Management Rules of the Department of Natural Resources", Chapter 16Q-21, F. A. C.

(3) The policies, standards, and criteria that are enumerated in the "State Lands Management Plan", adopted March 17, 1981, by the Board.

Specific Authority 253.03(7), 253.034(4) FS. Law Implemented 253.034(3), (4), (5) FS. History—New 4-4-84.

16Q-23.09 Sublease Reviews.

(1) An agency managing or leasing State-owned lands from the Board shall not sublease lands without prior review by the division and subsequent approval by the Board. Subleases for areas greater than 160 acres in size shall be reviewed by the committee prior to submittal to the Board.

(2) All sublease requests shall be made pursuant to applicable laws and rules governing the leasing and subleasing of State-owned lands.

(3) Subleases submitted to the division for review shall contain, at a minimum, the following:

(a) Eight copies of all material submitted.

(b) A copy of the proposed sublease.

(c) A statement regarding how the sublease compliments and conforms with the agency's management plans for the subject property.

(d) A statement specifically identifying how the sublease conforms to the agency's statutory authority.

(e) Identification of the sublease fees, rentals, or other charges and how these fees were established; i.e., appraised market value, negotiated, or competitive bid.

(f) Identification of where the sublease revenues will be deposited and how they will be utilized by the agency.

Specific Authority 253.03(7) FS. Law Implemented 253.034(3) FS. History—New 4-4-84.

16Q-23.10 Surplus Land Determination.

(1) The committee shall review all State-owned lands which are not actively managed by any State agency, for which a land management plan has not been completed, or are recommended for disposal by any State agency, and recommend to the Board if such lands should be disposed of.

(2) In developing a recommendation the committee shall consider the following factors:

(a) Environmental value including flora and fauna; geology, hydrology, and general importance to the regional ecological systems;

(b) Recreational value, including potential as a State managed recreational area;

(c) Cultural value;

(d) Size and location, including management feasibility and relationship to other State managed areas; and

(e) History and potential of revenue production.

(3) If a determination is made that a parcel of State land should be disposed of by the Board, the committee shall consider and make recommendations of the following:

(a) Whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located, and whether any unit of local government has expressed an interest in the subject parcel.

(b) Whether the property should be leased, exchanged, transferred in fee simple, or transferred with a restriction as to use, right of reversion, or other special deed provisions.

Specific Authority 253.03(7) FS. Law Implemented 253.034(5) FS. History—New 4-4-84.

CHAPTER 17-3

WATER QUALITY STANDARDS

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PART I
FINDINGS, DECLARATION AND INTENT

17-3.01 Declaration and Intent.
Specific Authority: 403.061, F.S.
Law Implemented: 403.021, 403.061, 403.101(1), 403.182, 403.261, F.S.
History: Formerly 28-5.01, Amended and Renumbered as 17-3.011, 3-1-79.

17-3.011 Findings, Declaration and Intent.

(1) Article II, Section 7 of the Florida Constitution requires abatement of water pollution, and conservation and protection of Florida's natural resources and scenic beauty.

(2) Section 403.021, Florida Statutes, declares that the public policy of the State is to conserve the waters of the State to protect, maintain, and improve the quality thereof for public water supplies, for the propagation of wildlife, fish and other aquatic life, and for domestic, agricultural, industrial, recreational, and other beneficial uses. It also prohibits the discharge of wastes into Florida waters without treatment necessary to protect those beneficial uses of the waters.

(3) Congress, in Section 101(a)(2) of the Federal Water Pollution Control Act, as amended, declares that achievement by July 1, 1983, of water quality sufficient for the protection and propagation of fish, shellfish, and wildlife, as well as for recreation in and on the water, is an interim goal to be sought wherever attainable. Congress further states, in Section 101(a)(3), that it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited.

(4) The present and future most beneficial uses of all waters of the State have been designated by the Department by means of the classification system set forth in this Chapter pursuant to Subsection 403.061(10), F.S. Water quality standards are established by the Department to protect these designated uses.

(5) Pollution which causes or contributes to new violations of water quality standards or to continuation of existing violations is harmful to the waters of this State and shall not be allowed.

(6) The quality of waters which exceeds the minimum quality necessary to support the designated use of those waters shall be protected and enhanced.

(7) The quality of waters which is lower than that necessary to support the designated use of those waters shall be protected and enhanced provided, however, the Department

shall not strive to abate natural conditions.

(8) The highest protection shall be afforded to Outstanding Florida Waters.

(9) Because activities outside the State sometimes cause pollution of Florida's waters, the Department will make every reasonable effort to have such pollution abated.

(10) Water quality standards apply equally to and shall be uniformly enforced in both the public and private sector.

(11) The Department finds that excessive nutrients (total nitrogen and total phosphorus) constitute one of the most severe water quality problems facing the State. It shall be the Department's policy to limit the introduction of man-induced nutrients into waters of the State. Particular consideration shall be given to the protection from further nutrient enrichment of waters which are presently high in nutrient concentrations and sensitive to further nutrient concentrations and sensitive to further nutrient loadings. Also, particular consideration shall be given to the protection from nutrient enrichment of those waters presently containing very low nutrient concentrations: less than 0.3 milligrams per liter total nitrogen or less than 0.04 milligrams per liter total phosphorus.

(12) Public interest shall not be construed to mean only those activities conducted solely to provide facilities or benefits to the general public. Private activities conducted for private purposes may also be in the public interest.

(13) The Commission, recognizing the complexity of water quality management and the necessity to temper regulatory actions with the technological progress and the social and economic well-being of people, urges, however, that there be no compromise where discharges of pollutants constitute a valid hazard to human health.

(14) The Commission requests that the Secretary seek and use the best environmental information available when making decisions on the effects of chronically and acutely toxic substances and carcinogenic, mutagenic, and teratogenic substances. Additionally, the Secretary is requested to seek and encourage innovative research and developments in waste treatment alternatives that might better preserve environmental quality or at the same time reduce the energy and dollar costs of operation.

(15) The present and future most beneficial uses of groundwaters of the State shall be protected to insure the availability and utility of this invaluable resource. To achieve such protection, the groundwaters of the State are classified and appropriate specific water quality criteria for those classes are set forth in this Chapter.

(16) The criteria set forth in this Chapter are minimum levels which are necessary to protect the designated uses of a water body. It is the intent of this Commission that permit applicants should not be penalized due to a low detection limit associated with any specific criteria.

(17) In adoption of the Outstanding Florida Waters designated on July 13, 1978, the Commission has been assured by the Secretary that adequate public notice has been given that these waters were being considered for this designation and that public comment was solicited

and considered in determining their designation.

(18)(a) The revisions made to Chapters 17-3 and 17-4 and the adoption of Chapter 17-6, Florida Administrative Code, are designed to protect the public health or welfare and to enhance the quality of waters of the State. They have been established taking into consideration the use and value of waters of the State for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes, and also taking into consideration their use and value for navigation.

(b) Under the approach taken in the formulation of the rules adopted in this proceeding:

1. These revisions to Chapters 17-3, 17-4 and adoption of Chapter 17-6, F.A.C., are based upon the best scientific knowledge related to the protection of the various designated uses of waters of the State; and

2. The mixing zone, zone of discharge, site specific alternative criteria, exemption, and equitable allocation provisions are designed to provide an opportunity for the future consideration of factors relating to localized situations which could not adequately be addressed in this proceeding, including economic and social consequences, attainability, irretrievable conditions, natural background, and detectability.

(c) This is an even-handed and balanced approach to attainment of water quality objectives. The Commission has specifically recognized that the social, economic and environmental costs may, under certain special circumstances, outweigh the social, economic and environmental benefits if the numerical criteria are enforced statewide. It is for that reason that the Commission has provided for mixing zones, zones of discharge, site specific alternative criteria, exemptions and other provisions in Chapters 17-3, 17-4, and 17-6, F.A.C. Furthermore, the continued availability of the moderating provisions is a vital factor providing a basis for the Commission's determination that water quality standards applicable to water classes in the rule are attainable taking into consideration environmental, technological, social, economic and institutional factors. The companion provisions of Chapters 17-4 and 17-6, F.A.C., approved simultaneously with these Water Quality Standards are incorporated herein by reference as a substantive part of the State's comprehensive program for the control, abatement and prevention of water pollution.

(d) Without the moderating provisions described in (b)2. above, the Commission would not have adopted the revisions described in (b)1. above nor determined that they are attainable as generally applicable water quality standards.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.085, 403.086, 403.087, 403.088, 403.101, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, 403.802, F.S. History: Formerly 28-5.01, 17-3.01, Amended and Renumbered 3-1-79, Amended 2-1-83.

17-3.02 Minimum Conditions of All Waters, Times and Places.

Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.101(1), F.S. History: Formerly 28-5.02, Amended 10-28-70, Amended and Renumbered as 17-3.051, 3-1-79.

PART II
DEFINITIONS

17-3.021 Definitions.

(1) "Acute Toxicity" shall mean the presence of one or more substances or characteristics or components of substances in amounts which:

(a) Are greater than one-third (1/3) of the amount lethal to 50% of the test organisms in 96 hours (96 hr LC_{50}) where the 96 hr LC_{50} is the lowest value which has been determined for a species significant to the indigenous aquatic community; or

(b) may reasonably be expected, based upon evaluation by generally accepted scientific methods, to produce effects equal to those of the concentration of the substance specified in (a) above.

(2) "Aquifer" shall mean a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells, springs or surface water.

(3) "Background" shall mean the condition of waters in the absence of the activity or discharge under consideration, based on the best scientific information available to the Department.

(4) "Chronic Toxicity" shall mean the presence of one or more substances or characteristics or components of substances in amounts which:

(a) are greater than one-twentieth (1/20) of the amount lethal to 50% of the test organisms in 96 hrs (96 hr LC_{50}) where the 96 hr LC_{50} is the lowest value which has been determined for a species significant to the indigenous aquatic community; or

(b) may reasonably be expected, based upon evaluation by generally accepted scientific methods, to produce effects equal to those of the concentration of the substance specified in (a) above.

(5) "Commission" shall mean the Environmental Regulation Commission.

(6) "Compensation Point for Photosynthetic Activity" shall mean the depth at which one percent of the light intensity at the surface remains unabsorbed. The light intensities at the surface and subsurface shall be measured simultaneously by irradiance meters such as the Kahlsico Underwater Irradiameter, Model No. 268 WA 310 or other devices having a comparable spectral response.

(7) "Confined Aquifer" shall mean an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself.

(8) "Department" shall mean the Department of Environmental Regulation.

(9) "Designated Use" shall mean the present and future most beneficial use of a body of water as designated by the Environmental Regulation Commission by means of the classification system contained in this Chapter.

(10) "Dominance" shall mean the presence of species or communities in greater numbers, biomass, or areal extent than competing species or communities, or a scientifically accepted tendency of species or communities to achieve such a status under existing or reasonably anticipated conditions.

(11) "Effluent Limitation" shall mean any restriction established by the Department on quantities, rates or concentrations of chemical, physical, biological or

other constituents which are discharged from sources into waters of the State.

(12) "Exceptional Ecological Significance" shall mean that a water body is a part of an ecosystem of unusual value. The exceptional significance may be in unusual species, productivity, diversity, ecological relationships, ambient water quality, scientific or educational interest, or in other aspects of the ecosystem's setting or processes.

(13) "Exceptional Recreational Significance" shall mean unusual value as a resource for outdoor recreation activities. Outdoor recreation activities include, but are not limited to, fishing, boating, canoeing, water skiing, swimming, scuba diving, or nature observation. The exceptional significance may be in the intensity of present recreational usage, in an unusual quality of recreational experience, or in the potential for unusual future recreational use or experience.

(14) "Ground water" shall mean water beneath the surface of the ground within a zone of saturation, whether or not flowing through known and definite channels.

(15) "Man-induced conditions which cannot be controlled or abated" shall mean conditions that have been influenced by human activities, and

(a) would remain after removal of all point sources,

(b) would remain after imposition of best management practices for non-point sources, and

(c) cannot be restored or abated by physical alteration of the water body, or there is no reasonable relationship between the economic, social and environmental costs and the benefits of restoration or physical alteration.

(16) "Natural Background" shall mean the condition of waters in the absence of man-induced alterations based on the best scientific information available to the Department.

(17) "Nuisance Species" shall mean species of flora or fauna whose noxious characteristics or presence in sufficient number, biomass, or areal extent may reasonably be expected to prevent, or unreasonably interfere with, a designated use of those waters.

(18) "Nursery Area of Indigenous Aquatic Life" shall mean any bed of the following aquatic plants, either in monoculture or mixed: Halodule spp., Halophila engelmannii, Potamogeton spp. (pondweed), Ruppia maritima (widgeon-grass), Sagittaria spp. (arrowhead), Syringodium filiforme (manatee-grass), Thallasia testudinum (turtle grass), or Vallisneria spp. (eel-grass), or any area used by the early-life stages, larvae and post-larvae, of aquatic life during the period of rapid growth and development into the juvenile states.

(19) "Pollution" shall mean the presence in the outdoor atmosphere or waters of the state of any substances, contaminants, noise, or man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of air or water in quantities or levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, including outdoor recreation.

(20) "Predominantly Fresh Waters" shall mean surface waters in which the chloride concentration at the surface is less than 1,500 milligrams per liter.

(21) "Predominantly Marine Waters" shall mean surface waters in which the chloride concentration at the surface is greater than or equal to 1,500 milligrams per liter.

(22) "Propagation" shall mean reproduction sufficient to maintain the species' role in its respective ecological community.

(23) "Secretary" shall mean the Secretary of the Department of Environmental Regulation.

(24) "Shannon-Weaver Diversity Index" shall mean: negative summation (from i=1 to s) of $(n_i/N) \log_2 (n_i/N)$ where s is the number of species in a sample, N is the total number of individuals in a sample, and n_i is the total number of individuals in species i.

(25) "Single source aquifer" shall mean an aquifer or a portion of an aquifer which, pursuant to Sections 17-3.403(5) & (6), F.A.C., is determined by the Commission to be the only reasonably available source of potable water to a significant segment of the population.

(26) "Site" shall mean the area within an installation's property boundary where effluents are released or applied to the ground water.

(27) "Special Waters" shall mean water bodies designated in accordance with Section 17-3.041, F.A.C., by the Environmental Regulation Commission for inclusion in the Special Waters Category of Outstanding Florida Waters, as contained in Section 17-3.041, F.A.C. A Special Water may include all or part of any water body.

(28) "Surface Water" means water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth's surface.

(29) "Unconfined Aquifer" shall mean an aquifer other than a confined aquifer.

(30) "Waters" shall be as defined in Section 403.031(3), Florida Statutes.

(31) "Zone of Discharge" shall mean a volume underlying or surrounding the site and extending to the base of a specifically designated aquifer or aquifers, within which an opportunity for the treatment, mixture or dispersion of wastes into receiving ground water is afforded.

(32) "Zone of Mixing" or "Mixing Zone" shall mean a volume of surface water containing the point or area of discharge and within which an opportunity for the mixture of wastes with receiving surface waters has been afforded.

(33) "Zone of Saturation" shall mean a subsurface zone in which all of the interstices are filled with water.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.085, 403.086, 403.087, 403.088, 403.502, 403.802, F.S. History: Formerly 28-5.12, 17-3.12, Amended and Renumbered 3-1-79, Amended 1-1-83, 2-1-83.

PART III
WATER QUALITY CRITERIA - SURFACE WATER

17-3.03 Water Quality Testing. Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.101, F.S. History: Formerly 28-5.03, Amended and Renumbered as 17-4.246, 3-1-79.

17-3.031 Site Specific Alternative Criteria.

(1) A water body, or portion thereof, may not meet a particular ambient water quality criterion specified for its classification, due to natural background conditions or man-induced conditions which cannot be controlled or abated. In such circumstances, and upon petition by an affected person or upon the initiation by the Department, the Secretary may establish a site specific alternative water quality criterion when an affirmative demonstration is made that an alternative criterion is more appropriate for a specified portion of waters of the state. Public notice and an opportunity for public hearing shall be provided prior to issuing any order establishing alternative criteria.

(2) The affirmative demonstration required by this section shall mean a documented showing that the proposed alternative criteria would exist due to natural background conditions or man-induced conditions which cannot be controlled or abated. Such demonstration shall be based upon relevant factors which include:

(a) A description of the physical nature of the specified water body and the water pollution sources affecting the criterion to be altered.

(b) A description of the historical and existing water quality of the parameter of concern including, spatial, seasonal, and diurnal variations, and other parameters or conditions which may affect it. Conditions in similar water bodies may be used for comparison.

(c) A description of the historical and existing biology, including variations, which may be affected by the parameter of concern. Conditions in similar water bodies may be used for comparison.

(d) A discussion of any impacts of the proposed alternative criteria on the designated use of the waters and adjoining waters.

(3) The Secretary shall specify, by order, the site specific criteria for the parameters which the Secretary determines to have been demonstrated by the preponderance of competent substantial evidence to be more appropriate.

(4) The Department shall modify permits of existing sources affected in a manner consistent with the Secretary's Order.

(5) Additional relief from criteria established by this Chapter may be provided through exemption pursuant to Section 17-4.243, Florida Administrative Code, or variances as provided for by Section 17-1.57, Florida Administrative Code.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.087, 403,088, 403.141, 403.161, 403.201, 403.502, F.S. History: Formerly 17-3.05(4), Amended 3-1-79, 10-2-80, 2-1-83.

17-3.04 Domestic and Industrial Waste Treatment Requirements.

Specific Authority: 403.061(7), F.S. Law Implemented: 403.086, 403.087, 403.088, F.S. History: Formerly 28-5.04, Amended 10-28-70, 10-17-72, 7-20-76, Transferred to 17-6.01, 3-1-79.

17-3.041 Special Protection, Outstanding Florida Waters.

(1) It shall be the Department policy to afford the highest protection to Outstanding Florida Waters

(a complete listing of which is provided in subsection (4)) which generally include the following surface waters:

(a) waters in National Parks, Wildlife Refuges and Wilderness Areas; and

(b) waters in the State Park System and Wilderness Areas; and

(c) waters within areas purchased under the Environmentally Endangered Lands Bond Program or the Conservation and Recreation Lands Program; and

(d) rivers designated under the Florida Scenic and Wild Rivers Program or the National Wild and Scenic Rivers Act; and

(e) waters within National Seashores, National Marine Sanctuaries, National Estuarine Sanctuaries and certain National Monuments; and

(f) waters in Aquatic Preserves created under the provisions of Chapter 258, Florida Statutes; and

(g) waters within the Big Cypress National Freshwater preserve; and

(h) Special waters as listed in 17-3.041(4)(i); and

(i) Certain Waters within the Boundaries of the National Forests.

(2) Each water body demonstrated to be of exceptional recreational or ecological significance may be designated as a Special Water. The following procedure shall be used in designating a Special Water after the adoption of this rule:

(a) Rulemaking procedures pursuant to Chapter 120, F.S., and Chapter 17-1 F.A.C., shall be followed;

(b) At least one fact-finding workshop shall be held in the affected area;

(c) All local county or municipal governments and state legislators whose districts or jurisdictions include all or part of a Special Water shall be notified at least 60 days prior to the workshop in writing by the Secretary;

(d) A prominent public notice shall be placed in a newspaper of general circulation in the area of the proposed Special Water at least 60 days prior to the workshop;

(e) An economic impact analysis, consistent with Chapter 120, shall be prepared which provides a general analysis of the impact on growth and development including such factors as impacts on planned or potential industrial, agricultural, or other development or expansion; and

(f) The Commission may designate a water of the State as a Special Water after making a finding that the waters are of exceptional recreation or ecological significance and a finding that the environmental, social, and economic benefits of the action outweigh the environmental, social, and economic costs.

(3) The policy of this section shall be implemented through the permitting process pursuant to Section 17-4.242, F.A.C.

(4) Outstanding Florida Waters:

(a) Waters within National Parks

National Park	County
Biscayne	Dade
Everglades	Monroe/Dade/Collier

(b) Waters within National Wildlife Refuges

Wildlife Refuge	County
Caloosahatchee	Lee
Cedar Keys	Levy
Chassahowitzka	Citrus/Hernando
Chinsegut	Hernando
Crocodile Lake (12-1-82)	Monroe
Egmont Key	Hillsborough
Great White Heron	Monroe
Hobe Sound	Martin
Island Bay	Charlotte
J. N. "Ding" Darling	Lee
Key West	Monroe
Lake Woodruff	Volusia/Lake
Lower Suwannee (12-1-82)	Dixie
Loxahatchee	Palm Beach
Matlacha Pass	Lee
Merritt Island	Volusia/Brevard
National Key Deer	Monroe
Okefenokee (Florida Portion)	Baker
Passage Key	Manatee
Pelican Island	Indian River
Pig Island	Gulf
Pine Island	Lee
Pinellas	Pinellas
St. Johns	Brevard
St. Marks	Jefferson/Wakulla
St. Vincent	Franklin

(c) Waters within State Parks or Recreation Areas

State Park or Recreation Area	County
Anastasia State Recreation Area	St. Johns
Bahia Honda State Recreation Area	Monroe
Basin Bayou State Recreation Area	Walton
Bear Creek State Recreation Area (12-1-82)	Gadsden
Big Lagoon State Recreation Area (12-1-82)	Escambia
Bill Baggs Cape Florida State Recreation Area	Dade
Blackwater River State Park	Santa Rosa
Blue Springs State Park	Volusia
Caladesi Island State Park	Pinellas
Caloosahatchee River State Recreation Area (12-1-82)	Lee
Chekika State Recreation Area	Dade
Collier-Seminole State Park	Collier
Dead Lakes State Recreation Area	Gulf
Delnor-Wiggins Pass State Recreation Area (12-1-82)	Collier

Dr. Julian G. Bruce St. George Island State Park (12-1-82)	Franklin
Falling Waters State Recreation Area	Washington
Faver-Dykes State Park	St. Johns
Flagler Beach State Recreation Area	Flagler
Florida Caverns State Park	Jackson
Fort Clinch State Park	Nassau
Fort Cooper State Park (12-1-82)	Citrus
Fort Pierce Inlet State Recreation Area (12-1-82)	St. Lucie
Fred Gannon Rocky Bayou State Recreation Area	Okaloosa
Grayton Beach State Recreation Area	Walton
Highlands Hammock State Park	Highlands/Hardee
Hillsborough River State Park	Hillsborough
Honeymoon Island State Recreation Area (12-1-82)	Pinellas
Hontoon Island State Park	Volusia/Lake
Hugh Taylor Birch State Recreation Area	Broward
Ichetucknee Springs State Park	Columbia/Suwannee
John D. McArthur Beach State Recreation Area (12-1-82)	Palm Beach
John Pennekamp Coral Reef State Park	Monroe
John U. Lloyd Beach State Recreation Area	Broward
Jonathan Dickinson State Park	Martin
Lake Griffin State Recreation Area	Lake
Lake Kissimmee State Park	Polk
Lake Louisa State Park (12-1-82)	Lake
Lake Manatee State Recreation Area (12-1-82)	Manatee
Lake Rousseau State Recreation Area (12-1-82)	Citrus/Levy/Marion
Lake Talquin State Recreation Area (12-1-82)	Leon/Gadsden/Liberty
Little Manatee River State Recreation Area (12-1-82)	Hillsborough
Little Talbot Island State Park	Duval
Long Key State Recreation Area	Monroe
Manatee Springs State Park	Levy
Mike Roess Gold Head Branch State Park	Clay
Myakka River State Park	Manatee/Sarasota
Ochlockonee River State Park	Wakulla
O'Leno State Park	Alachua/Columbia
Oleta River State Recreation Area (12-1-82)	Dade
Oscar Scherer State Recreation Area	Sarasota
Pahokee State Recreation Area	Palm Beach
Palm Beach Pines State Recreation Area (12-1-82)	Palm Beach
Pepper Beach State Recreation Area	St. Lucie
Ponce de Leon Springs State Recreation Area	Holmes/Walton
Port Charlotte Beach State Recreation Area (12-1-82)	Charlotte
St. Andrews State Recreation Area	Bay
St. Lucie Inlet State Park (12-1-82)	Martin
Sebastian Inlet State Recreation Area	Indian River/Brevard
Suwannee River State Park	Hamilton/Madison/Suwannee
Three Rivers State Recreation Area	Jackson

T. H. Stone Memorial St. Joseph Peninsula State Park	Gulf
Tomoka State Park	Volusia
Torreya State Park	Liberty
Wekiwa Springs State Park	Orange/Seminole

(d) Waters within State Ornamental Gardens

State Ornamental Garden	County
Alfred B. Maclay State Gardens	Leon
Eden State Gardens	Walton
Ravine State Gardens	Putnam
Washington Oaks State Gardens	Flagler

(e) Waters within State Preserves

State Preserve	County
Anclote Key State Preserve (12-1-82)	Pasco/Pinellas
Barefoot Beach State Preserve (12-1-82)	Collier
Cape St. George State Preserve (12-1-82)	Franklin
Cayo Costa State Preserve (12-1-82)	Lee
Cedar Key Scrub State Preserve (12-1-82)	Levy
Fakahatchee Strand State Preserve (12-1-82)	Collier
Haw Creek State Preserve (12-1-82)	Flagler/Putnam/ Volusia
Lower Wekiva River State Preserve (12-1-82)	Lake/Seminole
Perdido Key State Preserve (12-1-82)	Escambia
Prairie-Lakes State Preserve (12-1-82)	Osceola
River Rise State Preserve (12-1-82)	Alachua/Columbia
San Felasco Hammock State Preserve (12-1-82)	Alachua
Savannas State Preserve (12-1-82)	Martin/St. Lucie
Tosohatchee State Preserve (12-1-82)	Orange
Waccasassa Bay State Preserve (12-1-82)	Levy
Weedon Island State Preserve (12-1-82)	Pinellas

(f) Waters Within Areas Purchased Under the Environmentally Endangered Lands Bond Program

Environmentally Endangered Lands	County
Barefoot Beach (12-1-82)	Collier
Cayo Costa North Captiva Islands State Preserve	Lee
Cedar Key Scrub (12-1-82)	Levy
Charlotte Harbor	Charlotte
Fakahatchee Strand	Collier
Little St. George Island (12-1-82)	Franklin
Lower Apalachicola River Basin	Franklin/Gulf
Lower Wekiva River Corridor	Lake/Seminole

Nassau Valley Marshes (12-1-82)	Duval/Nassau
Palm Beach County Everglades (Rotenberger) Tract	Palm Beach
Paynes Prairie State Preserve Addition	Alachua
Perdido Key (12-1-82)	Escambia
River Rise (McLeod Ranch)	Alachua/Columbia
San Felasco Hammock	Alachua
Savannas (12-1-82)	Martin/St. Lucie
Three Lakes Ranch	Osceola
Tosahatchee Preserve	Orange
Volusia Water Recharge Area	Volusia
Weedon Island	Pinellas
Withlacoochee Tracts (12-1-82)	Sumter

(g) Waters within National Seashores

National Seashores	County
Canaveral	Brevard/Volusia
Gulf Islands	Escambia/Santa Rosa

(h) Waters within State Aquatic Preserves

Aquatic Preserves	County
Alligator Harbor	Franklin
Apalachicola Bay	Franklin
Banana River	Brevard
Biscayne Bay	Dade/Monroe
Biscayne Bay - Cape Florida to Monroe County Line (12-1-82)	Dade
Boca Ciega Bay	Pinellas
Caladesi Island	Pinellas
Cape Haze	Charlotte/Lee
Cape Romano-Ten Thousand Islands	Collier
Cockroach Bay	Hillsborough
Coupon Bight	Monroe
Estero Bay	Lee
Fort Clinch State Park	Nassau
Fort Pickens State Park	Santa Rosa/Escambia
Gasparilla Sound-Charlotte Harbor	Charlotte/Lee
Indian River Malabar to Sebastian	Brevard/Indian River
Indian River Vero Beach to Ft. Pierce	Indian River/St. Lucie
Jensen Beach to Jupiter Inlet	Martin/Palm Beach/ St. Lucie
Lake Jackson	Leon
Lignumvitae Key	Monroe
Loxahatchee River-Lake Worth Creek	Martin/Palm Beach
Matlacha Pass	Lee
Mosquito Lagoon	Volusia/Brevard

Nassau River-St. Johns River Marshes	Nassau/Duval
North Fork, St. Lucie	St. Lucie/Martin
Pellicer Creek	St. Johns/Flagler
Pine Island Sound	Lee
Pinellas County	Pinellas
Rocky Bayou State Park	Okaloosa
Rookery Bay (12-1-82)	Collier
St. Andrews State Park	Bay
St. Joseph Bay	Gulf
St. Martin's Marsh	Citrus
Tomoka Marsh	Volusia/Flagler
Wekiva River (12-1-82)	Lake/Orange/Seminole
Yellow River Marsh	Santa Rosa

(i) Special Waters

Apalachicola River south of northern Gulf County Line
Aucilla River
Blackwater River
Butler Chain of Lakes - consisting of Lake Butler, Lake Down, Wauseon Bay, Lake Louise, Lake Palmer (also known as Lake Isleworth), Lake Chase, Lake Tibet, Lake Sheen, Pocket Lake, Fish Lake, and the waterways which connect these lakes (3-1-84).
Chipola River
Choctawhatchee River
Crystal River, including Kings Bay (2-1-83)
Little Manatee River - from its mouth to the western crossing of the river by S.R. 674, including Hayes, Mill and Bolster Bayous, but excluding South Fork, Ruskin Inlet and all other tributaries (10-1-82).
Ochlockonee River
Perdido River
St. Marks River-except that part between Rattlesnake Branch and the confluence of the St. Marks and Wakulla Rivers.
Shoal River
Suwannee River
Wacissa River
Wakulla River
Wekiva River - south of S.R. 46, including Rock Springs Run and the Little Wekiva River south to its confluence with the northernmost run of Sanlando Springs, but excluding all other tributaries (6-1-83).

(j) Waters Within Rivers Designated Under the Florida Scenic and Wild Rivers Program

Scenic and/or Wild River Segment	County
Wekiva Wild River Segment (12-1-82)	Lake/Seminole

(k) Waters Within National Preserves

National Preserve	County
Big Cypress National Preserve	Collier/Dade/Monroe

(l) Waters within National Marine Sanctuaries

Marine Sanctuaries	County
Key Largo Coral Reef	Monroe
Looe Key (12-1-82)	Monroe

(m) Waters within National Estuarine Sanctuaries

National Estuarine Sanctuaries	County
Apalachicola Bay (12-1-82)	Franklin
Rookery Bay	Collier

(n) Certain Waters Within the Boundaries of the National Forests

National Forest	County
Apalachicola	Liberty/Wakulla/Leon/ Franklin
Sopchoppy River (9-1-82)	
Big Dismal Sink (9-1-82)	
Ocala	Putnam/Marion/Lake
Alexander Springs (9-1-82)	
Alexander Springs Creek (9-1-82)	
Juniper Springs (9-1-82)	
Juniper Creek (9-1-82)	
Salt Springs (9-1-82)	
Salt Springs Run (9-1-82)	
Lake Dorr (9-1-82)	
Lake Kerr (9-1-82)	
Little Lake Kerr (9-1-82)	
Osceola	Baker/Columbia
Deep Creek (9-1-82)	
Robinson Creek (9-1-82)	
Middle Prong - St. Mary's River (9-1-82)	
Ocean Pond (9-1-82)	
Falling Creek (9-1-82)	

(5) The effective date of the Outstanding Florida Water designation for waters listed above is March 1, 1979, unless otherwise indicated.
Specific Authority: 403.061, 402.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.101, 404.141, 403.182, 403.502, 403.702, 403.708, F.S.
History: New 3-1-79, Amended 8-10-80, 8-24-82, 9-30-82, 12-1-82, 2-1-83, 6-1-83, 3-1-84.

17-3.05 Thermal Surface Water Criteria.

(1) All discharges or proposed discharges of heated water into receiving bodies of water (RBW) which are controlled by the State shall be subjected to a thorough study to assess the consequences of the discharge upon the environment. The State shall be divided into two general climatological zones: Peninsular Florida, which varies from tropical in nature to temperate but is modified by the peninsular configuration and is the area south of latitude 30°N (excluding Gulf and Franklin Counties): and Northern Florida which is temperate and continental and is the area above latitude 30°N plus the portions of Gulf and Franklin Counties which lie below 30°N.

(a) Heated water discharges existing on July 1, 1972:

1. Shall not increase the temperature of the RBW so as to cause substantial damage or harm to the aquatic life or vegetation therein or interfere with beneficial uses assigned to the RBW.

2. Shall be monitored by the discharger to ensure compliance with this rule, and

3. If the Department, pursuant to notice and opportunity for hearing, finds by preponderant evidence that a discharge has caused substantial damage, it may require conversion of such discharge to off-stream cooling or approved alternate methods. In making determinations regarding such conversions, the Department may consider:

a. The nature and extent of the existing damage;

b. The projected lifetime of the existing discharge;

c. Any adverse economic and environmental (including non-water quality) impacts which would result from such conversion; and

d. Such other factors as may be appropriate.

(b) Heated water sources proposed for future discharges into RBW controlled by the State shall not increase the water temperature by more than the monthly temperature limits prescribed for the particular type and location of the RBW. New sources shall include all expansions, modifications, alterations, replacements, or repairs which result in an increased output of ten percent (10%) or more of the level of energy production which existed on the date this rule became effective. Water temperatures shall be measured by procedures approved by the Florida Department of Environmental Regulation (DER). In all cases where a temperature rise above ambient is allowed and a maximum RBW temperature is also prescribed, the lower of the two limitations shall be the control temperature.

(c) Definitions.

(i) Ambient (natural) temperature of a RBW shall mean the existing temperature of the receiving water at a location which is unaffected by manmade thermal discharges and a location which is also of a depth and exposure to winds and currents which typify the most environmentally stable portions of the RBW.

(ii) Coastal waters shall be all waters in the State which are not classified as fresh waters or as open waters.

(iii) A cooling pond is a body of water enclosed by natural or constructed restraints which has been approved by the Florida DER for purposes of controlling heat

dissipation from thermal discharges.

(iv) An existing heat source is any thermal discharge (a) which is presently taking place, or (b) which is under construction or for which a construction or operation permit has been issued prior to the effective date of this rule.

(v) Fresh waters shall be all waters of the State which are contained in lakes and ponds, or are in flowing streams above the zone in which tidal actions influence the salinity of the water and where the concentration of chloride ions is normally less than 1500 milligrams per liter.

(vi) Open waters shall be all waters in the State extending seaward from the most seaward 18-foot depth contour line (three-fathom bottom depth contour) which is offshore from any island; exposed or submerged bar or reef; or mouth of any embayment or estuary which is narrowed by headlands. Contour lines shall be determined from Coast and Geodetic Survey Charts.

(vii) The point of discharge (POD) for a heated water discharge shall be primarily that point at which the effluent physically leaves its carrying conduit (open or closed), and discharges into the waters of the state, or, in the event it is not practicable to measure temperature at the end of the discharge conduit, a specific point designated by the Florida DER for that particular thermal discharge.

(viii) Heated water discharges are the effluents from commercial or industrial activities or processes in which water is used for the purpose of transporting waste heat, and which constitute heat sources of one million British Thermal Units per hour (1,000,000 BTU/HR.), or greater.

(ix) Blowdown shall mean the minimum discharge of recirculating cooling water for the purpose of discharging materials contained in the water, the further buildup of which could cause concentrations in amounts exceeding limits established by best engineering practice.

(x) Recirculating cooling water shall mean water which is used for the purpose of removing waste heat and then passed through a cooling system for the purpose of removing such heat from the water and then, except for blowdown, is used again to remove waste heat.

(d) Monthly and Maximum Temperature Limits

(i) Fresh Waters - Heated water with a temperature at the POD more than 5°F higher than the ambient (natural) temperature of any stream shall not be discharged into such stream. At all times under all conditions of stream flow the discharge temperature shall be controlled so that at least two-thirds (2/3) of the width of the stream's surface remains at ambient (natural) temperature. Further, no more than one-fourth (1/4) of the cross-section of the stream at a traverse perpendicular to the flow shall be heated by the discharge. Heated water with a temperature at the POD more than 3°F higher than the ambient (natural) temperature of any lake or reservoir shall not be discharged into such lake or reservoir. Further, no heated water with a temperature above 90°F shall be discharged into any fresh waters in Northern Florida regardless of the ambient temperature of the RBW. In Peninsular Florida, heated waters above 92°F shall not be discharged into fresh waters.

(ii) Coastal Waters - Heated water with a temperature at the POD more than 2°F higher than the ambient (natural) temperature of the RBW shall not be discharged into coastal waters in any zone during the months of June, July, August, and September. During the remainder of the year, heated water with a temperature at the POD more than 4°F higher than the ambient (natural) temperature of the RBW shall not be discharged into coastal waters in any zone. In addition, during June, July, August, and September, no heated water with a temperature above 92°F shall be discharged into coastal waters. Further, no heated water with a temperature above 90°F shall be discharged into coastal waters during the period October thru May.

(iii) Open Waters - Heated water with a temperature at the POD up to 17°F above ambient (natural) temperature of the RBW may be discharged from an open or closed conduit into open waters under the following restraints: The surface temperature of the RBW shall not be raised to more than 97°F and the POD must be sufficient distance offshore to ensure that the adjacent coastal waters are not heated beyond the temperatures permitted in such waters.

(iv) Cooling Ponds - The temperature for heated water discharged from a cooling pond shall be measured at the POD from the pond, and the temperature limitation shall be that specified for the RBW.

(e) General.

(i) Daily and seasonal temperature variations that were normal to the RBW before the addition of heat from other than natural causes shall be maintained.

(ii) Recapitulation of temperature limitations prescribed above:

ZONE	STREAMS	LAKES	COASTAL		OPEN
			SUMMER	REMAINDER	
NORTH.	90°F Max. AM. +5°F	90°F Max. AM. +3°F	92°F Max. AM. +2°F	90°F Max. AM. +4°F	97°F Max. AM. +17°
PENIN.	92°F Max. AM. +5°F	92°F Max. AM. +3°F	92°F Max. AM. +2°F	90°F Max. AM. +4°F	97°F Max. AM. +17°

(f) Upon application on a case by case basis, the Department may establish a zone of mixing beyond the POD to afford a reasonable opportunity for dilution and mixture of heated water discharges with the RBW, in the following manner:

(i) Zones of mixing for thermal discharges from non-recirculated cooling water systems and process water systems of new sources shall be allowed if supported by a demonstration, as provided in Section 316(a), Public Law 92-500 and regulations promulgated thereunder, including 40 C.F.R. Part 122, by an applicant that the proposed mixing zone will assure the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife in and on the body of water into which the discharge is to be made and such demonstration has not been rebutted. It is the intent of the Commission that to the extent practicable, proceedings under this provision should be conducted jointly with proceedings before the federal government under Section 316(a), Public Law 92-500.

(ii) Zones of mixing for blowdown discharges from recirculated cooling water systems, and for discharges from non-recirculated cooling water systems of existing sources, shall be established on the basis of the physical and biological characteristics of the RBW.

(iii) When a zone of mixing is established pursuant to this Subsection 17-3.05(1)(f), F.A.C., any otherwise applicable temperature limitations contained in Section 17-3.05(1), F.A.C., shall be met at its boundary; however, the Department may also establish maximum numerical temperature limits to be measured at the POD and to be used in lieu of the general temperature limits in section 17-3.05(1), F.A.C., to determine compliance by the discharge with the established mixing zone and the temperature limits in Section 17-3.05(1), F.A.C.
Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: Formerly 28-5.02, 17-3.02, Amended 10-28-70, Amended and Renumbered 3-1-79.

17-3.051 Minimum Criteria for Surface Waters. All surface waters of the State shall at all places and at all times be free from:

(1) Domestic, industrial, agricultural, or other man-induced non-thermal components of discharges which, alone or in combination with other substances or in combination with other components of discharges (whether thermal or non-thermal):

(a) Settle to form putrescent deposits or otherwise create a nuisance; or

(b) Float as debris, scum, oil, or other matter in such amounts as to form nuisances; or

(c) Produce color, odor, taste, turbidity, or other conditions in such degree as to create a nuisance; or

(d) Are acutely toxic; or

(e) Are present in concentrations which are carcinogenic, mutagenic, or teratogenic to human beings or to significant, locally occurring, wildlife or aquatic species; or

(f) Pose a serious danger to the public health, safety, or welfare.

(2) Thermal components of discharges which, alone, or in combination with other discharges or components of discharges (whether thermal or non-thermal):

(a) Produce conditions so as to create a nuisance; or

(b) Do not comply with applicable provisions of Subsection 17-3.05(1), F.A.C.
Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: Formerly 28-5.02, 17-3.02, Amended 10-28-78, Amended and Renumbered 3-1-79, Amended 1-1-83.

17-3.06 Classification of Waters, Usage.
Specific Authority: 403.061. F.S. Law Implemented: 403.021, 403.031, 403.061, 403.101(1), F.S. History: Formerly 28.506, Amended and Renumbered as 17-3.081, 3-1-79.

17-3.061 Surface Waters: General Criteria.

(1) The criteria of surface water quality hereinafter provided shall be applied to all surface

waters except within zones of mixing.

(2) A violation of any of the following surface water quality criteria constitutes pollution. Additional, more stringent or alternative criteria than indicated in this paragraph may, however, be specified for individual classes of water under Sections 17-3.091, 17-3.111, 17-3.121, 17-3.131, and 17-3.141 of this Chapter.

(a) Arsenic - shall not exceed 0.05 milligrams per liter.

(b) BOD - shall not be increased to exceed values which would cause dissolved oxygen to be depressed below the limit established for each class and, in no case shall it be great enough to produce nuisance conditions.

(c) Chlorides - in predominantly marine waters, the chloride content shall not be increased more than ten percent (10%) above normal background chloride content. Normal daily and seasonal fluctuations in chloride levels shall be maintained.

(d) Chromium - shall not exceed 0.50 milligrams per liter hexavalent or 1.0 milligrams per liter total chromium in effluent discharge and shall not exceed 0.05 milligrams per liter total chromium after reasonable mixing in the receiving water.

(e) Copper - shall not exceed 0.5 milligrams per liter.

(f) Detergents - shall not exceed 0.5 milligrams per liter.

(g) Dissolved Oxygen -

1. Notwithstanding the specific numerical criteria applicable to individual classes of water, dissolved oxygen levels that are attributable to natural background conditions or man-induced conditions which cannot be controlled or abated may be established as alternative dissolved oxygen criteria for a water body or portion of a water body.

2. Alternative dissolved oxygen criteria may be established by the Secretary or a District Manager in conjunction with the issuance of a permit or other Department action only after public notice and opportunity for public hearing. The determination of alternative criteria shall be based on consideration of the factors described in Section 17-3.031(2)(a)-(d), F.A.C.

3. Alternative criteria shall not result in a lowering of dissolved oxygen levels in the water body, water body segment or any adjacent waters, and shall not violate the minimum criteria specified in Section 17-3.051, F.A.C. Daily and seasonal fluctuations in dissolved oxygen levels shall be maintained.

(h) Fluorides - shall not exceed 10.0 milligrams per liter as fluoride ion.

(i) Lead - shall not exceed 0.05 milligrams per liter.

(j) Nutrients - The discharge of nutrients shall continue to be limited as needed to prevent violations of other standards contained in this Chapter. Man-induced nutrient enrichment (total nitrogen or total phosphorus) shall be considered degradation in relation to the provisions of Section 17-3.041 and Section 17-4.242, F.A.C.

(k) Oils and Greases:

1. Dissolved or emulsified oils and greases shall not exceed 5.0 milligrams per liter.

2. No undissolved oil, or visible oil defined as iridescence, shall be present so as to cause taste or odor, or otherwise interfere with the beneficial use of waters.

(l) pH - shall not vary more than one unit above or below natural background provided that the pH is

not lowered to less than 6 units or raised above 8.5 units. If natural background is less than 6 units, the pH shall not vary below natural background or vary more than one unit above natural background. If natural background is higher than 8.5 units, the pH shall not vary above natural background or vary more than one unit below background.

(m) Phenolic compounds as listed - Chlorinated phenols including trichlorophenols; chlorinated creosols; 2-chlorophenol; 2, 4 dichlorophenol and pentachlorophenol; 2, 4-dinitrophenol; phenol - shall not exceed 1.0 micrograms per liter unless higher values are shown not to be chronically toxic. Such higher values shall be approved in writing by the Secretary. Phenolic compounds other than those produced by the natural decay of plant material, listed or unlisted, shall not taint the flesh of edible, fish or shellfish or produce objectionable taste or odor in a drinking water supply.

(n) Radioactive Substances:

1. Combined radium 226 and 228 - shall not exceed five picocuries per liter.

2. Gross alpha particle activity including radium 226, but excluding radon and uranium - shall not exceed fifteen picocuries per liter.

(o) Specific Conductance - shall not be increased more than 100% above background levels or to a maximum level of 500 micromhos per centimeter in surface waters in which the specific conductance of the water at the surface is less than 500 micromhos per centimeter; and shall not be increased more than 50% above background level or to a maximum level of 5,000 micromhos per centimeter in surface waters in which the specific conductance of the water at the surface is equal to or greater than 500 micromhos per centimeter but less than 5,000 micromhos per centimeter.

(p) Substances in concentrations which injure, are chronically toxic to, or produce adverse physiological or behavioral response in humans, animals, or plants - none shall be present.

(q) Substances in concentrations which result in the dominance of nuisance species - none shall be present.

(r) Turbidity - shall not exceed 29 Nephelometric Turbidity Units (NTU's) above natural background.

(s) Zinc - shall not exceed 1.0 milligrams per liter.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.181, 403.502, 403.702, 403.708, F.S. History: Formerly 17-3.05(1) and (2), Amended 2-12-75, 8-26-75, 6-10-76, Amended and Renumbered 3-1-79, Amended 10-2-80, 2-1-83.

17-3.07 Criteria: Class I Waters - Public Water Supply.

Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.101, F.S. History: Formerly 28-5.07, Amended 7-3-73, Amended and Renumbered as 17-3.091, 3-1-79.

17-3.071 Groundwaters: General Criteria.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: New 3-1-79, Amended 12-27-79, 1-12-81, 1-19-82, Amended and Renumbered as 17-3.401, 1-1-83.

17-3.08 Criteria: Class II Waters - Shellfish Propagation and Harvesting.
Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.101, F.S. History: Formerly 28-5.08, Amended 6-10-72, 8-30-72, 7-3-73, Amended and Renumbered as 17-3.111, 3-1-79.

17-3.081 Classification of Surface Waters, Usage, Reclassification.

(1) All surface waters of the State have been classified according to designated uses as follows:

CLASS I	Potable Water Supplies
CLASS II	Shellfish Propagation or Harvesting
CLASS III	Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife
CLASS IV	Agricultural Water Supplies
CLASS V	Navigation, Utility and Industrial Use

(2) Classification of a water body according to a particular designated use or uses does not preclude use of the water for other purposes.

(3) The specific water quality criteria corresponding to each surface water classification are listed in Sections 17-3.091 to 17-3.141, F.A.C., inclusive.

(4) Water quality classifications are arranged in order of the degree of protection required, with Class I water having generally the most stringent water quality criteria and Class V the least. However, Class I, II, and III surface waters share water quality criteria established to protect recreation and the propagation and maintenance of a healthy, well-balanced population of fish and wildlife.

(5) Criteria applicable to a classification are designed to maintain the minimum conditions necessary to assure the suitability of water for the designated use of the classification. In addition, applicable criteria are generally adequate to maintain minimum conditions required for the designated uses of less stringently regulated classifications. Therefore, unless clearly inconsistent with the criteria applicable, the designated uses of less stringently regulated classifications shall be deemed to be included within the designated uses of more stringently regulated classifications.

(6) Any person regulated by the Department or having a substantial interest in this Chapter may seek reclassification of waters of the State by filing a petition with the Secretary in the form required by Section 17-1.24, F.A.C.

(7) A petition for reclassification shall reference and be accompanied by the information necessary to support the affirmative finding required in this Section to support the proposed reclassification.

(8) All reclassifications of waters of the State shall be adopted, after public notice and public hearing, only upon an affirmative finding by the Environmental Regulation Commission that:

(a) The proposed reclassification will establish the present and future most beneficial use of the

waters; and

(b) Such a reclassification is clearly in the public interest.

(9) Reclassification of waters of the State which establishes more stringent criteria than presently established by this Chapter shall be adopted, only upon additional affirmative finding by the Environmental Regulation Commission that the proposed designated use is attainable, upon consideration of environmental, technological, social, economic, and institutional factors.

Specific Authority: 403.061, 403.087, 403.088, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.504, 403.702, 403.708, F.S. History: Formerly 28-5.06, 17-3.06, Amended and Renumbered 3-1-79, Amended 1-1-83, 2-1-83.

17-3.09 Criteria: Class III Waters - Recreation - Propagation and Management of Fish and Wildlife. Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.101, F.S. History: Formerly 28-5.09, Amended 6-10-72, 8-30-72, 7-3-73, Amended and Renumbered as 17-3.121, 3-1-79.

17-3.091 Criteria: Class I Waters - Potable Water Supplies. The criteria listed below are for surface waters designated for use as a potable supply. The standards contained in Sections 17-3.051 and 17-3.061, F.A.C., shall apply to all waters of this class, unless more stringent levels are specified below. The following criteria are to be applied except within zones of mixing:

(1) Alkalinity - shall not be depressed below 20 milligrams per liter as $CaCO_3$.

(2) Ammonia (un-ionized) - shall not exceed 0.02 milligrams per liter.

(3) Bacteriological Quality - Coliform group shall not exceed 1,000 per 100 milliliters as a monthly average, using either most probable number (MPN) or membrane filter (MF) counts; nor exceed 1,000 per 100 milliliters in more than 20% of the samples examined during any month; nor exceed 2,400 per 100 milliliters (MPN or MF count) at any time. Based on a minimum of five samples taken over a 30-day period, the fecal coliform bacterial level shall not exceed 200 per 100 milliliters as computed by the log mean, nor shall more than 10% of the total samples taken during any 30-day period exceed 400 per 100 milliliters.

(4) Barium - shall not exceed 1 milligram per liter.

(5) Beryllium - shall not exceed 0.011 milligrams per liter in waters with a hardness equal to or less than 150 (in milligrams per liter of $CaCO_3$), and shall not exceed 1.10 milligrams per liter in harder waters.

(6) Biological Integrity - the Shannon-Weaver diversity index of benthic macroinvertebrates shall not be reduced to less than 75% of background levels as measured using organisms retained by a U.S. Standard No. 30 sieve and collected and composited from a minimum of three Hester-Dendy type artificial substrate samplers of 0.10 to 0.15 square meters area each, incubated for a period of four weeks.

(7) Cadmium - shall not exceed 0.8 micrograms per liter in a water with a hardness (in milligrams per liter of $CaCO_3$) equal to or less than 150, and shall not exceed

1.2 micrograms per liter in harder waters.

(8) Chlorides - shall not exceed two hundred fifty (250) milligrams per liter.

(9) Chlorine (total residual) - shall not exceed 0.01 milligrams per liter.

(10) Copper - shall not exceed 30 micrograms per liter.

(11) Cyanide - shall not exceed 5.0 micrograms per liter.

(12) Dissolved Oxygen - shall not be less than 5 milligrams per liter. Normal daily and seasonal fluctuations above this level shall be maintained.

(13) Dissolved Solids - not to exceed five hundred (500) milligrams per liter as a monthly average or exceed one thousand (1,000) milligrams per liter at any time.

(14) Fluorides - shall not exceed 1.5 milligrams per liter.

(15) Iron - shall not exceed 0.3 milligrams per liter.

(16) Lead - shall not exceed .03 milligrams per liter.

(17) Mercury - shall not exceed 0.2 micrograms per liter.

(18) Nickel - shall not exceed 0.1 milligrams per liter.

(19) Nitrate - shall not exceed 10 milligrams per liter as N or that concentration determined in (21) below.

(20) Nutrients - in no case shall nutrient concentrations of a body of water be altered so as to cause an imbalance in natural populations of aquatic flora or fauna.

(21) Pesticides and Herbicides:

(a) Aldrin plus Dieldrin - shall not exceed 0.003 micrograms per liter.

(b) Chlordane - shall not exceed 0.01 micrograms per liter.

(c) 2-4-D - shall not exceed 100 micrograms per liter.

(d) 2,4,5-TP - shall not exceed 10 micrograms per liter.

(e) DDT - shall not exceed 0.001 micrograms per liter.

(f) Demeton - shall not exceed 0.1 micrograms per liter.

(g) Endosulfan - shall not exceed 0.003 micrograms per liter.

(h) Endrin - shall not exceed 0.004 micrograms per liter.

(i) Guthion - shall not exceed 0.01 micrograms per liter.

(j) Heptachlor - shall not exceed 0.001 micrograms per liter.

(k) Lindane - shall not exceed 0.01 micrograms per liter.

(l) Malathion - shall not exceed 0.1 micrograms per liter.

(m) Methoxychlor - shall not exceed 0.03 micrograms per liter.

(n) Mirex - shall not exceed 0.001 micrograms per liter.

(o) Parathion - shall not exceed 0.04 micrograms per liter.

(p) Toxaphene - shall not exceed 0.005 micrograms per liter.

(22) Phthalate Esters - shall not exceed 3.0 micrograms per liter.

(23) Polychlorinated Biphenyls - shall not exceed 0.001 micrograms per liter.

(24) Selenium - shall not exceed 0.01 milligrams per liter.

(25) Silver - shall not exceed 0.07 micrograms per liter.

(26) Total Dissolved Gases - shall not exceed 110% of the saturation value for gases at the existing atmospheric and hydrostatic pressure.

(27) Transparency - the depth of the compensation point for photosynthetic activity shall not be reduced by more than 10% as compared to the natural background value.

(28) Zinc - shall not exceed 0.03 milligrams per liter.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: Formerly 28-5.07, 17-3.07, Amended 7-3-73, Amended and Renumbered 3-1-79, Amended 1-1-83, 2-1-83.

17-3.10 Criteria: Class IV Waters - Agricultural and Industrial Water Supply.
Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.101, F.S. History: Formerly 28-5.10, Amended 6-10-72, 8-30-72, Amended and Renumbered as 17-3.131, 3-1-79.

17-3.101 Criteria: Class I-B Waters - Potable and Agricultural Water Supplies and Storage - Groundwaters.
Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: New 3-1-79, Amended and Renumbered as 17-3.404, 1-1-83.

17-3.11 Criteria: Class V Waters - Navigation, Utility, and Industrial Use.
Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.101, F.S. History: Formerly 28-5.11, Amended and Renumbered as 17-3.141, 3-1-79.

17-3.111 Criteria: Class II Waters - Shellfish Propagation or Harvesting. The criteria listed below are for surface waters classified as Class II. The standards contained in Section 17-3.051 and 17-3.061, F.A.C., also shall apply to all waters of this class, unless additional or more stringent levels are specified below. The following criteria are to be applied except within zones of mixing:

(1) Aluminum - shall not exceed 1.5 milligrams per liter.

(2) Antimony - shall not exceed 0.2 milligrams per liter.

(3) Bacteriological Quality - the median coliform MPN (Most Probable Number) of water shall not exceed seventy (70) per hundred (100) milliliters, and not more than ten percent (10%) of the samples shall exceed a MPN of two hundred and thirty (230) per one hundred (100) milliliters. The fecal coliform bacterial level shall not exceed a median value of 14 MPN per 100 milliliters with not more than ten percent (10%) of the samples exceeding 43 MPN per 100 milliliters.

(4) Biological Integrity - the Shannon-Weaver diversity index of benthic macroinvertebrates shall not be reduced to less than 75% of established background levels as measured using organisms retained by a U.S. Standard No. 30 sieve and collected and composited from a minimum of three natural substrate samples, taken with Ponar type samplers with minimum sampling areas of 225 square centimeters.

(5) Bromine and Bromates - free (molecular) bromine shall not exceed 0.1 milligrams per liter, and bromates shall not exceed 100 milligrams per liter.

(6) Cadmium - shall not exceed 5.0 micrograms per liter.

(7) Chlorine (total residual) - shall not exceed 0.01 milligrams per liter.

(8) Copper - shall not exceed 0.015 milligrams per liter.

(9) Cyanide - shall not exceed 5.0 micrograms per liter.

(10) Dissolved Oxygen - the concentration in all waters shall not average less than 5 milligrams per liter in a 24-hour period and shall never be less than 4 milligrams per liter. Normal daily and seasonal fluctuations above these levels shall be maintained.

(11) Fluorides - shall not exceed 1.5 milligrams per liter.

(12) Iron - shall not exceed 0.3 milligrams per liter.

(13) Manganese - shall not exceed 0.1 milligrams per liter.

(14) Mercury - shall not exceed 0.1 micrograms per liter.

(15) Nickel - shall not exceed 0.1 milligrams per liter.

(16) Nutrients - In no case shall nutrient concentrations of a body of water be altered so as to cause an imbalance in natural populations of aquatic flora or fauna.

(17) Odor - threshold odor number shall not exceed 24 at 60°C as a daily average.

(18) Pesticides and Herbicides:

(a) Aldrin plus Dieldrin - shall not exceed 0.003 micrograms per liter.

(b) Chlordane - shall not exceed 0.004 micrograms per liter.

(c) DDT - shall not exceed 0.001 micrograms per liter.

(d) Demeton - shall not exceed 0.1 micrograms per liter.

(e) Endosulfan - shall not exceed 0.001 micrograms per liter.

(f) Endrin - shall not exceed 0.004 micrograms per liter.

(g) Guthion - shall not exceed 0.01 micrograms per liter.

(h) Heptachlor - shall not exceed 0.001 micrograms per liter.

(i) Lindane - shall not exceed 0.004 micrograms per liter.

(j) Malathion - shall not exceed 0.1 micrograms per liter.

(k) Methoxychlor - shall not exceed 0.03 micrograms per liter.

(l) Mirex - shall not exceed 0.001 micrograms per liter.

(m) Parathion - shall not exceed 0.04 micrograms per liter.

(n) Toxaphene - shall not exceed 0.005 micrograms per liter.

(19) pH - shall not vary more than one unit above or below natural background of coastal waters as defined in 17-3.05(1)(c), F.A.C., or more than two-tenths unit above or below natural background of open waters as defined in 17-3.05(1)(c), F.A.C., provided that the pH is not lowered to less than 6.5 units or raised above 8.5 units. If natural background is less than 6.5 units, the pH shall not vary below natural background or vary more than one unit above natural background for coastal waters or more than two-tenths unit above natural background for open waters. If natural background is higher than 8.5 units, the pH shall not vary above natural background or vary more than one unit below natural background of coastal waters or more than two-tenths unit below natural background of open waters.

(20) Phosphorus (elemental) - shall not exceed 0.1 micrograms per liter.

(21) Polychlorinated Biphenyls - shall not exceed 0.001 micrograms per liter.

(22) Selenium - shall not exceed 0.025 milligrams per liter.

(23) Silver - shall not exceed 0.05 micrograms per liter.

(24) Total Dissolved Gases - shall not exceed 110% of the saturation value for gases at the existing atmospheric and hydrostatic pressures.

(25) Transparency - the depth of the compensation point for photosynthetic activity shall not be reduced by more than 10% as compared to the natural background value.
Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: Formerly 28-5.08, 17-3.08, Amended 6-10-72, 8-30-72, 7-3-73, Amended and Renumbered 3-1-79, Amended 2-1-83.

17-3.12 Definitions.
Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.101, F.S. History: Formerly 28-5.12, Amended and Renumbered as 17-3.021, 3-1-79.

17-3.121 Criteria: Class III Waters - Recreation - Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife. The criteria listed below are for surface waters classified as Class III. The standards contained in Sections 17-3.051 and 17-3.061, F.A.C., also apply to all waters of this classification unless additional or more stringent criteria are specified below. The following criteria are to be applied except within zones of mixing.

(1) Alkalinity - shall not be depressed below 20 milligrams per liter as $CaCO_3$ in predominantly fresh waters.

(2) Aluminum - shall not exceed 1.5 milligrams per liter in predominantly marine waters.

(3) Ammonia (un-ionized) - shall not exceed 0.02 milligrams per liter in predominantly fresh waters.

(4) Antimony - shall not exceed 0.2 milligrams per liter in predominantly marine waters.

(5) Bacteriological Quality - fecal coliform bacteria shall not exceed a monthly average of 200 per 100 ml of sample, nor exceed 400 per 100 ml of sample in 10 percent of the samples, nor exceed 800 per 100 ml on any one day, nor exceed a total coliform bacteria count of 1,000 per 100 ml as a monthly average, nor exceed 1,000 per 100 ml in more than 20 percent of the samples examined during any month, nor exceed 2,400 per 100 ml at any time. Monthly averages shall be expressed as geometric means based on a minimum of 10 samples taken over a 30 day period. Either MPN or MF counts may be utilized.

(6) Beryllium - in predominantly fresh waters shall not exceed 0.011 milligrams per liter in waters with a hardness equal to or less than 150 (in milligrams per liter of $CaCO_3$) and shall not exceed 1.10 milligrams per liter in harder waters.

(7) Biological Integrity - the Shannon-Weaver diversity index of benthic macroinvertebrates shall not be reduced to less than 75 percent of established background levels as measured using organisms retained by a U.S. Standard No. 30 sieve and, in predominantly fresh waters, collected and composited from a minimum of three Hester-Dendy type artificial substrate samplers of 0.10 to 0.15 m^2 area each, incubated for a period of four weeks; and, in predominantly marine waters, collected and composited from a minimum of three natural substrate samples, taken with Ponar type samplers with minimum sampling area of 225 square centimeters.

(8) Bromine and Bromates - free (molecular) bromine shall not exceed 0.1 milligrams per liter in predominantly marine waters, and bromates shall not exceed 100 milligrams per liter in predominantly marine waters.

(9) Cadmium - shall not exceed 5.0 micrograms per liter in predominantly marine waters; shall not exceed 0.8 micrograms per liter in predominantly fresh waters in water with a hardness (in milligrams per liter of $CaCO_3$) of less than 150, and shall not exceed 1.2 micrograms per liter in harder waters.

(10) Chlorine (total residual) - shall not exceed 0.01 milligrams per liter.

(11) Copper - shall not exceed .015 milligrams per liter in predominantly marine waters; shall not exceed .03 milligrams per liter in predominantly fresh waters.

(12) Cyanide - shall not exceed 5.0 micrograms per liter.

(13) Dissolved Oxygen - in predominantly fresh waters, the concentration shall not be less than 5 milligrams per liter. In predominantly marine waters, the concentration shall not average less than 5 milligrams per liter in a 24-hour period and shall never be less than 4 milligrams per liter. Normal daily and seasonal fluctuations above these levels shall be maintained in both predominantly fresh waters and predominantly marine waters.

(14) Fluorides - shall not exceed 5.0 milligrams per liter in predominantly marine waters.

(15) Iron - shall not exceed 1.0 milligrams per liter in predominantly fresh waters; 0.3 milligrams per liter in predominantly marine waters.

(16) Lead - shall not exceed .03 milligrams per liter in predominantly fresh waters.

(17) Mercury - shall not exceed 0.1 micrograms per liter in predominantly marine waters; shall not exceed 0.2 micrograms per liter in predominantly fresh waters.

(18) Nickel - shall not exceed 0.1 milligrams per liter.

(19) Nutrients - in no case shall nutrient concentrations of a body of water be altered so as to cause an imbalance in natural populations of aquatic flora or fauna.

(20) Pesticides and Herbicides:

(a) Aldrin plus Dieldrin - shall not exceed 0.003 micrograms per liter.

(b) Chlordane - shall not exceed 0.01 micrograms per liter in predominantly fresh waters and shall not exceed 0.004 micrograms per liter in predominantly marine waters.

(c) DDT - shall not exceed 0.001 micrograms per liter.

(d) Demeton - shall not exceed 0.1 micrograms per liter.

(e) Endosulfan - shall not exceed 0.003 micrograms per liter in predominantly fresh waters and shall not exceed 0.001 micrograms per liter in predominantly marine waters.

(f) Endrin - shall not exceed 0.004 micrograms per liter.

(g) Guthion - shall not exceed 0.01 micrograms per liter.

(h) Heptachlor - shall not exceed 0.001 micrograms per liter.

(i) Lindane - shall not exceed 0.01 micrograms per liter in predominantly fresh waters and shall not exceed 0.004 micrograms per liter in predominantly marine waters.

(j) Malathion - shall not exceed 0.1 micrograms per liter.

(k) Methoxychlor - shall not exceed 0.03 micrograms per liter.

(l) Myrex - shall not exceed 0.001 micrograms per liter.

(m) Parathion - shall not exceed 0.04 micrograms per liter.

(n) Toxaphene - shall not exceed 0.005 micrograms per liter.

(21) pH - shall not vary more than one unit above or below natural background of predominantly fresh waters and coastal waters as defined in 17-3.05(1)(c), F.A.C., or more than two-tenths unit above or below natural background of open waters as defined in 17-3.05(1)(c), F.A.C., provided that the pH is not lowered to less than 6 units in predominately fresh waters, or less than 6.5 units in predominately marine waters, or raised above 8.5 units. If natural background is less than 6 units, in predominately fresh waters or 6.5 units in predominately marine waters, the pH shall not vary below natural background or vary more than one unit above natural background of predominately fresh waters and coastal waters, or more than two-tenths unit above natural background of open waters. If natural background is higher than 8.5 units, the pH shall not vary above natural background or vary more than one unit below natural background of predominately fresh waters and coastal waters, or more than two-tenths unit below natural background of open waters.

(22) Phosphorus (elemental) - shall not exceed 0.1 micrograms per liter in predominantly marine waters.

(23) Phthalate Esters - shall not exceed 3.0 micrograms per liter in predominantly fresh waters.

(24) Polychlorinated Biphenyls - shall not exceed 0.001 micrograms per liter.

(25) Selenium - shall not exceed 0.025 milligrams per liter.

(26) Silver - shall not exceed 0.07 micrograms per liter in predominantly fresh waters and 0.05 micrograms per liter in predominantly marine waters.

(27) Total Dissolved Gases - shall not exceed 110% of the saturation value for gases at the existing atmospheric and hydrostatic pressures.

(28) Transparency - the depth of the compensation point for photosynthetic activity shall not be reduced by more than 10% compared to the natural background value.

(29) Zinc - shall not exceed .03 milligrams per liter in predominantly fresh waters.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: Formerly 28-5.09, 17-3.09, Amended 6-10-72, 8-30-72, 7-3-73, Amended and Renumbered 3-1-79, Amended 2-1-83.

17-3.13 Drainage Wells, Permits. Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.182, F.S. History: Formerly 28-5.13, Repealed 3-1-79.

17-3.131 Criteria: Class IV Waters - Agricultural Water Supplies. The criteria listed below are for surface waters classified as Class IV. The standards established in Sections 17-3.051 and 17-3.061, F.A.C., also apply to all waters of this classification, unless additional or more stringent criteria are specified below. The following criteria are to be applied except within zones of mixing.

(1) Alkalinity - shall not exceed 600 milligrams per liter as $CaCO_3$.

(2) Beryllium - shall not exceed 0.1 milligrams per liter in waters with a hardness in milligrams per liter of $CaCO_3$ of less than 250 and shall not exceed 0.5 milligrams per liter in harder waters.

(3) Boron - shall not exceed 0.75 milligrams per liter.

(4) Color, odor, and taste producing substances and other deleterious substances, including other chemical compounds, attributable to domestic wastes, industrial wastes, and other wastes - only such amounts as will not render the waters unsuitable for agricultural irrigation, livestock watering, industrial cooling, industrial process water supply purposes or fish survival.

(5) Cyanide - shall not exceed 5.0 micrograms per liter.

(6) Dissolved Oxygen - shall not average less than 4.0 milligrams per liter in a 24-hour period and shall never be less than 3.0 milligrams per liter.

(7) Iron - shall not exceed 1.0 milligrams per liter.

(8) Mercury - shall not exceed 0.2 micrograms per liter.

(9) Nickel - shall not exceed 0.1 milligrams per liter.

Specific Authority: 403.061, 403.062, 403.807, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: Formerly 28-5.10, 17-3.10, Amended 6-10-72, 8-30-72, Amended and Renumbered 3-1-79, Amended 2-1-83.

17-3.14 Drainage Wells, Applications.

Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.061, 403.101, 403.182, F.S. History: Formerly 28-5.14, Repealed 3-1-79.

17-3.141 Criteria: Class V Waters - Navigation, Utility and Industrial Use. The criteria listed below are for surface waters classified as Class V. The standards contained in Sections 17-3.051 and 17-3.061, F.A.C., also apply to all waters of this classification unless additional, alternative or more stringent criteria are specified below. The following criteria are to be applied except within zones of mixing:

(1) Cyanide - shall not exceed 5.0 micrograms per liter.

(2) Dissolved Oxygen - shall not be less than 2.0 milligrams per liter.

(3) Mercury - shall not exceed 0.2 micrograms per liter.

(4) Odor producing substances - only in such amounts as will not unreasonably interfere with the use of the water for the designated purpose of this classification.

(5) pH - not lower than 5.0 nor greater than 9.5 except certain swamp waters which may be as low as 4.5.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: Formerly 28-5.11, 17-3.11, Amended and Renumbered 3-1-79, Amended 1-1-83.

17-3.15 Effective Date of Permits.

Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.061, 403.182, F.S. History: Formerly 28-5.15, Repealed 3-1-79.

17-3.151 Criteria: Class V-B Waters - Freshwater Storage and Utility and Industrial Supply - Groundwaters.
Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: New 3-1-79, Amended and Renumbered as 17-3.405 and 17-3.406, 1-1-83.

17-3.16 Drainage Wells, Drilling Requirements.
Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.061, 403.182, F.S. History: Formerly 28-5.16, Repealed 3-1-79.

17-3.161 Classified Waters.
(1) The surface waters of the State of Florida are classified as Class III - Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife, except for certain waters which are described in this section. A water body may be designated as an Outstanding Florida Water in addition to being classified as Class I, Class II, or Class III. Outstanding Florida Waters are listed in Section 17-3.041, F.A.C.

(2) Exceptions to Class III:

(a) All secondary and tertiary canals wholly within agricultural areas are classified as Class IV and are not individually listed as exceptions to Class III. "Secondary and tertiary canals" shall mean any wholly artificial canal or ditch which is behind a control structure and which is part of a water control system that is connected to the works (set forth in Section 373.086, F.S.) of a water management district created under Section 373.069, F.S., and that is permitted by such water management district pursuant to Section 373.103, Section 373.413, or Section 373.416, F.S. Agricultural areas shall generally include lands actively used solely for the production of food and fiber which are zoned for agricultural use where county zoning is in effect. Agricultural areas exclude lands which are platted and subdivided or in a transition phase to residential use;

(b) Jumping Gully Creek, Hamilton County, is unclassified; and

(c) The following listed water bodies are classified as Class I, Class II, or Class V:

1. Alachua County - none.
2. Baker County - none.
3. Bay County

Class I

Bayou George and Creek - Impoundment to source.
Bear Creek Impoundment to source.
Big Cedar Creek - Impoundment to source.
Deer Point Impoundment - Dam to source.
Econfina Creek - Upstream of Deer Point Impoundment.

Class II

East Bay and Tributaries - East of U.S. Highway 98 to, but excluding, Wetappo Creek.
North Bay and Tributaries - North of U.S. Highway 98 to Deer Point Dam excluding Alligator and Fanning Bayous.
West Bay and Tributaries - West of North Bay (line from West Bay Point on the north to Shell Point on the South) except West Bay Creek (northwest of Channel Marker 27C off Goose Point), Crooked

Creek (north of a line from Crooked Creek Point to Doyle Point), and Burnt Mill Creek (north of a line from Graze Point to Cedar Point.

4. Bradford County - none
5. Brevard County

Class I

St. Johns River and Tributaries - Lake Washington Dam south through and including Sawgrass Lake, Lake Hellen Blazes, to Indian River County Line.

Class II

Goat Creek
Indian River - Barnes Blvd., south to South Section Line of Section 29, T26S, R37E, Palm Shores.
Indian River - Cape Malabar south to S. Brevard County Line.
Indian River - N. Brevard County Line south to Florida East Coast Railroad Crossing (vicinity Jay Jay).
Kid Creek.
Mosquito Lagoon - North Brevard County Line south to Max Hoeck Creek.
Trout Creek.

6. Broward County

Class I

Abandoned Rock Pit - Northeast corner of SR 7 and Prospect Field Road in the S.W. Quarter of Section 7, T49S, R42E.

7. Calhoun County - none.
8. Charlotte County

Class I

Alligator Creek - North and south prongs from headwaters to SR 765-A.
Port Charlotte Canal System - Surface waters lying upstream of, or directly connected to, Fordham Waterway upstream of Conway Boulevard.
Prairie Creek - DeSoto County Line to Shell Creek.
Shell Creek Headwaters to Ridge Harbor.

Class II

Bull Bay - mean high water to Charlotte County Line.
Charlotte Harbor - to south Charlotte County Line.
Gasparilla Sound - Placida harbor to Charlotte County Line.
Lemon Bay and Tributaries - N. Charlotte County Line South to Placida Harbor and bounded on the east by SR 775.
Myakka River - N. Charlotte County Line south to Charlotte Harbor.
Placida Harbor - to mean high water.
Turtle Bay - mean high water to Charlotte County Line.

9. Citrus County

Class II

Tidal Creeks and coastal waters - Latitude 28°54' N., south to Hernando County line with the exception of waters which are bounded by and including the Crystal River on the north, St. Martins River on the south, barrier islands on the west, and the mainland on the east.

10. Clay County - none.
11. Collier County

Class II

Cocohatchee River.
Connecting Waterways - Wiggins Pass south to Outer Doctors Bay.
Dollar Bay.

Inner and Outer Clam Bay.
Inner and Outer Doctors Bay.
Little Hickory Bay.
Naples Bay.
Tidal Bays and Passes - Rookery Bay south and easterly through Ten Thousand Islands to Monroe County Line.
Wiggins Pass.

12. Columbia County - none.
13. Dade County

Class IV

Miami River - Salinity barrier easterly 5.7 miles to Biscayne Bay.

14. DeSoto County

Class I

Horse Creek - Vicinity Jct. SR 760 and SR 761 to Peace River.
Prairie Creek - Headwaters to Charlotte County Line.

15. Dixie County

Class II

Coastal Waters - Horseshoe Point south to the basin boundary of USGS Basin 09K as delineated on USGS Map, "Drainage Basins in Florida", Map Series No. 28, October 1967.
Tidal Creeks - north of, but excluding the mouth of, the Suwanee River and south of Horseshoe Point from Suwannee River or Gulf of Mexico to source.

16. Duval County

Class II

Ft. George River - Ft. George Inlet north to Nassau - St. Marys/ St. Johns Basin Boundary.
Intracoastal Waterway and tributaries - confluence of Nassau and Amelia Rivers south to Flashing Marker "72", thence eastward along Ft. George River to Ft. Geoge Inlet and includes Garden Creek and both prongs of Simpson Creek.
Nassau River and Creek - Nassau Sound to Seymore Point.
Pumpkinhill Creek

17. Escambia County

Class II

Escambia Bay - Louisville and Nashville Railroad Trestle south to Pensacola Bay (Line from Emanuel Point east northeasterly to Garcon Point).
Pensacola Bay - East of a line connecting Emanuel Point on the north to the south end of the Pensacola Bay Bridge (U.S. Highway 98).
Santa Rosa Sound - east of a line connecting Gulf Breeze approach to Pensacola Beach, Bascule Bridge, and Sharp Point with exception of the Navarre Beach area from Channel Marker "109" to Navarre Bridge.

18. Flagler County

Class II

Matanzas River (Intracoastal Waterway) - N. Flagler County Line south to Fl. Marker "109".
Pellicer Creek.

19. Franklin County

Class II

Alligator Harbor - East from a line from Peninsula Point north to St. James Island to mean high water.
Apalachicola Bay - with exception of area encompassed within 2-mile radius from Apalachicola entrance of John Gorrie Memorial Bridge.
East Bay - with the exception of

area encompassed within 2-mile radius from Apalachicola entrance of John Gorrie Memorial Bridge.

Gulf of Mexico - North of a line from Peninsula Point on Alligator Point to the northeastern tip of Dog Island and bounded on the east by Alligator Harbor and west by St. George Sound.

Ochlockonee Bay - Confluence of Sopchoppy and Ochlockonee Rivers to Gulf of Mexico.

St. George Sound - Gulf of Mexico westerly to Apalachicola Bay.

St. Vincent Sound - Apalachicola Bay to Indian Pass.

Tributaries to East Bay - these tributaries within USGS Basin 11D as delineated on USGS Map, "Drainage Basins in Florida", Map Series No. 28, October 1967.

20. Gadsden County

Class I

Holman Branch - SR 270-A to source.

Mosquito Creek - U.S. Highway 90 north to Florida State Line.

Quincy Creek - SR 65 to source.

21. Gilchrist County - none.

22. Glades County

Class I

Lake Okeechobee

23. Gulf County

Class II

Indian Lagoon - West of Indian Pass and St. Vincent Sound.

St. Joseph Bay - South and west of a line from St. Joseph Point to vicinity Port St. Joe.

24. Hamilton County - none.

25. Hardee County - none.

26. Hendry County

Class I

Lake Okeechobee.

27. Hernando County - none.

28. Highlands County - none.

29. Hillsborough County

Class I

Cow House Creek - Hillsborough River to source.

Hillsborough River - City of Tampa Water Treatment Plant Dam to Flint Creek.

Class II

Old Tampa Bay - All waters within Hillsborough County bounded on the north by SR 60 (Courtney Campbell Parkway), then south by Interstate 4 (Howard Franklin Bridges), the west by the county line, and the east by the line of mean high water.

Old Tampa Bay and Mobbly Bay - Beginning at the intersection of the north shore of SR 60 (Courtney Campbell Parkway) and Longitude 82°35'45" west, thence due north to the line of mean high water, thence westward along the line of mean high water, including Rocky and Double Branch Creeks to SR 580 and up the upper Tampa Bay watershed canal to a line connecting the lines of mean high water on the outer sides of the canal banks, to the county line, thence southerly along the county line to SR 60, thence along the north shore of SR 60 to the point of beginning.

Tampa Bay - Beginning at Gadsden Point, thence along a line connecting Gadsden Point and the intersection of Gadsden Point Cut and Cut "A" to a point one-half nautical mile inside said intersection, thence westward along a

line one-half nautical mile inside and parallel to Gadsden Point Cut, Cut "G", Cut "J", Cut "J2", and Cut "K", to the line of mean high water, thence along the line of mean high water to the point of beginning.

Tampa Bay - Beginning at the intersection of the Hillsborough County Line and the line of mean high water, thence to the rear range marker of Cut "D", thence northerly along the line of Cut "D" range to a point one-half nautical mile inside the southern boundary of Cut "C", thence along a line one-half mile inside and parallel to Cut "C", Cut "D", and Cut "E" to a point with Latitude 27°45'40" north and Longitude 82°30'40" west, thence to a point Latitude 27°47' north and Longitude 82°27' west, thence on a true bearing of 140° to the line of mean high water, thence along the line of mean high water to the western tip of Mangrove Point, thence to the northwestern tip of Tropical Island, thence eastward along the line of mean high water to the eastern tip of Goat Island, thence due south to the line of mean high water, thence along the line of mean high water to the point of beginning.

Tampa Bay - Hillsborough County portion west of the Sunshine Skyway and from the three fathom depth contour up to the line of mean high water.

30. Holmes County - none.
31. Indian River County

Class I

St. Johns River and Tributaries - Brevard County Line south through and including Blue Cypress Lake to SR 60.

Class II

Indian River - Sebastian Inlet (N. Indian River County Line) south to Wabasso vicinity east of channel centerline.

Indian River - Wabasso vicinity south to vicinity North Relief Canal.

32. Jackson County

Class I

Econfina Creek - Bay County Line to source.

33. Jefferson County

Class II

Coastal waters - Mouth of Aucilla River west to Wakulla County Line excluding mouths of drainage areas.

34. Lafayette County - none.
35. Lake County - none.
36. Lee County

Class I

Caloosahatchee River - E. Lee County Line to South Florida Water Management District Structure 79.

Class II

Charlotte Harbor.

Hell Peckish Bay.

Matanzas Pass - San Carlos Bay to Estero Bay.

Matlacha Pass - Charlotte Harbor to San Carlos Bay.

Pine Island Sound - Charlotte Harbor to San Carlos Bay.

San Carlos Bay.

37. Leon County - none.
38. Levy County

Class II

Tidal Creeks within USGS Sub-basin 09J5 south of, but excluding the

mouth of, the Suwannee River from Suwannee River or Gulf of Mexico to source.

Tidal Creeks and coastal waters - South from USGS Basin boundary line 09H separating the Suwannee Basin from the Withlacoochee Basin to the Withlacoochee River excluding the Cedar Key area and the mouth of the Withlacoochee River.

39. Liberty County - none.
40. Madison County - none.
41. Manatee County

Class I

Manatee River - Rye Bridge Road to the sources thereof, including but not limited to the following tributaries: the East Fork of the Manatee River, the North Fork of the Manatee River, Boggy Creek, Gilley Creek, Poley Branch, Corbit Branch, Little Deep Branch, Fisher Branch, Ft. Crawford Creek, Webb Branch, Clearwaer Branch, Craig Branch, and Guthrey Branch.

Ward Lake - SR 70 to source (SR 675).

Class II

Palma Sola Bay

Passage Key Area - Egmont Key to Anna Maria Island.

Sarasota Bay - East-west line through marker "48" on Intracoastal Waterway south to Manatee County Line.

Terra Ceia Bay - To Terra Ceia Point.

42. Marion County - none
43. Martin County

Class I

Lake Okeechobee.

Class II

Great Pocket - St. Lucie River to Peck's Lake.

Indian River - N. Martin County Line south to St. Lucie Inlet, east of Channel centerline.

Loxahatchee River - Above Florida East Coast Railroad Bridge including South, Northwest, and North Forks.

44. Monroe County

Class II

Monroe County Coastline - North Monroe County Line south and including Florida Bay within Everglades National Park.

45. Nassau County

Class II

Alligator Creek.

Nassau River and Creek - Nassau Sound to Seymore Point.

South Amelia River - Nassau River north to Harrison Creek.

46. Okaloosa County

Class II

Choctawatchee Bay and Tributaries - Eastward from a line from White Point southwesterly through Fl. Light Marker "2" of the Intracoastal Waterway to the Walton County Line.

Rocky Bayou - Choctawatchee Bay to Rocky Creek.

Santa Rosa Sound - From a north-south line through Manatee Point west to the Santa Rosa County Line.

47. Okeechobee County

Class I

Lake Okeechobee.

48. Orange County - none.
49. Osceola County - none.

50. Palm Beach County

Class I

Canal C-18 (freshwater portion).
City of West Palm Beach Water Catchment Area.
Clear Lake.
Lake Mangonia.
Lake Okeechobee.
M-Canal L-8 to Lake Mangonia.

Class II

Canal C-18 - Salinity barrier to Loxahatchee River.
Loxahatchee River - Above Florida East Coast railroad Bridge including South, Northwest, and North Forks.

51. Pasco County - none.
52. Pinellas County

Class II

Mobbly Bay - Portion in Pinellas County.
Mullet Key Area.
Old Tampa Bay - Gandy Causeway to Safety Harbor.
Safety Harbor to Old Tampa Bay.
Tampa Bay - South Pinellas County Line to Gandy Causeway.

53. Polk County - none.
54. Putnam County - none.
55. St. Johns County

Class II

Guano River and Tributaries - From Guano Lake Dam south to Tolomato River.
Matanzas River, Intracoastal Waterway and Tributaries, excluding Treasure Beach Canal System - From Intracoastal Waterway marker number 29 south to Flagler County Line.
Pellicer Creek.
Salt Run - All waters south of an east-west connecting Lighthouse Park boat ramp with Conch Island.
Tolomato River (North River) and Tributaries - From a line connecting Spanish Landing to Booth Landing south to Intracoastal Waterway marker number 55.

56. St. Lucie County

Class II

Indian River - Middle Cove vicinity south to S. St. Lucie County Line, east of Channel centerline.
Indian River - N. St. Lucie County Line south to Garfield Point.

57. Santa Rosa County

Class II

Blackwater Bay - From a line connecting Robinson's Point to Broad River south to East Bay (line due west from Escriban Point).
East Bay - Blackwater Bay (line due west from Escribano Point) southerly to Pensacola Bay (line from Garcon Point on the North to Redfish Point on the South).
Escambia Bay - Louisville and Nashville Railroad Trestle south to Pensacola Bay (Line from Emanuel Point east northeasterly to Garcon Point).
Pensacola Bay - East of a line connecting Emanuel Point on the north to the south end of the Pensacola Bay Bridge (U.S. Highway 98).
Santa Rosa Sound - From a line connecting Gulf Breeze approach to Pensacola Beach, Bascule Bridge, and Sharp Point east to Santa Rosa/Okaloosa County line with exception of the Navarre Beach area from Channel Marker "109" to Navarre Beach.
Tributaries to East Bay - Those tributaries within USGS Basin 12B as delineated on USGS Map, "Drainage Basins in Florida", Map Series No. 28, October 1967.

58. Sarasota County

Class I

Big Slough Canal - South to U.S. 41.

Myakka River - Myakka vicinity through Upper and Lower Myakka Lakes to Manhattan Farms.

Class II

Lemon Bay - Forked Creek south to Charlotte County Line.

Myakka River - S.W. North Port Charlotte Limit south to Charlotte County Line.

Sarasota Bay - West of Center (Intracoastal Waterway).

59. Seminole County - none.
60. Sumter County - none.
61. Suwanee County - none.
62. Taylor County

Class V

Fenholloway River.

63. Union County - none.
64. Volusia County

Class II

Indian River North - Channel Marker 57 south to Mosquito Lagoon.

Mosquito Lagoon - Indian River North south to S. Volusia County Line.

65. Wakulla County

Class II

Coastal waters - Jefferson County Line west to Live Oak Point excluding mouths of drainage areas.

Oyster Bay, Apalachee Bay, and Tributaries - West of a line from western tip of Shell Point south to FL. 4 sec. marker and southerly to Ochlockonee Point, with the exception of Spring Creek and portion of King Bay west and north of a line from westernmost tip of Porter Island south to Hungry Point.

66. Walton County

Class II

Choctawatchee Bay and Tributaries - Eastward from the Okaloosa County Line and south of a line from Alaqua Point to Wheeler Point to the eastern sources.

67. Washington County

Class I

Ecofina Creek.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: New 3-21-68, Formerly 28-5.21, Amended 3-4-71, 7-13-78, 3-5-80, 7-26-81, 1-1-83, 2-1-83, 4-1-84.

17-3.17 Drainage Well Permit Revocation and Modification.
Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.061, 403.182, F.S. History: Formerly 28-5.17, Repealed 3-1-79.

17-3.18 Test Wells and Borings.
Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.061, 403.101, 403.182, F.S. History: Formerly 28-5.18, Repealed 3-1-79.

17-3.19 Abandoned Wells.
Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.061, F.S. History: Formerly 28-5.19, Repealed 3-1-79.

17-3.20 Pollution Surveys.
Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.061, 403.101, 403.182, F.S. History: Formerly 28-5.20, Amended and Renumbered as 17-4.247, 3-1-79.

17-3.21 Classified Waters.
Specific Authority: 403.061, F.S. Law Implemented: 403.021, 403.061, F.S. History: Formerly 28-5.21, Amended 6-10-72, 10-4-74, Amended and Renumbered as 17-3.161, 3-1-79.

17-3.22 Application Forms.
Specific Authority: 403.061(7), F.S. Law Implemented: 120.53(1), 403.061(15), 403.061(16), F.S. History: New 4-25-77, Transferred to 17-1.1221(1), 2-18-79.

PART IV
WATER QUALITY CRITERIA - GROUND WATER

17-3.401 Ground Water: General.
(1) This part contains criteria which are applicable to ground water.

(2) In order to determine if the ground water criteria in this part are being met, ground water quality shall be monitored in accordance with this Section and Section 17-4.245, F.A.C.

(3) A violation of any ground water criterion contained in this part constitutes pollution.

(4) In addition to any technology-based effluent limitations required by Department rule, the Department may also specify water quality-based effluent limitations to assure that the water quality criteria will be met.

(5) Notwithstanding the classification and criteria for ground water set forth in this part, discharge to ground water shall not impair the designated use of contiguous surface water.

(6) Compliance with ground water standards shall be determined by analyses of unfiltered ground water samples, unless a filtered sample is as or more representative of the particular ground water quality.

(7) For owners of installations having filed a complete application for a Chapter 403 permit covering water discharges as of January 1, 1983, or discharging pollutants to ground water as of July 1, 1982, compliance with the minimum criteria set forth in Section 17-3.402, F.A.C., shall be determined by analysis of the constituents of the waste stream of the installation causing the discharge; provided, however, that the installation owner may, at his option, place a monitoring well immediately outside the site boundary to measure compliance with the minimum criteria, as long as the discharge poses no danger to the public health, safety or welfare.
Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: Formerly 17-3.071, Amended and Renumbered 1-1-83.

17-3.402 Minimum Criteria for Ground Water.
(1) All ground water shall at all places and at all times be free from domestic, industrial, agricultural, or other man-induced non-thermal components of discharges in concentrations which, alone or in

combination with other substances, or components of discharges (whether thermal or non-thermal):

(a) Are harmful to plants, animals, or organisms that are native to the soil and responsible for treatment or stabilization of the discharge relied upon by Department permits; or

(b) Are carcinogenic, mutagenic, teratogenic, or toxic to human beings, unless specific criteria are established for such components in 17-3.404; or

(c) Are acutely toxic to indigenous species of significance to the aquatic community within surface waters affected by the ground water at the point of contact with surface waters; or

(d) Pose a serious danger to the public health, safety, or welfare; or

(e) Create or constitute a nuisance; or

(f) Impair the reasonable and beneficial use of adjacent waters.

(2) The minimum criteria shall not apply to Class G-IV ground water, unless the Department determines there is a danger to the public health, safety or welfare.

(3) The following procedures shall apply in the implementation of subsection (1)(b):

(a) The Secretary is authorized to make determinations, in individual permitting or enforcement proceedings, that a particular level for a substance is a prohibited concentration in violation of a minimum criterion pursuant to subsection (1)(b). This determination may not be delegated to the districts.

(b) Any notice of proposed agency action published pursuant to Section 17-1.62, F.A.C., which contains such a determination shall include notification of the particular substance and prohibited concentration level being proposed. The notice shall be submitted to the Florida Administrative Weekly at the time it is sent to the permit applicant for publication.

(c) The Department shall notify the Commission semiannually of every application of a determination to a discharger made by the Secretary during the preceding six months pursuant to subsection (a) for any constituent and concentration level not adopted by the Commission as a rule. The notification shall identify the discharger(s) to whom the application of a determination has been made, the type of industry, the constituent and concentration level set and a summary of the basis for the determination. At the written request of the Commission or any substantially affected member of the public, the Department shall, within 120 days of the written request, submit to the Florida Administrative Weekly a notice of rulemaking pursuant to Section 120.54(1), F.S., on the determination for the particular constituent and concentration level that is the subject of a notification in the preceding sentence.

(d) The application of the determination under paragraph (a) to the permittee or to other affected dischargers shall be subject to:

1. Modification where necessary to conform to any final rulemaking action of the Commission under subsection (c); or

2. Withdrawal if the Commission elects not to adopt a corresponding rule after initiation of rulemaking for the constituent under subsection (c).

(e) The notice procedures contained in subsection (3) shall not

act as a stay of Department enforcement proceedings.

(f) Once a particular standard for a criterion is established by the Commission, it shall be listed in subsection (g) below.

(g) Reserved.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: Formerly 17-3.051, Amended and Renumbered 1-1-83.

17-3.403 Classification of Ground Water, Usage, Reclassification.

(1) All ground water of the State is classified according to designated uses as follows:

CLASS G-I	Potable water use, ground water in single source aquifers which has a total dissolved solids content of less than 3,000 mg/l.
CLASS G-II	Potable water use, ground water in aquifers which has a total dissolved solids content of less than 10,000 mg/l, unless otherwise classified by the Commission.
CLASS G-III	Non-potable water use, ground water in unconfined aquifers which has a total dissolved solids content of 10,000 mg/l or greater, or which has total dissolved solids of 3,000-10,000 mg/l and either has been reclassified by the Commission as having no reasonable potential as a future source of drinking water, or has been designated by the Department as an exempted aquifer pursuant to Section 17-28.13(3), F.A.C.
CLASS G-IV	Non-potable water use, ground water in confined aquifers which has a total dissolved solids content of 10,000 mg/l or greater.

(2) It shall be the Department policy to afford the highest protection to single source aquifers. Upon petition by an affected party as provided in subsection (6), the Commission may reclassify aquifers or portions of aquifers as Class G-I ground water.

(3) The specific water quality criteria corresponding to each ground water classification are listed in Sections 17-3.404 - 17-3.406, F.A.C.

(4) Ground water quality classifications are arranged in order of the degree of protection required, with Class G-I ground water having generally the most stringent water quality criteria and Class G-IV the least.

(5) Reclassification of ground water as provided in subsection (1) above shall be accomplished in the following manner:

(a) Any substantially affected person or a water management district may seek reclassification of any ground water of the State by filing a petition with the Secretary in the form required by Section

17-1.24, F.A.C. In addition, the Department, on its own initiative or at the direction of the Commission, may seek reclassification by initiating rulemaking pursuant to Section 17-1.06, F.A.C.

(b) A petition for reclassification shall contain the information necessary to support the affirmative findings required in this section.

(c) All reclassifications of ground water of the State shall be adopted after public notice, written notification to local governments whose jurisdiction includes any portion of the ground water proposed to be reclassified, and public hearing only upon an affirmative finding by the Commission that:

1. The proposed reclassification will establish the present and future most beneficial use of the ground water; and

2. Such a reclassification is clearly in the public interest.

(d) Reclassification of ground water of the State which establishes more stringent, or less stringent, criteria than presently established by this Chapter shall be adopted upon additional affirmative finding by the Commission that the proposed designated use is attainable, upon consideration of environmental, water quality, technological, social, economic, and institutional factors.

(6) In addition to the procedures in subsection (5) above, the following procedure shall be used to designate single source aquifers:

(a) Rulemaking procedures pursuant to Chapter 17-1, F.A.C., shall be followed;

(b) At least one fact-finding workshop shall be held in the affected area;

(c) All local county or municipal governments, water management districts, and state legislators whose districts or jurisdictions include all or part of a proposed single source aquifer shall be notified in writing by the Secretary at least 60 days prior to the workshop;

(d) A prominent public notice shall be placed in a newspaper, or newspapers if a large area is to be designated, of general circulation in the area of the proposed single source aquifer at least 60 days prior to the workshop;

(e) The Commission may reclassify an aquifer or portion of an aquifer as a single source aquifer within specified boundaries upon the affirmative finding that:

1. The aquifer or portion of the aquifer is the only reasonably available source of potable water to a significant segment of the population; and

2. The designated use is attainable, upon consideration of environmental, technological, water quality, institutional, and social and economic factors.

(f) When making the finding required by subparagraph (e), the Commission must specifically consider, upon presentation of any competent evidence at the hearing, the following:

1. Other sources of potable water which could be used and the costs of developing these sources; and

2. The long term adequacy of the ground water aquifer to supply expected future demands if other sources are not developed; and

3. Potential adverse effects from continued consumption of water from the aquifer if G-I classification does not occur; and

4. Potential adverse impacts on existing and potential discharges to the affected ground water if G-I

classification occurs.
Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.504, 403.702, 403.708, F.S. History: Formerly 28-5.06, 17-3.06, 17-3.081, Amended and Renumbered 1-1-83.

17-3.404 Standards for Class G-I and Class G-II Ground Water.

(1) In addition to the minimum criteria provided in Section 17-3.402, F.A.C., waters classified as Class G-I and Class G-II ground water shall meet the following standards:

(a) The primary and secondary drinking water quality standards for public water systems established pursuant to the Florida Safe Drinking Water Act, which are listed in Section 17-22.104, F.A.C., except as provided in Section 17-4.245(8), F.A.C.

(b) The following maximum contaminant levels: (Reserved).

(2) If the concentration for any constituent listed in (1) in the natural unaffected background quality of the ground water is greater than the stated maximum, or in the case of pH is also less than the minimum, the representative background value shall be the prevailing standard for Class G-I and Class G-II ground water.

(3) These standards shall not apply within a permitted zone of discharge as provided in Section 17-4.245, F.A.C. The minimum criteria specified in 17-3.402 shall apply within the zone of discharge.
Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: Formerly 17-3.101, Amended and Renumbered 1-1-83.

17-3.405 Standards for Class G-III Ground Water. The criteria established in Section 17-3.402, F.A.C., shall apply to all Class G-III ground water.
Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: Formerly 17-3.151, Amended and Renumbered 1-1-83.

17-3.406 Standards for Class G-IV Ground Water. The Department shall specify applicable standards on a case-by-case basis for discharges to Class G-IV ground water. The minimum criteria in Section 17-3.402 will not apply unless the Department determines there is danger to the public health, safety or welfare.
Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: Formerly 17-3.151, Amended and Renumbered 1-1-83.

CHAPTER 17-4

PERMITS

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PART I
GENERAL

17-4.01 Scope of Part I. This Chapter provides the requirements and procedures for the issuance, denial, renewal, modification, suspension, and revocation of any permit required by the State of Florida Department of Environmental Regulation.
Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 5-17-72.

17-4.02 Definitions. When used in this Chapter, the following words shall have the indicated meanings unless the context clearly indicates otherwise:

(1) "Commission" is the State of Florida Environmental Regulation Commission.

(2) "Department" is the State of Florida Department of Environmental Regulation.

(3) "Installation" is any structure, equipment, facility, or appurtenances thereto, operation or activity which may be a source of pollution.

(4) "Construction permit" is the legal authorization granted by the Department to construct, expand, modify, or make alterations to any installation and to temporarily operate and test such new or modified installations.

(5) "Operation permit" is the legal authorization granted by the Department to operate or maintain any installation for a specified period of time.

(6) "Temporary permit" is the legal authorization limited to a specified time granted by the Department to operate, maintain, construct, modify, expand, or make alterations to any installation in accordance with section 403.088, FS.

(7) "Permitting agent" is any person employed by the Department who is authorized by the Department to issue or deny specified permits.

(8) "Permit condition" is a statement or stipulation issued with a permit with which compliance is necessary for continued validity of the permit.

(9) "Permit" is the legal authorization to engage in or conduct any construction, operation, modification, or expansion of any installation, structure, equipment, facility, or appurtenances thereto, operation or activity which will reasonably be expected to be a source of pollution.

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

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

(12) "Dredging" is the excavation, by any means, in waters of the state. It is also the excavation (or creation) of a water body which is, or is to be, connected to any of the waters listed in Section 17-4.28(2) FAC., directly or via an excavated water body or series of excavated water bodies.

(13) "Embedment" is the placement of lines into the bottoms of waters of the State by minimal displacement of bottom material and without the creation of a trench, or trough, through the use of techniques such as plowing-in, weighing-in, or non-trenching jets.

(14) "Entrenchment" is the placement of lines into the bottoms of waters of the State by the creation of a defined trench, or trough, through the use of such devices as clamshells, dredges, trenching jets, or other devices which produce similar results.

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

(16) "Secretary" is the Secretary of the Department.

(17) "Landward extent of waters of the state as defined prior to October 1, 1984" is, pursuant to Section 403.817, F.S., that portion of a surface water body indicated by the presence of one or a combination of the following as the dominant species:

Submerged Marine species:

Batis	Batis maritima
Big cordgrass	Spartina cynosuroides
Black mangrove	Avicennia germinans
Black rush	Juncus roemerianus
Cuban shoalweed	Diplanthera (Halodule) wrightii
Leather fern	Acrostichum aureum
Manatee grass	Syringodium filiformis
Red mangrove	Rhizophora mangle
Rubber vine	Rhabdadenia biflora
Smooth cordgrass	Spartina alterniflora
Turtle grass	Thalassia testudinum
Widgeon grass	Ruppia maritima
White mangrove	Laguncularia racemosa

Submerged Fresh water species:

Alligator weed	Alternanthera philoxeroides
Arrowhead	Sagittaria spp.
Arrowroot lily	Thalia geniculata
Bald cypress	Taxodium distichum
Beak rush	Rhynchospora tracyi
Bladder wort	Utricularia vulgaris
Blue green algal mats	
Bullrush	Scirpus americanus
	Scirpus validus
Cattail	Typha latifolia
	Typha angustifolia
	Typha domingensis
Coontail	Ceratophyllum demersum
Duck weed	Lemna spp.
Florida elodea	Hydrilla verticillata
Golden club	Orontium aquaticum
Leather fern	Acrostichum danaeifolium
Maiden cane	Panicum hermitomon
Naiad	Najas spp.

Ogeeche tupelo	Nyssa ogeche
Pickerelweed	Pontederia lanceolata
Pond apple	Annona glabra
Pond cypress	Taxodium ascendens
Pondweed	Potamogeton illinoensis
Royal fern	Osmunda regalis
Saw grass	Cladium jamaicensis
Spatter dock	Nuphar spp.
Spike rush	Eleocharis cellulosa
Soft rush	Juncus effusus
Swamp lily	Crinum americanum
Swamp tupelo	Nyssa biflora
Tape grass	Vallisneria neotropicalis
Water ash	Fraxinus caroliniana
Water fern	Salvinia rotundifolia
Water hyssop	Bacopa caroliniana
Water lily	Nymphaea spp.
Water shield	Brasenia schreberi
Water tupelo	Nyssa aquatica
Water willow	Justicia ovata

or that portion of a surface water body up to the waterward first fifty (50) feet or the waterward quarter (1/4) of the entire area, whichever is greater, where one or a combination of the following are the dominant species:

Transitional Marine species:

Aster	Aster tenuifolius
Beach carpet	Philoxerus vernicularis
Button wood	Concarpus erecta
Glasswort Annual	Salicornia bigelovii
Glasswort Perennial	Salicornia virginica
Key grass	Monanthochloe littoralis
Salt grass	Distichlis spicata
Sea blite	Suaeda lindaris
Sea daisy	Borrichia frutescens
	Borrichia arborescens
Sea grape	Coccoloba uvifera
Sea lavender	Limonium carolinianum
Sea purslane	Sesuvium portulascastrum
Switch grass	Spartina patens
Railroad vine	Ipomoea pes-caprae

Transitional Freshwater species:

Button bush	Cephalanthus occidentalis
Dahoon	Ilex cassine
Giant reed	Phragmites communis
Primrose willow	Ludwigia peruviana
St. John's wort	Hypericum fasciculatum
Switch grass	Panicum virgatum
Willow	Salix caroliniana

"Dominance" for the purposes of this rule shall be as defined in Section 17-3.021(10), F.A.C.

(18) "Landward extent of waters of the state" is, pursuant to Section 403.817, F.S., that portion of a surface water body indicated by the presence of one or a combination of the species listed in Section 17-4.022, F.A.C., as the dominant species as determined pursuant to Section 17-4.022, F.A.C.

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

(20) "Seawall" is as defined in Section 69 of Chapter 84-338, Laws of Florida.

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

Specific Authority: 403.061, 403.805, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.087, 403,088, 403.802, 403.817, F.S.
History: New 3-4-72, Revised 5-17-72, Amended 6-10-75; Joint Administrative Procedures Committee Objection Filed - See FAW Vol. 1, No. 28, 1-12-76; Joint Administrative Procedures Committee Objection Withdrawn - See FAW Vol. 3, No. 30, 7-29-77, Amended 3-11-81, 12-10-84.

17-4.021 Transferability of Definitions. Definitions contained in other Chapters of the Department's rules may be utilized to clarify the meaning of terms used herein unless such terms are defined in Section 17-4.02, F.A.C., or transfer of such definition would defeat the purpose or alter the intended effect of the provisions of this Chapter.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S.
History: New 3-1-79.

17-4.022 Determination of the Landward Extent of Surface Waters of the State.

(1) The line demarcating the landward extent of surface waters, as defined in Section 403.031, F.S., shall be established for any water body, pursuant to Section 403.817, F.S., by dominant plant species. Dominance shall be determined in a plant stratum (canopy, subcanopy, or ground cover). The canopy is composed of all woody plants with a trunk 4 inches or greater in

diameter at breast height (dbh). Dbh is measured at 4.5 feet above the ground. The subcanopy is composed of all woody plants with a trunk or stem dhb between 1 and 4 inches and a height greater than 3 feet. The ground cover includes all other plants. The top stratum shall be used in the determination of dominance unless the top stratum constitutes less than 10% areal extent or unless a preponderance of the evidence establishes that the top stratum is not indicative of normal hydrologic conditions, for example, as a result of artificial alteration. In these cases a more representative stratum shall be used. The burden of proof shall be with the party asserting that a stratum other than the top stratum should be used to determine dominance.

(a) The existence of a surface water, as defined in Section 403.031, F.S., shall first be identified. Vegetation shall then be inspected moving landward. In all cases the department shall attempt to locate the line demarcating the landward extent of waters of the state by visual methods or by aerial photointerpretation. The line demarcating the landward extent of the waters shall be the boundary of the area where, using the submerged and transitional species listed in paragraphs (2) and (3) below:

1. the areal extent of submerged and transitional species or any combination thereof, in the selected stratum, is greater than 50% of all the plant species for that stratum, and

2. the areal extent of the submerged species in the selected stratum is greater than 10% of the areal extent of all the plant species in that stratum, and

3. the areal extent of the submerged species in the selected stratum is greater than the areal extent of upland species in that stratum.

(b) The landward extent of a surface water shall include any other area where:

1. the areal extent of the transitional species in the selected stratum is greater than 80% of all the plant species in that stratum, and

2. the areal extent of the submerged species in the selected stratum is less than 10% of all the plant species in that stratum, and

3. the areal extent of the upland species in the selected stratum is less than 10% of all the plant species in that stratum, and

4. the department establishes by competent, substantial evidence by using such factors as hydrology, swollen buttresses, lichen lines, or other indicators that the area is subject to regular and periodic inundation.

(c) If the line demarcating the landward extent of waters of the state cannot be determined visually or by aerial photointerpretation, the following methods shall be used in a manner that ensures sufficient representative data will be generated. The percentages generated shall be substituted for areal extent in paragraph (a) or (b) above.

1. In areas where a canopy is used, a series of belt transects shall be established and divided into intervals. Dominance will be determined by relative basal area. Relative basal area in the canopy shall be recorded as submerged, transitional or upland within each interval as follows:

$$\text{Relative Basal Area} = \frac{\text{Total basal area of submerged, transitional or upland species.}}{\text{Total basal area of all species.}} \times 100$$

2. In areas where a subcanopy is used, a series of belt transects shall be established and divided into intervals. Within each interval the percentages of submerged, transitional, or upland species shall be determined by relative density using the formula below:

$$\text{Relative Density} = \frac{\text{Number of individuals of submerged, transitional or upland species.}}{\text{Total number of individuals}} \times 100$$

3. In areas where a ground cover is used, either of the following methods shall be used:

a. A series of line transects shall be established and ground cover shall be sampled in 0.25 square meter plots at interval points. There shall be a sufficient number of plots to determine accurately the line demarcating the landward extent of waters of the state. Within each plot the percentages of submerged, transitional or upland species shall be determined visually by cover, or the number of individuals categorized as submerged, transitional or upland shall be counted and results expressed as percentages of the total number of individuals within that plot; or

b. A series of line transects shall be established, divided into appropriate intervals, and ground cover shall be determined by measuring the linear portion of each interval (at the ground surface) occupied by plants categorized as submerged, transitional or upland. These measurements by category shall then be expressed as a percentage of the total measurements of vegetative cover within each interval.

(d) Methods other than those described above may be used as long as the department and the applicant both agree, in writing, to the method used. If both parties agree to use more than one stratum, the following methods for a combination of strata shall be used in a manner to ensure that sufficient representative data will be generated. The methods described in subparagraphs (c)1., 2., and 3. shall be used for the appropriate strata. The percentages obtained shall be added and the sum divided by the number of strata examined. The number generated by this procedure shall be substituted for areal extent in paragraph (a) or paragraph (b) above. When a combination of strata is used, the following shall be added to Rule 17-4.022(2), Florida Administrative Code:

Blechnum serrulatum	swamp fern
Carex leptalea	sedge
Carex stipitata	sedge
Crataegus viridis	green haw
Osmunda spp.	osmunda ferns
Pluchea spp.	marsh fleabanes
Woodwardia spp.	chain ferns

Concurrently the following shall be added to Rule 17-4.022(3), Florida Administrative Code:

Axonopus furcatus	big carpet grass
Flaveria spp.	yellowtops
Metopium toxiferum	poison tree
Myrica cerifera	wax myrtle
Sabal minor	dwarf palmetto
Symplocos tinctoria	horse sugar

(2) Submerged Species:

Acrosticum spp.	leather ferns
Alisma subcordatum	water plantain
Alnus serrulata	hazel alder
Alternanthera philoxeroides	alligator weed
Amaranthus australis	pigweed
Annona glabra	pond apple
Aster carolinianus	climbing aster
Aster elliottii	aster
Aster subulatus	aster
Aster tenuifolius	saltmarsh aster
Avicennia germinans	black mangrove
Azolla caroliniana	mosquito fern
Bacopa spp.	water hyssops
Batis maritima	saltwort
Betula nigra	river birch
Bidens laevis	bur-marigold
Bidens mitis	bur-marigold
Blue green algal mats	
Borrichia arborescens	sea daisy
Borrichia frutescens	sea daisy
Brachylema spp.	water moss
Brasenia schreberi	water shield
Cabomba caroliniana	fanworts
Canna spp.	cannas
Carex decomposita	sedge
Carex howei	sedge
Carex walteriana	sedge

Cephalanthus occidentalis	buttonbush
Ceratophyllum spp.	hornworts
Ceratopteris spp.	floating ferns
Chamaecyparis spp.	white cedars
Chara spp.	musk grasses
Cicuta mexicana	water hemlock
Cladium jamaicense	saw-grass
Colocasia esculenta	wild taro
Coreopsis nudata	tickseed
Crataegus aestivalis	apple haw
Crataegus marshallii	parsley haw
Crinum americanum	swamp lily
Cyperus alternifolius	umbrella flatsedge
Cyperus articulatus	umbrella sedge
Cyperus haspan	flat sedge
Decodon verticillatus	swamp loosestrife
Distichlis spicata	saltgrass
Echinodorus spp.	burheads
Egeria densa	waterweed
Eichhornia crassipes	water hyacinth
Eleocharis spp.	spikerushes
Elodea spp.	waterweeds
Eriocaulon spp.	hat-pins
Fimbristylis, all species	fringe-rushes
except: F. annua	
F. puberula	
F. spathacea	
Fontinalis spp.	water mosses
Fraxinus, all species	ashes
except: F. americana	
Fuirena scirpoidea	rush fuirena
Fuirena squarrosa	lake rush
Gordonia lasianthus	loblolly bay
Habenaria repens	water-spider orchid
Hibiscus grandiflorus	big rose-mallow
Hydrilla verticillata	hydrilla
Hydrochloa caroliniensis	watergrass
Hydrocotyle ranunculoides	swamp loosestrife
Hydrolea spp.	sky flower
Hygrophila lacustris	lake hygrophila
Hygrophila polysperma	East Indian hygrophila
Hymenocallis spp.	spider lilies
Hypericum chapmanii	St. John's wort
Hypericum lissophloeus	St. John's wort
Hypericum nitidum	St. John's wort
Ilex cassine	dahoon
Ilex myrtifolia	myrtle-leaved holly
Iris hexagona	anglepod blue flag

Iris virginica	southern blue flag
Itea virginica	Virginia willow
Iva, all species	marsh elders
except: I. imbricata	
Juncus spp.	bog rushes
Justicia americana	water willow
Justicia ovata	water willow
Kosteletzkya spp.	marsh-mallow
Lachnocaulon, all species	bog buttons
except: L. anceps	
L. digynum	
Laguncularia racemosa	white mangrove
Leersia spp.	southern cutgrass
Lemna spp.	duckweeds
Leptodictyon spp.	water moss
Lilaeopsis spp.	lilaeopsis
Limnobium spongia	frog's bit
Limonium carolinianum	sea lavender
Lindernia dubia	false pimpernel
Lindernia grandiflora	false pimpernel
Litsea aestivalis	pond-spice
Lobelia cardinalis	cardinal-flower
Lobelia glandulosa	lobelia
Ludwigia, all species	ludwigias
except: L. hirtella	
L. maritima	
L. virgata	
Magnolia virginiana	sweet bay
Mikania scandens	climbing hempvine
Monanthochloe littoralis	key grass
Muhlenbergia capillaris	gulf muhly
Muhlenbergia schreberi	nimblewill
Myriophyllum spp.	water milfoils
Najas spp.	water naiads
Nasturtium spp.	water cresses
Nelumbo spp.	lotuses
Nitella spp.	stoneworts
Nuphar spp.	spatterdocks
Nymphaea spp.	water lilies
Nymphoides spp.	floating hearts
Nyssa aquatica	water tupelo
Nyssa ogeche	Ogeechee tupelo
Nyssa sylvatica var. biflora	swamp tupelo
Orontium aquaticum	golden club
Osmunda regalis	royal fern
Oxypolis filiformis	water dropwort
Panicum gymnocarpon	savannah panicum
Panicum hemitomon	maidencane

Panicum rigidulum	redtop panicum
Paspalum distichum	knot-grass
Paspalum repens	water paspalum
Peltandra spp.	spoon flowers
Persea palustris	swamp bay
Phragmites australis	giant reed
Pinckneya bracteata	fever tree
Pistia stratiotes	water lettuce
Planera aquatica	water elm
Polygonum spp.	smartweeds
Pontederia spp.	pickerelweeds
Populus heterophylla	swamp poplar
Potamogeton spp.	pondweeds
Proserpinaca spp.	mermaid weeds
Quercus lyrata	overcup oak
Rhexia parviflora	meadow beauty
Rhexia salicifolia	meadow beauty
Rhizophora mangle	red mangrove
Rhynchospora corniculata	horned beak rush
Rhynchospora divergens	beak rush
Rhynchospora inundata	inundated beak rush
Rhynchospora microcarpa	small-fruited beak rush
Rhynchospora miliacea	beak rush
Rhynchospora mixta	beak rush
Rhynchospora tracyi	Tracy's beak rush
Rosa palustris	swamp rose
Ruppia maritima	widgeon grass
Sabatia dodecandra	marsh pink
Sagittaria spp.	arrowheads
Salicornia spp.	glassworts
Salix spp.	willows
Salvinia rotundifolia	water spangles
Samolus spp.	water pimpernels
Saururus cernuus	lizard's tail
Scirpus americanus	common three-square
Scirpus californicus	southern bulrush
Scirpus cubensis	bulrush
Scirpus cyperinus	woolgrass bulrush
Scirpus erismanae	bulrush
Scirpus etuberculatus	bulrush
Scirpus olneyi	Olney's three-square
Scirpus robustus	saltmarsh bulrush
Scirpus validus	giant bulrush
Sium suave	water parsnip
Smilax laurifolia	bamboo-vine
Smilax walteri	coral greenbriar
Sparganium americanum	bur-reed
Spartina, all species except: S. bakeri	cordgrasses

Sphagnum spp.	sphagnum mosses
Spirodela spp.	duckmeat
Sporobolus virginicus	seashore dropseed
Suaeda spp.	sea blights
Taxodium spp.	cypresses
Thalia geniculata	arrowroot
Triadenum virginicum	St. John's wort
Typha spp.	cattails
Utricularia spp.	bladderworts
Vallisneria spp.	tape-grasses
Wolffia spp.	water meals
Wolffiella spp.	bog-mats
Xyris, all species	yellow-eyed grasses
except: X. caroliniana	
X. jupicai	
Zizania aquatica	annual wild rice
Zizaniopsis miliacea	southern wild rice

(3) Transitional Species:

Acer negundo	box-elder
Acer rubrum	red maple
Acer saccharinum	silver maple
Aletris spp.	colic roots
Ampelopsis arborea	pepper vine
Arundinaria gigantea	cane
Baccharis angustifolia	false willow
Blechnum serrulatum	swamp fern
Boehmeria cylindrica	bog hemp
Carex, all species	sedges
except: C. decomposita	
C. howei	
C. walteriana	
Carpinus caroliniana	ironwood
Carya aquatica	water hickory
Celtis laevigata	hackberry
Centella asiatica	coinwort
Chrysobalanus icaco	cocoplum
Clethra alnifolia	sweet pepperbush
Conocarpus erectus	buttonwood
Cornus foemina	stiff cornel
Crataegus viridis	green haw
Cyperus odoratus	umbrella sedge
Dichromena spp.	white-tops
Diodia virginiana	buttonweed
Dryopteris ludoviciana	southern shield fern
Forestiera acuminata	swamp privet
Gleditsia aquatica	water locust

Gratiola ramosa	hedge hyssop
Hydrocotyle umbellata	water pennywort
Hypericum fasciculatum	St. John's wort
Hypericum myrtifolium	St. John's wort
Ilex coriacea	sweet gallberry
Ilex decidua	possum haw
Ilex opaca var. opaca	American holly
Illicium floridanum	purple anise
Lachnanthes caroliniana	red-root
Lachnocaulon anceps	bog-button
Lachnocaulon digynum	bog-button
Leucothoe spp.	fetterbush
Liquidambar styraciflua	sweetgum
Liriodendron tulipifera	yellow poplar
Ludwigia hirtella	ludwigia
Ludwigia maritima	ludwigia
Ludwigia virgata	ludwigia
Lycopus rubellus	water hoarhound
Lygodium japonicum	Japanese climbing fern
Lyonia lucida	fetterbush
Myrica inodorata	odorless wax myrtle
Osmunda cinnamomea	cinnamon fern
Ostrya virginiana	hop hornbeam
Panicum repens	torpedo grass
Panicum virgatum	switch grass
Persea borbonia	redbay
Philoxerus vermicularis	beach carpet
Pinus glabra	spruce pine
Pinus serotina	pond pine
Platanus occidentalis	sycamore
Pluchea spp.	marsh fleabanes
Polygala cymosa	milkwort
Populus deltoides	eastern cottonwood
Quercus laurifolia	swamp laurel oak
Quercus michauxii	swamp chestnut oak
Quercus nigra	water oak
Rhapidophyllum hystrix	needle palm
Rhexia, all species	meadow beauties
except: R. parviflora	
R. salicifolia	
Sabatia bartramii	marsh pink
Sabatia calycina	marsh pink
Sambucus canadensis	elderberry
Sarracenia spp.	pitcher plants
Schizachyrium rhizomatum	South Florida bluestem
Schoenus nigricans	black sedge
Scleria spp.	nut-rushes
Sesuvium maritimum	sea purslane

Sesuvium portulacastrum	sea purslane
Spartina bakeri	cordgrass
Styrax americana	storax
Thelypteris spp.	shield ferns
Ulmus, all species	elms
except: U. rubra	
Viburnum spp.	black haws
Woodwardia spp.	chain ferns

(4) Upland species: All plant species not listed in paragraphs (2) and (3) above, except for:

Cliftonia monophylla	buckwheat tree
Cyrilla racemiflora	titi
Melaleuca quinquenervia	punk tree
Sabal palmetto	cabbage palm
Schinus terebinthifolius	Brazilian pepper

(5) Cliftonia monophylla, Cyrilla racemiflora, Melaleuca quinquenervia, Sabal palmetto, and Schinus terebinthifolius shall not be considered submerged, transitional, or upland species. In areas vegetated by any of these five species, the department shall determine the landward extent of waters using the remaining plant species or other indicators of regular and periodic inundation as provided in Rule 17-4.022(1), Florida Administrative Code.

(6) In no case shall the landward extent of waters of the state extend above the elevation of the one in 10-year recurring flood event or the area of land with standing or flowing water for more than 30 consecutive days per year calculated on an average annual basis, whichever is more landward. The extent of the flood line shall be developed by appropriate engineering techniques, and a description of the surveyed line shall be prepared and certified by a professional land surveyor registered in this state. The burden for determining the surveyed flood line shall be with the party wishing to use this alternative. Notwithstanding the above, this subsection shall not apply to waters which are saline or brackish, or for rivers whose major source of flow is from springs. The provisions of this subsection shall not operate to reduce the landward extent of the jurisdiction of the department as it existed prior to January 24, 1984.

(7) Common names are included in the above lists for information purposes only. Determination of the landward extent of waters of the state is to be based solely on plants as specified by the scientific names. Any uncertainty as to the plants included by a given scientific name, for nomenclatural or taxonomic reasons, shall be resolved on the basis of:

Godfrey, R.K. and J.W. Wooten. 1979. Aquatic and Wetland Plants of Southeastern United States: Monocotyledons. Univ. Ga. Press, Athens.

_____. 1981. Aquatic and Wetland Plants of Southeastern United States: Dicotyledons. Univ. Ga. Press, Athens.

Lakela, O. and R. W. Long. 1976. Ferns of Florida. Banyan Books, Miami.

The manuals listed above by name are adopted and made a part of this rule by reference. Copies of these documents may be inspected at all Department of Environmental Regulation offices. Any plants not contained in those references shall be identified and named on the basis of the best available biological information. A named species in the above lists includes all varieties or subspecies within that species. The abbreviation "spp." in the above lists means all species, varieties, or subspecies within the named genus which are not otherwise named on the lists.

(8) The landward extent of waters of the state shall be determined using the vegetative index adopted June 10, 1975, as amended March 11, 1981, for all complete applications filed with the department before October 1, 1984. For all other areas where the department made a determination of the landward extent of the waters of the state using the vegetative index adopted June 10, 1975, as amended March 11, 1981, before October 1, 1984, the department shall, within 90 days of a request therefore, validate the determination if:

(a) The determination is graphically displayed on a map, drawing, or aerial photograph, or written in the form of a narrative description sufficient to identify the areas in question; and

(b) The determination was based on a site verification made by the department; and

(c) The document purporting to be the determination is signed by an employee of the department in the course of his official duties; and

(d) The document purporting to be a site verified written determination shall be submitted by certified mail within six months of October 1, 1984 to the department for validation.

Specific Authority: 403.061, 403.805, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, 403.802, 403.817, F.S. History: Formerly 17-4.02(17), Amended 10-1-84, 10-16-84.

17-4.03 General Prohibition. Any stationary installation which will reasonably be expected to be a source of pollution shall not be operated, maintained, constructed, expanded, or modified without an appropriate and currently valid permit issued by the Department, unless the source is exempted by Department rule. The Department may issue such permit only after it is assured that the installation will not cause pollution in violation of any of the provisions of Chapter 403, FS, or the rules and regulations promulgated thereunder.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S. History: New 3-4-70, Revised 5-17-72.

17-4.04 Exemptions. The following sources are exempted from the permit requirements of this Chapter.

(1) Domestic sewage treatment plant of a design capacity of 2,000 gallons per day average daily flow or less.

(2) Home heating and comfort heating and comfort heating equipment with a gross maximum heat output less than one million BTU per hour.

(3) Comfort air conditioning or comfort ventilating systems.

(4) Internal combusion engines in boats, aircraft and vehicles used for transportation of passengers or freight.

(5) Incinerators constructed, installed, or used in one or two-family dwellings or in multi-occupied dwellings containing four or fewer family units, one of which is owner-occupied.

(6) The following equipment:

(a) Cold storage refrigeration equipment.

(b) Vacuum pumps in laboratory operations.

(c) Equipment used for steam cleaning.

(d) Belt or drum sanders having a total sanding surface of five square feet or less, and other equipment used exclusively on wood or plastics or their products having a density of 20 pounds per cubic foot or more.

(e) Equipment used exclusively for space heating, other than boilers.

(f) Non-commercial smoke houses used exclusively for smoking food products.

(g) Bakery ovens and confection cookers where the products are edible and intended for human consumption.

(h) Laboratory equipment used exclusively for chemical or physical analyses.

(i) Brazing, soldering or welding equipment.

(j) Laundry dryers, extractors, or tumblers for fabrics cleaned with only water solutions of bleach or detergents.

(7) Non-commercial and non-industrial vacuum cleaning systems used exclusively for residential housekeeping purposes.

(8) Structural changes which cannot change the quality, nature or quantity of air and water contaminant emissions or discharges or which will not cause pollution.

(9) Construction; dredging or filling associated with the following types of projects:

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

(b) The installation of aids to navigation and buoys associated with such aids, provided that the devices are marked pursuant to Section 327.40, F.S.

(c) The installation and repair of mooring pilings and dolphins associated with private docking facilities and the installation of private docks of five hundred (500) square feet or less of over-water surface area, or one thousand (1000) square feet or less of over-water surface area for docks which are not located in Outstanding Florida Waters and which are used for recreational, non-commercial activities, constructed on pilings so as not to involve filling or dredging other than that necessary to install the pilings. The dock shall not substantially impede the flow of water or create a navigational hazard. A private dock is a single pier at

a parcel of property. Provided, that for the purposes of this rule, multi-family living complexes and other types of complexes or facilities associated with the proposed private dock shall be treated as one parcel of property regardless of the legal division of ownership or control of the associated property. Construction of a private dock under this exemption does not require the Department to issue a subsequent permit to construct a channel to provide navigational access to the dock. Activities associated with a private dock shall include the construction of structures attached to the pier which are only suitable for the mooring or storage of boats (i.e., boatlifts).

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

(e) The installation and maintenance to design specifications of boat ramps on artificial bodies of water where navigational access to the proposed ramp exists, or the installation and maintenance to design specifications of boat ramps open to the public in any waters of the state where navigational access to the proposed ramp exists and where construction of the proposed ramp will be less than 30 feet wide and will involve the removal of less than 25 cubic yards of material from the waters of the state, however, any material removed shall be placed upon a self-contained upland site so as to prevent the escape of the spoil material into the waters of the state. For the purpose of this exemption artificial bodies of water shall include, but not be limited to, existing residential canal systems, canals permitted by a water management district created under Section 373.069, F.S. and artificially created portions of the Florida Intracoastal Waterway.

(f) Construction of seawalls or riprap (including necessary backfilling), and private docks (as defined in Section 17-4.04(10)(c), F.A.C.) in artificially created waterways where such construction will not violate existing water quality standards, impede navigation or affect flood control. An

artificially created waterway will be defined as a body of water that has been totally dredged or excavated and which does not overlap natural surface waters of the state. For the purpose of this exemption, artificially created waterways shall also include existing residential canal systems. This exemption does not apply to the construction of vertical seawalls in estuaries or lagoons unless the proposed construction is within an existing man-made canal where the shoreline is currently occupied in whole or in part by vertical seawalls.

(g) The replacement or repair of existing docks provided that no fill material is to be used, and provided that the replacement or repaired dock is in the same location and of the same configuration and dimensions as the dock being replaced or repaired. An existing dock shall include docks to which a boat can be moored at the time this exemption is exercised. This section applies to both private and commercial docks.

(h) The restoration of a seawall or riprap at its previous location or upland of or within one (1) foot waterward of its previous location. No filling can be performed except in the above-authorized restoration of the seawall or riprap. No construction shall be undertaken without necessary title or leasehold interest, especially where private and public ownership boundaries have changed as a result of natural occurrences such as accretion, reliction and natural erosion. Restoration and repair shall be in accordance with the criteria set forth in Section 403.918(6), F.S., and shall be limited to functioning seawalls or riprap. A seawall or riprap shall not be considered functioning if there is an exchange of waters through or around the seawall or riprap which is of sufficient quantity, duration or frequency so that the restoration of the seawall or riprap will have the potential to cause or contribute to a violation of state water quality standards or other criteria listed in Section 403.918, F.S.

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

for the purpose of draining water from the land or for transporting water for use on the land and which are not built for navigational purposes. This exemption does not include navigable residential canal systems.

(j) Repair or replacement of existing pipes to original configurations for the purpose of discharge of storm water runoff.

(k) Construction and maintenance of swales.

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

(m) The deposition of up to and including twenty-five (25) cubic yards of material in areas of waters of the state where transitional vegetation species, as described in Section 17-4.02(17), F.A.C., are the dominant species, except in Class II waters. No person shall be entitled to more than one exemption under this provision every six months. If at any time the department determines that the cumulative effect of successive filling by a person either under this provision or under some other provision of this rule and the provision may have a significant effect on water quality, it may suspend the application of this exemption provision to that person by notifying him in writing.

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

1. to be used for residential purposes; or

2. which directly connect to works of said water management district; or

3. to be constructed in waters of the state.

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

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

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

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

403.918(6), F.S.

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

(t) The restoration of less than 100 feet in length of existing insect control impoundment dikes and the connection of such impoundments to tidally influenced waters. Such impoundments shall be connected to tidally influenced waters for at least 6 months each year, beginning September 1 and ending February 28 if feasible, or operated in accordance with an impoundment management plan approved by the department. The connection shall be of sufficient cross-sectional area to allow beneficial tidal influence. Restoration shall involve no more dredging than is necessary to restore the dike to original design specifications, and shall be accomplished in such a manner that the final elevation of the dredge area shall be within 2 feet of immediately adjacent bottom elevations. For the purposes of this paragraph, restoration shall not include maintenance of impoundment dikes of existing insect control impoundments.

(10) Saltwater disposal wells used for the disposal of water or brine produced in oil or gas exploration or production activity; including such wastes as may be normally generated in the course of such activities which may contaminate the brine or waters but excluding sanitary wastes or wastes generated by or associated with any sulphur recovery plant, sweetening plant, gas plant or refinery; which are permitted by the Department of Natural Resources pursuant to Section 377.22, Florida Statutes and Section 16C-2.06, F.A.C.

(11) Any article, machine equipment, contrivance, operation, process or activity which the Department shall determine does not cause the issuance of air or water contaminants in sufficient quantity, with respect to its character, quality or content, and the circumstances surrounding its location, use and operation, as to contribute significantly to the pollution problems within the State, so that the regulation thereof is not reasonably justified, and which does not in fact cause the issuance of contaminants in violation of law or of these rules and regulations. Such determination shall be made in writing and filed by the Department as a public record. Such determination may be revoked at any time. The Department shall notify the Commission at each regularly scheduled meeting, in writing of each such determination or revocation of a previous determination, with the reasons therefor in each instance.

These exemptions do not apply to any article, machine, equipment, contrivance or their exhaust system, the discharge from which contains air or water-borne radioactive material in concentrations above the natural radioactive background concentration respectively in air or water.

The above listed exemptions do not relieve the named installation, facility or equipment from any other requirements of the Florida Pollution Control Act or rules and regulations of the Department.
Specific Authority: 403.061, 403.805, F.S. Law Implemented: 253.123, 253.124, 403.021, 403.031, 403.061, 403.087, 403.088, 403.802, 403.805, 403.813, F.S. History: Formerly 17-4.03(2), F.A.C.; New 3-4-72; Revised 5-17-72; Amended 8-7-73, 6-10-75, 10-26-75, 7-8-76, 7-13-78, 3-1-79; Joint Administrative Procedures Committee Objection Withdrawn - See FAW Vol. 3, No. 30, 7-29-77; Amended 3-11-81, 7-8-82, 3-31-83, 3-15-84, 12-10-84.

17-4.05 Procedure to Obtain Permit; Application.

(1) Any person desiring to obtain a permit from the Department shall make application on forms prescribed by the Department and shall submit such information as the Department may require. The Department may require such person to submit any additional information reasonably necessary for proper evaluation.

(2) All applications and supporting documents shall be filed in quadruplicate with the Department.

(3) To ensure protection of public health, safety, and welfare any construction, modification, or operation of an installation which may be a source of pollution or a public drinking water supply shall be in accordance with good professional engineering practices pursuant to Chapter 471, Florida Statutes. Therefore, all applications for a Department permit shall be certified by a professional engineer registered in the State of Florida except when the applicant is a salaried officer of the government of the United States or a salaried engineer employed by such government while engaged within the State in the practice of professional engineering solely for the United States government or where professional engineering is not required by Chapter 471, F.S.

(4) Each application for a permit shall be accompanied by a processing fee, except for applications filed by departments of the executive branch established pursuant to Chapter 20, F.S., and water management districts established pursuant to Chapter 373, F.S. The check shall be made payable to the Department of Environmental Regulation. The processing fee is nonrefundable except as provided for in Section 120.60, F.S, and in this section. Processing fees are as follows:

(a) Air Pollution Source Permits

1. Construction Permit for a source having potential emissions of more than 100 tons per year of any single pollutant $1000

2. Construction Permit for a source having potential emissions of more than 75 tons per year of any single pollutant $750

3. Construction Permit for a source having potential emissions of more than 50 tons per year of any single pollutant $500

4. Construction Permit for a source having potential emissions of more than 25 tons per year of any single pollutant $250

5. Construction Permit for a source having potential emissions of less than 25 tons per year of any single pollutant $100

6. Operation Permit for a source required to stack sample actual emissions $500

7. Operation Permit for a source not required to stack sample actual emissions $100

(b) Wastewater Permits

1. Construction Permit for a Type I domestic wastewater treatment facility $100

2. Construction Permit for a Type II domestic wastewater treatment facility $75

3. Construction Permit for a Type III domestic wastewater treatment facility $50

4. Operation Permit for a Type I domestic wastewater treatment facility $100

5. Operation Permit for a Type II domestic wastewater treatment facility $50

6. Operation Permit for a Type III domestic wastewater treatment facility $20

7. Construction Permit for an industrial wastewater treatment facility pursuant to Fla. Admin. Code Rule 17-6.300 $500

8. Construction Permit for all other industrial wastewater treatment facilities $300

9. Operation Permit for an industrial wastewater treatment facility pursuant to Fla. Admin. Code Rule 17-6.300 $100

10. Operation Permit for all other industrial wastewater treatment facilities $50

11. Temporary Operation Permit for domestic and industrial wastewater treatment facilities $500

(c) Dredge and Fill Permits

1. Standard form permits $1000

2. Short form permits $100

(d) Stormwater Permits

1. Construction Permit for Stormwater facilities $100

2. Operation Permit for a stormwater facility $100

3. Temporary Operation Permit for a stormwater facility $500

4. Notice of construction of stormwater facility No Fee

(e) Solid Waste Permits

1. Construction Permit for a Class I facility $100

2. Construction Permit for a Class II facility $75

3. Construction Permit for a Class III facility $50

4. Operation Permit for a Class I facility $100

5. Operation Permit for a Class II facility $75

6. Operation Permit for a Class III facility $50

(f) Hazardous Waste Permits

1. Construction Permit for a hazardous waste facility $1000

2. Operation Permit for a hazardous waste facility $500

3. Temporary Operation Permit for a hazardous waste facility $500

4. Closure Permit for a hazardous waste facility No Fee

(g) Well Permits pursuant to Fla. Admin. Code Rule 17-28

1. Construction Permit for a Class I well $1000

2. Operation Permit for a Class I well $800

3. Abandonment Permit for a Class I well $100

4. Construction Permit for a Class III well $100

5. Operation Permit for a Class III well $100

6. Abandonment Permit for a Class III well No Fee

7. Construction Permit for Class V, Group 1 $20

8. Operation Permit for Class V, Group 1 $20

9. Abandonment Permit for Class V, Group 1 No Fee

The above listed exemptions do not relieve the named installation, facility or equipment from any other requirements of the Florida Pollution Control Act or rules and regulations of the Department.
Specific Authority: 403.061, 403.805, F.S. Law Implemented: 253.123, 253.124, 403.021, 403.031, 403.061, 403.087, 403.088, 403.802, 403.805, 403.813, F.S. History: Formerly 17-4.03(2), F.A.C.; New 3-4-72; Revised 5-17-72; Amended 8-7-73, 6-10-75, 10-26-75, 7-8-76, 7-13-78, 3-1-79; Joint Administrative Procedures Committee Objection Withdrawn - See FAW Vol. 3, No. 30, 7-29-77; Amended 3-11-81, 7-8-82, 3-31-83, 3-15-84, 12-10-84.

17-4.05 Procedure to Obtain Permit; Application.

(1) Any person desiring to obtain a permit from the Department shall make application on forms prescribed by the Department and shall submit such information as the Department may require. The Department may require such person to submit any additional information reasonably necessary for proper evaluation.

(2) All applications and supporting documents shall be filed in quadruplicate with the Department.

(3) To ensure protection of public health, safety, and welfare any construction, modification, or operation of an installation which may be a source of pollution or a public drinking water supply shall be in accordance with good professional engineering practices pursuant to Chapter 471, Florida Statutes. Therefore, all applications for a Department permit shall be certified by a professional engineer registered in the State of Florida except when the applicant is a salaried officer of the government of the United States or a salaried engineer employed by such government while engaged within the State in the practice of professional engineering solely for the United States government or where professional engineering is not required by Chapter 471, F.S.

(4) Each application for a permit shall be accompanied by a processing fee, except for applications filed by departments of the executive branch established pursuant to Chapter 20, F.S., and water management districts established pursuant to Chapter 373, F.S. The check shall be made payable to the Department of Environmental Regulation. The processing fee is nonrefundable except as provided for in Section 120.60, F.S, and in this section. Processing fees are as follows:

(a) Air Pollution Source Permits

1. Construction Permit for a source having potential emissions of more than 100 tons per year of any single pollutant $1000

2. Construction Permit for a source having potential emissions of more than 75 tons per year of any single pollutant $750

3. Construction Permit for a source having potential emissions of more than 50 tons per year of any single pollutant $500

4. Construction Permit for a source having potential emissions of more than 25 tons per year of any single pollutant $250

5. Construction Permit for a source having potential emissions of less than 25 tons per year of any single pollutant $100

6. Operation Permit for a source required to stack sample actual emissions $500

7. Operation Permit for a source not required to stack sample actual emissions $100

(b) Wastewater Permits

1. Construction Permit for a Type I domestic wastewater treatment facility $100

2. Construction Permit for a Type II domestic wastewater treatment facility $75

3. Construction Permit for a Type III domestic wastewater treatment facility $50

4. Operation Permit for a Type I domestic wastewater treatment facility $100

5. Operation Permit for a Type II domestic wastewater treatment facility $50

6. Operation Permit for a Type III domestic wastewater treatment facility $20

7. Construction Permit for an industrial wastewater treatment facility pursuant to Fla. Admin. Code Rule 17-6.300 $500

8. Construction Permit for all other industrial wastewater treatment facilities $300

9. Operation Permit for an industrial wastewater treatment facility pursuant to Fla. Admin. Code Rule 17-6.300 $100

10. Operation Permit for all other industrial wastewater treatment facilities $50

11. Temporary Operation Permit for domestic and industrial wastewater treatment facilities $500

(c) Dredge and Fill Permits

1. Standard form permits $1000

2. Short form permits $100

(d) Stormwater Permits

1. Construction Permit for Stormwater facilities $100

2. Operation Permit for a stormwater facility $100

3. Temporary Operation Permit for a stormwater facility $500

4. Notice of construction of stormwater facility No Fee

(e) Solid Waste Permits

1. Construction Permit for a Class I facility $100

2. Construction Permit for a Class II facility $75

3. Construction Permit for a Class III facility $50

4. Operation Permit for a Class I facility $100

5. Operation Permit for a Class II facility $75

6. Operation Permit for a Class III facility $50

(f) Hazardous Waste Permits

1. Construction Permit for a hazardous waste facility $1000

2. Operation Permit for a hazardous waste facility $500

3. Temporary Operation Permit for a hazardous waste facility $500

4. Closure Permit for a hazardous waste facility No Fee

(g) Well Permits pursuant to Fla. Admin. Code Rule 17-28

1. Construction Permit for a Class I well $1000

2. Operation Permit for a Class I well $800

3. Abandonment Permit for a Class I well $100

4. Construction Permit for a Class III well $100

5. Operation Permit for a Class III well $100

6. Abandonment Permit for a Class III well No Fee

7. Construction Permit for Class V, Group 1 $20

8. Operation Permit for Class V, Group 1 $20

9. Abandonment Permit for Class V, Group 1 No Fee

10. Construction Permit for Class V, Group 2 $20

11. Operation Permit for Class V, Group 2 $20

12. Abandonment Permit for Class V, Group 2 No Fee

13. Construction Permit for Class V, Group 3, $100 except for swimming pool drainage wells which shall be No Fee

14. Operation Permit for Class V, Group 3 $100

15. Abandonment Permit for Class V, Group 3 No Fee

16. Construction Permit for Class V, Group 4 $100 except for commercial laundries which shall be $20

17. Operation Permit for Class V, Group 4 $100 except for commercial laundries which shall be $20

18. Abandonment Permit for Class V, Group 4 $20

19. Construction Permit for Class V, Group 5 $20

20. Operation Permit for Class V, Group 5 $20

21. Abandonment Permit for Class V, Group 5 No Fee

22. Construction Permit for Class V, Group 6 well $20

23. Operation Permit for Class V, Group 6 well $20

24. Abandonment Permit for Class V, Group 6 well No Fee

(h) Drinking Water (Public Water Supply) Permits

1. Construction Permit for a drinking water treatment facility $20

2. Construction Permit for a water supply well $20

(i) General Permit No Fee

(j) Permits to construct or operate any other type of facility or stationary installation not specifically listed in (a) through (i) $100

(k) Application fees for permits for drinking water treatment facilities or water supply wells shall be deposited as General Revenue. All other fees shall be deposited in the Florida Permit Fee Trust Fund created pursuant to Section 403.087(5).

(l) If the department requires by rule or permit condition that any specific permit be renewed more frequently than once every five years, the permit fee shall be prorated based upon the permit fee schedule in effect at the time of permit renewal. Upon issuance of such a permit, a prorated refund of the fee shall be returned to the applicant. This provision does not apply to permits issued for less than five years which could be extended to five years without the filing of an application for renewal. However, applications for permits to continue operation of a facility where an existing permit has or is about to expire in accordance with Section 403.087(1), F.S., shall be accompanied by the appropriate processing fee.

(m) This fee schedule does not apply to applications for certification pursuant to Sections 288.501-288.518, Florida Industrial Siting Act; to Sections 403.501-403.519, Florida Electrial Power Plant Siting Act; and to Sections 403.52-403.539, Transmission Line Siting Act.

(n) This fee schedule will supersede all other references to to fees in Department rules or forms, where in conflict except as noted in Rule 17-4.05(4)(m).

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 5-17-72, Amended 6-19-74, 7-8-82.

17-4.055 Permit Processing.

(1) Within 30 days after receipt of an application for a permit the Department shall review the application and shall request submittal of additional information the Department is authorized by law to request.

(2) If the applicant believes any Department request for additional information is not authorized by law or rule, the applicant may request a hearing pursuant to Section 120.57, Florida Statutes.

(3) Within 30 days after receipt of such additional information, the Department shall review it and may request only that information needed to clarify such additional information or to answer new questions raised by or directly related to such additional information.

(4) If the applicant believes the request of the Department for such additional information is not authorized by law or rule, the Department, at the applicant's request, shall begin to process the permit application. Such a request by the applicant shall be in writing and be clearly labelled as a request for department to process permit application. The applicant's request shall state the reasons why the applicant believes the Department's request for additional information is not authorized by law or rule. The applicant shall clearly state that the applicant requests the Department to process the application without that information. Said request shall be submitted to the Department District or office from which the request for additional information was sent.

(5) Permits shall be approved or denied within 90 days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application, whichever occurs last.

(6) The above procedure does not apply to hazardous waste facility permitting under Florida Administrative Code Rule 17-30, or other permitting for which there are more specific procedures.

Specific Authority: 403.161, 403.087, F.S. Law Implemented: 403.021, 403.061, 403.062, 403.087, 403.0876, F.S. History: New 12-3-84.

17-4.06 Consultation. The Applicant, or his engineer, may consult with Department personnel concerning the operation, construction, expansion, or modification of any installation concerning the required pollution control devices or system, the efficiency of such devices or system, or the pollution problem related to the installation. However, any representation by the Department member shall not relieve any person of any requirement of the Florida Pollution Control Act or Department rules, regulations or standards.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S. History: New 5-17-72.

17-4.07 Standards for Issuing or Denying Permits; Issuance; Denial.

(1) A permit may be issued to the applicant upon such conditions as the Department may direct, only if the applicant affirmatively provides the Department with reasonable assurance based on plans, test

results and other information, that the construction, expansion, modification, operation, or activity of the installation will not discharge, emit, or cause pollution in contravention of Department standards or rules.

(2) The Department shall issue permits to construct, operate, maintain, expand, or modify an installation which may reasonably be expected to be a source of pollution only when it determines that the installation is provided or equipped with pollution control facilities that will abate or prevent pollution to the degree that will comply with the standards or rules promulgated by the Department except as provided in Chapter 403.088, F.S.

(3) If, after review of the application and all the information, the Department determines that the construction, modification, expansion, or operation of the installation will not be in accord with applicable laws, rules, or regulations, including rules and regulations of approved local programs, the Department shall deny the permit.

(4) The Department may issue any permit upon specified conditions reasonably necessary for the prevention of pollution.

(5) All Department permits shall be renewable five (5) years from the date of issue except that an earlier renewal date may be specified by the Department; however, construction permits may be issued for a period of time as necessary.

(6) No permit for operation shall be issued for an installation for which a notice of violation has been issued until such time as the installation is in full compliance with the law and Department rules, regulations, and standards, except that a water pollution temporary operation permit may be issued pursuant to Section 403.088(4), F.S.

(7) The applicant shall be promptly notified if the Department intends to deny the application, and shall be informed of the reasons therefore, and of the right to request a public hearing.

(8) The issuance of a permit does not relieve any person from complying with the Florida Pollution Control Act, or Department rules, regulations, and standards.

(9) The Department's duly authorized permitting agents shall have the function of accepting, processing, handling, and reviewing all permit applications and the issuance and denial of permits on the Department's behalf subject to review in accordance with section 17-4.15, F.A.C.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 5-17-72, Amended 7-8-82, 2-1-83, 12-3-84.

17-4.08 Modification of Permit Conditions.

(1) After notice and a public hearing, if requested, the Department may require the permittee from time to time, for good cause, to conform to new or additional conditions. The Department shall allow the permittee a reasonable time to conform to the new or additional conditions and on application of the permittee the Department may grant additional time.

For the purpose of this section, good cause shall include, but not be limited to, the following:

(a) A showing that an improvement in effluent or emission quality or quantity can be accomplished because of technological advances without unreasonable hardship.

(b) A showing that a higher degree of treatment is necessary to effect the intent and purpose of Chapter 403, FS.

(c) A showing of any change in the environment or surrounding conditions that requires a modification of the installation permitted so that it conforms to applicable air or water quality standards.

(d) Concerning permits relating to discharge into State waters, a showing that new or changed classification of the water requires a modification of the discharge.

(e) Adoption or revision of Florida Statutes, rules, regulations and standards which require the modification of a permit condition for compliance.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 5-17-72.

17-4.09 Renewals. Prior to sixty days before the expiration of any Department permit, the permittee shall apply for a renewal of a permit on forms and in a manner prescribed by the Department.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 5-17-72.

17-4.10 Suspension and Revocation.

(1) Permits shall be effective until suspended, revoked, surrendered, or expired and shall be subject to the provisions of Chapter 403, FS, and rules and regulations of the Department.

(2) Failure to comply with pollution control laws, rules and regulations shall be grounds for suspension or revocation.

(3) A permit issued pursuant to this Chapter shall not become a vested property right in the permittee. The Department may revoke any permit issued by it if it finds that the permit holder or his agent.

(a) Submitted false or inaccurate information in his application or operational reports.

(b) Has violated law, Department orders, rules or regulations or permit conditions.

(c) Has failed to submit operational reports or other information required by Department rules or regulations.

(d) Has refused lawful inspection under Section 403.091, F.S.

No revocation shall become effective except after notice is served upon the person or persons named therein and a hearing held if requested within the time specified in the notice. The notice shall specify the provision of the law, rule or regulation alleged to be violated, and/or the permit condition or Department order alleged to be violated, and the facts alleged to constitute a violation thereof.

Specific Authority: 403.061, (7), F.S. Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S. History: Formerly 17-4.07 FAC, New 3-4-70, Revised 5-17-72, Amended 8-7-73.

17-4.11 Financial Responsibility. The Department may require an applicant to submit proof of financial responsibility and may require

the applicant to post an appropriate bond to guarantee compliance with the law and Department rules and regulations.
Specific Authority: 403.061, (7), F.S. Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S. History: New 5-17-72, Amended 8-7-73.

17-4.12 Transfer of Permits. A permit is issued in the name of a person. Upon sale or legal transfer of a permitted facility, the new owner must apply by letter for a transfer of permit within thirty (30) days. Unless the transferor notifies the Department of the transfer and to whom transferred, the transferor will remain liable for performances in accord with the permit until the transferree applies for a transfer of permit.
Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 3-4-70, Revised 5-17-72.

17-4.13 Plant Operation - Problems. In the event the permittee is temporarily unable to comply with any of the conditions of the permit due to breakdown of equipment or destruction by hazard of fire, wind or by other cause, the permittee is to immediately notify the Department. Notification shall include pertinent information as to the cause, and what steps are being taken to correct the problem and prevent its recurrence and the owner's intent toward reconstruction of destroyed facilities where applicable.
Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 3-4-70, Revised 5-17-72.

17-4.14 Reports.

(1) Owners of installations subject to the provisions of these rules shall provide operational data and control test records required to indicate operating efficiency of said works and transmit these records to the Department.

(2) Owners of installations subject to provisions of Chapter 17-2 F.A.C. Air Pollution, and installations which have been shutdown more than 1 year shall notify the Department in writing of the intent to start up, a minimum of 60 days prior to the intended start up date. The notification shall include information as to the start up date, anticipated emission rates or pollutants released, changes to processes or control devices which will result in changes to emission rates and any other conditions which may differ from the valid outstanding operation permit.

(3) Provided, however, that if due to an emergency a start up date is not known 60 days prior thereto, the owner shall notify the Department as soon as possible after the date of such start up is ascertained.
Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 3-4-70, Revised 5-17-72, Amended 7-20-76.

17-4.15 Review. An applicant who has not been given a hearing and who is denied a permit or a renewal or modification of a permit, or a permit holder whose permit is suspended or revoked may request a hearing before the Department in accordance with Chapter 120, FS, within ten days after notification of denial, suspension, or revocation.

Failure to request a hearing within the time specified shall be deemed a waiver of the right to a public hearing.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 5-17-72.

PART II
SPECIFIC PERMITS; REQUIREMENTS

17-4.20 Scope of Part II. This Part sets forth additional requirements for certain Department permits.
Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 5-17-72.

17-4.21 Construction Permits.

(1) In addition to requirements of Part I of this Chapter, a Department Construction Permit shall be obtained in accordance with the following:

(a) A notice of intent by the owner(s) of his (their) authorized agent.

(b) A completed application form furnished by the Department.

(c) An engineering report covering plant description and operations, types and quantities of all waste material generated whether liquid, gaseous or solid, and proposed waste control facilities, the treatment objectives and the design criteria on which the control facilities are based, and other information deemed relevant. Design criteria shall be be based on the results of laboratory and pilot-plant scale studies whenever such studies are warranted. The design efficiencies of the proposed waste treatment facilities and the quantities and types of pollutants in the treated effluents or emissions shall be indicated. Work of this nature shall be subject to the requirements of Chapter 471, FS. Where confidential records are involved, the Secretary is authorized to limit full disclosure after personal discussion with the applicant.

(d) Owners' written guarantee to meet the design criteria as accepted by the Department and to abide by Chapter 403, FS. and the rules and regulations of the Department as to the quantities and types of materials to be discharged from the plant. The owner may be required to post an appropriate bond to guarantee compliance with such conditions in instances where the owner's financial resources are inadequate or proposed control facilities are experimental in nature.

(2) The construction permit may contain an expiration date as determined by the Secretary.

(3) When the Department issues a permit to construct, the recipient of said permit shall be allowed a period of time, specified in the permit to construct, and for operating and testing to determine compliance with Chapter 403, FS, and the rules and regulations of the Department. The Department may require such tests and evaluations of the treatment facilities to be accomplished by the applicant at his expense.
Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 5-17-72.

17-4.22 Operation Permit for New Sources.

(1) Procedure to obtain permit.

To secure an Operation permit for new sources it shall be necessary to submit the following on forms and in the manner prescribed by the Department:

(a) Certification of construction completion by Permittee or his engineer, if applicable, noting any

permit deviations.

(b) Final construction costs of pollution control facilities.

(2) Permit Guarantees - An operation permit shall refer to the approved guarantees for the plant, identifying such guarantees by date, name and number, a copy of which shall, at the option of the owner, be attached to the permit permanently retained in the office by an authorized representative of the Department.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: Formerly 17-4.05, New 3-4-70, Revised 5-17-72.

17-4.23 Operation Permits for Air Pollution Sources.

(1) Operation permits for air pollution sources shall be obtained in accordance With Part I of this Chapter except that the following additional standards for issuance or denial of a permit shall apply to air pollution sources regulated by Chapter 17-2, Florida Administrative Code:

(a) If the process installation which is a replacement or major modification does not increase the total mass air emissions (mass rate per unit time expressed in # or tons/day) more than 10% above that required by the existing source limitations, and which replacement or modification does not result in the emission of any air pollutants not previously emitted, the installation shall be required to comply with the existing source limitations pursuant to Chapter 17-2, Florida Administrative Code.

(b) Existing sources shall utilize the best available technology even if this would require control below source emission limits for existing sources as defined by Chapter 17-2, Florida Administrative Code.

(c) New control devices installed on existing process equipment for the purpose of decreasing air pollutant mass emission rates shall comply with the existing source limitations pursuant to 17-2, Florida Administrative Code.

(d) New sources, either process or control devices (not installations as described in item 1 or 2 above) shall be required to use the applicable emission limits as design criteria, or, if these are beyond present and forseeable technology, as goals. The new source shall utilize the best and latest technology, shall be reviewed on a continuing basis and improvements may be applied to both new and existing installations as technology permits.

(2) Any person intending to emit wastes into the air of the State shall make application to the Department for an air pollution operation permit. Application shall be made in accordance with Part I of Chapter 17-4, Florida Administrative Code, and shall include:

(a) The daily concentration and total daily weight of each contaminant contained in the emission.

(b) Any additional information reasonably necessary to evaluate the effect of such emissions upon the air of the State.

(3) If the Department finds that the proposed emissions will reduce the quality of the air below the standards established for them or will violate other rules, it shall deny the application and refuse to issue a permit.

(4) A permit issued pursuant to

this section shall:

(a) Specify the manner, nature, volume and frequency of the emission permitted

(b) Require proper operation and maintenance of any pollution abatement facility by qualified personnel in accordance with standards established by the Department;

(c) Contain such additional conditions, requirements and restrictions as the Department deems necessary to preserve and protect the quality of the air.

(5) An operation permit may be renewed upon application to the Department. No renewal permit shall be issued if the Department finds that the proposed emission will reduce the quality of the air below the standards established for them.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S. History: New 5-17-72.

17-4.24 Operation Permits for Water Pollution Sources.

(1) Any person intending to discharge wastes into the waters of the State shall make application to the Department for a water pollution prevention operation permit. Application shall be made in accordance with Part I of Chapter 17-4, Florida Administrative Code, and shall include:

(a) The daily concentration and total daily weight of each contaminant contained in the discharge

(b) The daily temperature of the discharge

(c) Any additional information reasonably necessary to evaluate the effect of such discharges upon the receiving waters.

(2) If the Department finds that the proposed discharge will reduce the quality of the receiving waters below the classification established for them or if the proposed discharge will violate any Department rule or standard, it shall deny the permit.

(3) A permit issued pursuant to this section shall:

(a) Specify the manner, nature, volume and frequency of the discharge permitted

(b) Require proper operation and maintenance of any pollution abatement facility by qualified personnel in accordance with standards established by the Department; and

(c) Contain such additional conditions, requirements and restrictions as the Department deems necessary to preserve and protect the quality of the receiving waters.

(4) An operation permit may be renewed upon application to the Department. No renewal permit shall be issued if the Department finds that the proposed discharge will reduce the quality of the receiving waters below the classification established for them.

Specific Authority: 403.061, 403.088, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, 403.101, F.S. History: New 5-17-72.

17-4.242 Special Protection: Outstanding Florida Waters; Equitable Abatement.

(1) Outstanding Florida Waters

(a) No Department permit or water quality certification shall be issued for any stationary installation which significantly degrades, either alone or in combination with other stationary installations, or is within Outstanding Florida Waters, unless the applicant

affirmatively demonstrates that:

1. With respect to blowdown from a recirculated cooling water system of a steam electrical generating plant, that the discharge:

a. Meets the applicable limitations of Subsection 17-3.05(1)(d), F.A.C., at the point of discharge (POD); or,

b. Has a zone of mixing established pursuant to Subsection 17-3.05(1)(f)2., F.A.C., which assures the protection and propagation of a balanced indigenous population of shellfish, fish and wildlife in and on the Outstanding Florida Water, and which is established taking into account the recreational and/or ecological significance of such water; and,

c. Meets the temperature limits of Subsection 17-3.05(1)(d), F.A.C., at the boundary of the mixing zone established pursuant to Subsection 17-3.05(1)(f)2., F.A.C.; or,

2. The proposed activity of discharge is clearly in the public interest; and either

a. A Department permit for the activity has been issued or an application for such permit was complete on the effective date of the Outstanding Florida Water designation; or,

b. The existing ambient water quality within Outstanding Florida Waters will not be lowered as a result of the proposed activity or discharge, except on a temporary basis during construction for a period not to exceed thirty days; lowered water quality would occur only within a restricted mixing zone approved by the Department; and, water quality criteria would not be violated outside the restricted mixing zone. Provided, however, that the Department may allow an extension of the thirty-day time limit on construction-caused degradation for a period demonstrated by the applicant to be unavoidable and where suitable management practices and technology approved by the Department are employed to minimize such degradation.

(b) The Department recognizes that it may be necessary to permit limited activities or discharges in Outstanding Florida Waters in order to allow for or enhance public usage or for the maintenance of facilities existing prior to the effective date of this rule or facilities permitted subsequent to adoption of this rule. However, such activities or discharges will only be permitted if:

1. The discharge or activity is in compliance with the provisions specified in subparagraph (1)(a)2. of this Section; or,

2. Management practices and suitable technology approved by the Department are implemented for all stationary installations including those created for drainage, flood control, or by dredging or filling; and,

3. There is no alternative to the proposed activity, including the alternative of not undertaking any change, except at an unreasonably higher cost.

(c) For the purpose of Subsection 17-4.242(1), "significantly degrades" for the Suwannee River shall mean any lowering of the existing ambient water quality. This paragraph 17-4.242(1)(c) shall be effective only until June 30, 1985.

(d) For the purpose of Subsection 17-4.242(1), the term "existing ambient water quality" shall mean water quality which could reasonably be expected (based on the best

scientific information available) to have existed for the year prior to the effective date of an Outstanding Florida Water designation, including daily, seasonal, and other cyclic fluctuations, taking into consideration the effects of allowable discharges for which a Department permit was issued or an application for such permit was filed and complete on the effective date of designation.

(e) Subsection 17-4.242(1) shall not apply to any dredge or fill activity or discharge currently permitted by the Department or for which an application for a permit was filed and complete on the effective date of an Outstanding Florida Water designation, nor shall it apply to any renewal of an existing Department permit where there is no modification in the dredge or fill activity or discharge, which would necessitate a permit review.

(f) Any activity that is exempted from permit programs administered by the Department, and any non-point source on land used for agricultural purposes is not subject to the requirements of Section 17-4.242.

(g) For the Apalachicola River north of Gulf County, this section shall not apply in the federally-authorized nine-foot navigation project, as follows:

1. Maintenance dredging and disposal and snag removal by the Army Corps of Engineers as presently performed pursuant to existing permits and its continuation under renewals thereof; or

2. Class A and B emergencies as defined in Section 17-4.28(5), F.A.C.; or

3. Exemptions to permitting specified in Section 403.813, F.S. and Section 17-4.02, F.A.C.; or

4. Any other permittable project of the Army Corps of Engineers deemed necessary by the Department.

The Environmental Regulation Commission is adopting subsection (1)(g) to ensure that state water quality standards are consistent with the June 29, 1983 Memorandum of Agreement among Alabama, Georgia, Florida, and the U.S. Army Corps of Engineers, Mobile District, regarding the Apalachicola-Chattahoochee-Flint River System. Upon the completion of the navigation maintenance plan called for in that agreement (expected by October 1, 1985), it is the intent of the Commission to implement the recommendations of the interstate navigation maintenance plan.

(2) Equitable Abatement.

(a) It shall be Department policy to further protect and enhance the quality of those surface waters whose quality has been artificially lowered below the quality necessary to support their designated uses. For such waters, no new activity or discharge shall be issued a Department license to construct unless the applicant affirmatively demonstrates that:

1. Water quality standards once achieved would not be violated as a result of the proposed activity or discharge;

2. The proposed activity or discharge is necessary or desirable under federal standards; and

3. The proposed activity or discharge is clearly in the public interest.

(b) To allocate equitably the relative levels of responsibility for abatement among persons directly discharging significant amounts of pollutants into waters which fail to

meet one or more of the water quality criteria applicable to those waters, it is necessary to determine the amounts of those pollutants contributed by each of those persons and to consider all factors relevant to the equitable allocation of that responsibility. The following provisions of this section prescribe the means by which the Department, upon the petition of a license applicant, will equitably allocate among such persons the relative levels of abatement responsibility of each for abatement of those pollutants and by which it will establish for each of those persons, if necessary, an abatement program and schedule to accomplish any abatement determined necessary under the provisions of this Section.

(c) 1. For a surface water body, or portion thereof, which is determined by the Department to fail to meet one or more of the water quality criteria applicable to that water body, an applicant for a license to construct or operate a stationary installation to discharge wastes which contributes, or will contribute, to that failure may petition the Department in writing for an equitable allocation of the relative levels of responsiblity for abatement among the stationary installations which discharge significant amounts of one or more of the pollutants which contribute to the failure of those waters to meet the water quality criterion(a) specified in the petition.

2. The applicant shall identify in the petition the location of each of the existing stationary installations which it wishes the Department to consider and the legal name and mailing address of the owners of each of those stationary installations.

3. The county government within which each stationary installation identified under subparagraphs 1. and 2. of this paragraph is located shall be given notice of the proceeding, as shall the municipality, if the stationary installation is located within a municipality.

4. The Department may identify any other owners of existing stationary installations which it deems necessary to allocate equitably the relative levels of responsibility for abatement of pollutants which contribute to the failure of those waters to meet any criterion specified in the petition.

5. Those owners identified by the petitioner and the Department shall be joined as parties in the licensing proceeding. Nothing shall preclude any party from requiring the joinder, as a party to the proceeding, of the owner of any other existing stationary installation upon written motion and an affirmative demonstration that such stationary installation is discharging significant amounts of one or more pollutants which contribute to the failure of the subject water body to meet any criterion specified in the petition. A motion for joinder shall be filed within 20 days of receipt by the movant of notice that it has been joined in the proceeding.

(d) License applications filed by the petitioner, or any other party, for waste discharges which are identified pursuant to paragraph (2)(c) above in the equitable allocation process under this Section shall be deemed incomplete or the subject of a dispute of material fact for purposes of Chapter 120, F.S. However, if an application for renewal of an existing license has

been timely filed with the Department, the existing license shall remain in full force and effect until such time as a new or modified license has been issued pursuant to paragraph (2)(k).

(e) Prior to determining the most equitable allocation of responsibility for abatement under subparagraph (f), the Department shall determine the percentage and quantification of the total contribution and the contribution by each of the stationary installations identified under paragraph (c) of the pollutants identified under paragraph (c) which contributes to the failure of the subject waters to meet the water quality criterion specified in the petition. Provided, however, that the Department, upon petition by an affected party pursuant to Section 17-3.031, F.A.C., may establish more appropriate less stringent criteria upon which to base quantification calculations. For the purpose of performing quantification calculations, the Department shall assume waste discharges entering the water body from an adjacent state as a separate point source of pollution.

(f) The following factors shall be considered by the Department in determining the most equitable allocation among the parties identified pursuant to paragraph (c) of the relative levels of responsibility of each for abatement of the pollutants with which the petition is concerned:

1. The percentage and quantification of the abatement achieved by abatement techniques previously undertaken, if any, by each of those stationary installations and the costs previously incurred, if any, with respect to each, along with any economic or production benefits gained from said abatement techniques.

2. The identification and estimated cost of alternative abatement techniques available for each stationary installation. Identified techniques shall include:

(i) Those techniques which would abate the level of pollutants to the degree required by the quantities of contributed pollutants determined under paragraph (e), or the maximum degree possible, if the degree required is not presently attainable.

(ii) Those techniques which would abate additional quantities of pollutants beyond the quantities determined under paragraph (e) and the approximate percentage of additional abatement which could be provided.

3. The economic and production impacts of additional abatement on each party, if any.

4. Other environmental impacts of available abatement techniques.

(g) In determining the percentages and quantities under paragraph (e), the Department shall use the best scientific and technical information, methods, and data in the possession of the Department.

(h) Each party to the licensing proceeding shall provide the Department, and each other party except as provided by Section 403.111, F.S., with any information which is requested by the Department and necessary for the determination under paragraphs (e) and (f). With regard to the determination under subparagraph (f)2.(ii), however, parties shall only be required to provide that information within their possession at the time of the Department's request. The Department shall make available to a party any

information in its possession, and shall provide reasonable assistance to any party in identifying that information which would assist the party in complying with the Department's request.

(i) Each party shall undertake a program approved by the Department to abate the quantity of contributed pollutants for which it is determined responsible under Subsection (e). Such abatement program shall include but not be limited to, a quantified effluent limitation, best management practices or specific techiques for abatement, and a schedule for commencement and completion of the required abatement. In establishing an abatement schedule, the Department shall consider the previous abatement efforts and their costs, the reasonable remaining usable life of the discharge facility, and any commitments for phasing out the discharge from the facility.

(j) An abatement program required under paragraph (i) may include the agreement of one owner to undertake additional abatement on behalf of another owner. When such an agreement has been executed fully and filed in writing with the Department within a reasonable period of time set by the Department, the agreement shall be recognized in the licenses of the signatory parties to the extent that it satisfies the levels of abatement, determined for those parties under paragraph (e).

(k) Each party shall be issued an appropriate license of modified license, which shall include any abatement program required of the party and approved under paragraph (i), as well as any other conditions authorized by Chapter 403, F.S.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.101, 403.111, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702, F.S. History: New 3-1-79, Amended 5-14-81, 9-30-82, 3-31-83, 4-9-84, 11-29-84, 12-11-84.

17-4.243 Exemptions from Water Quality Criteria.

(1) Exemptions for artificial water bodies classified for agricultural water supplies.

(a) The Secretary may, upon the petition of an affected person or permit applicant and after public notice in the Florida Administrative Weekly and in a newspaper of general circulation in the area of the waters affected and after opportunity for public hearing pursuant to Chapter 120, Florida Statutes, issue an Order for the duration of the permit specifically exempting sources of pollution from the Class IV water quality criteria contained in Section 17-3.131, F.A.C., for wholly artificial bodies upon affirmative demonstration by the Petitioner of the following:

1. granting the exemption is in the public interest; and,

2. the public has limited access to the waters under consideration; and,

3. the waters are not utilized for recreation; and,

4. compliance with presently specified criteria is unnecessary for the protection of potable water supplies and animals, plants, or aquatic life utilizing the waters; and,

5. granting the exemption will not interfere with existing uses or the designated use of the waters; or contiguous waters and,

6. there is no reasonable relationship between the economic, social and environmental costs of compliance with existing criteria and the economic, social and environmental benefits of compliance; and additionally,

7. the presently specified water quality criteria cannot be met with currently available technology; or,

8. the costs of compliance with the presently specified criteria involved are so high that they must be spread over a considerable period of time; or,

9. some other type of hardship will occur.

(b) The Petitioner shall affirmatively demonstrate those criteria which the petitioner believes more appropriately apply to the waters for which the exemption is sought.

(c) The Secretary shall specify, by Order, only those criteria which the Secretary determines to have been demonstrated by the preponderance of competent substantial evidence to be more appropriate.

(d) The Department shall modify the Petitioner's permit consistent with the Secretary's Order.

(2) Exemptions for installations discharging into Class G-I or G-II ground water.

(a) The Secretary may, upon petition of an affected person or permit applicant and after public notice in the Florida Administrative Weekly and after opportunity for public hearing pursuant to Chapter 120, Florida Statutes, issue an Order for the duration of the permit specifically exempting an installation discharging or designed to discharge into Class G-I or G-II ground water from the standards contained in Section 17-3.404, F.A.C., or the minimum criteria contained in 17-3.402, F.A.C., upon affirmative demonstration by the Petitioner of the following:

1. granting the exemption is in the public interest; and,

2. compliance with presently specified criteria is unnecessary for the protection of present and future potable water supplies; and,

3. granting the exemption will not interfere with existing uses or the designated use of the waters or of contiguous water; and,

4. there is no reasonable relationship between the economic, social and environmental costs of compliance with existing criteria and the economic, social and environmental benefits of compliance; and

5. an adequate monitoring program approved by the Department has been established to ascertain the location of the effluent, to detect any leakage of the effluent to other aquifers or surface waters, and to detect any adverse effect on underground geologic formations or waters.

6. The exemption will not present a danger to the public health, safety or welfare.

(3) Exemptions for installations discharging into Class G-III and G-IV ground water.

(a) Class G-III ground water (unconfined aquifers).

1. The Secretary may, upon petition of an affected person or permit applicant and after public notice in the Florida Administrative Weekly and in a newspaper of general circulation in the area of the waters affected and after opportunity for public hearing pursuant to Chapter 120, Florida Statutes, issue an Order specifically exempting

installations discharging or designed to discharge into Class G-III ground water (unconfined aquifers) from the criteria contained in Section 17-3.402, F.A.C., upon affirmative demonstration by the Petitioner of the following:

(i) the exemption is for disposal of municipal wastewaters or industrial wastewaters clearly in the public interest; and,

(ii) there is no reasonable relationship between the economic, social and environmental costs of compliance with existing criteria and the economic, social and environmental benefits of compliance; and,

(iii) suitable technology is used for the disposal system; and,

(iv) the discharge will not cause a violation of the standards for adjacent Class G-I or G-II ground water or surface waters affected by the ground water.

2. The Petitioner shall affirmatively demonstrate those standards which the Petitioner believes more appropriately apply to the waters for which the exemption is sought.

3. The Secretary shall specify, by Order, only those criteria which the Secretary determines to have been demonstrated by the preponderance of competent substantial evidence to be more appropriate.

4. The Department shall modify the Petitioner's permit consistent with the Secretary's Order.

(b) Exemptions for discharge to Class G-IV ground water shall be governed by the provisions of Chapter 17-28, F.A.C.

(4) Exemptions to Provide for the Experimental Use of Wetlands for Low-Energy Water and Wastewater Recycling.

(a) To encourage experiments which are designed to lead to the development of new information regarding low-energy approaches to the advanced treatment of domestic, agricultural, and industrial wastes and to encourage the conservation of wetlands and fresh waters, the Secretary may, upon petition of an affected person, and after public notice in the Florida Administrative Weekly and in a newspaper of general circulation in the area of the waters affected, and after opportunity for public hearing pursuant to Chapter 120, Florida Statutes, issue an Order, for a period not to exceed five (5) years, specifically exempting certain sources of pollution which discharge into restricted areas of wetlands, as approved by the Secretary, from the water quality criteria contained in Section 17-3.121, F.A.C., provided that:

1. the discharger affirmatively demonstrates that the wetlands system may reasonably be expected to assimilate the waste discharge without significant adverse impact on the biological community within the receiving waters; and,

2. granting the exemption is in the public interest and will not adversely affect public health or the cost of public health or other related programs; and,

3. the public is restricted from access to the waters under consideration; and,

4. the waters are not used for recreation; and,

5. the applicant affirmatively demonstrates that presently specified criteria are unnecessary for the protection of potable water supplies or human health; and,

6. the exemption will not interfere with the designated use of contiguous waters; and,

7. scientifically valid experimental controls are provided by the applicant and approved by the Department to monitor the long-term ecological effects and waste recycling efficiency.

(b) The Petitioner shall affirmatively demonstrate those standards which the Petitioner believes more appropriate apply to the waters for which the exemption is sought.

(c) The Secretary shall specify, by Order, only those criteria which the Secretary determines to have been demonstrated by the preponderance of competent substantial evidence to be more appropriate.

(d) The Department shall modify the Petitioner's permit consistent with the Secretary's Order.

(5) Exemptions for Artificial Systems Used for Urban Stormwater Conveyance or Renovation.

(a) The Secretary may, upon the petition of an affected person or permit applicant, and after public notice in the Florida Administrative Weekly and in a newspaper of general circulation in the area of the waters affected and after opportunity for public hearing pursuant to Chapter 120, Florida Statutes, issue an Order for the duration of the permit specifically exempting from Class III criteria artificially created waters of the state which are upstream of man-made, discharge control systems controlled by the affected person or permit applicant and which are primarily for the conveyance or the retention, detention, and treatment of urban stormwaters. Such Order shall only be issued after affirmative demonstration by the Petitioner of the following:

1. reasonable assurance has been provided that the discharge will not cause a violation of any applicable water quality standards downstream from the discharge control system; and,

2. waters shall not be degraded below the minimum standards prescribed for all waters at all times in Section 17-3.051, F.A.C.; and,

3. granting the exemption is clearly in the public interest; and,

4. compliance with presently specified criteria is unnecessary for the protection of public water supplies or human health.

(b) The Petitioner shall affirmatively demonstrate those standards which the Petitioner believes more appropriately apply to the waters for which the exemption is sought.

(c) The Secretary shall specify, by Order, only those criteria which the Secretary determines to have been demonstrated by the preponderance of competent substantial evidence to be more appropriate.

(d) The Department shall modify the Petitioner's permit consistent with the Secretary's Order.

(6) Exemption Providing Alternative Criteria for Existing Permitted Discharges Comprising the Principal Flow.

(a) The Secretary may, upon the petition of one or more existing wastewater discharge sources for which a Department permit has been issued prior to the effective date of this rule, after public notice in the Florda Administrative Weekly and in a newspaper of general circulation in the area of the waters affected, and after opportunity for public hearing pursuant to Chapter 120, F.S., issue an Order for the duration of the petitioner's permit exempting waters of the state which are not used for potable water supplies, or recreation, and contain no significant population of fish and

wildlife, from one or more Class III or Class IV criteria specified in the petition and substituting appropriate alternative criteria where the discharge of the Petitioner(s) comprised a majority of the flow, excluding runoff from storm drains and other wastewater discharges, during a substantial portion of the year preceding the effective date of this rule. Provided, however, that such Order shall be issued only after an affirmative demonstration by the Petitioner(s) of the following:

1. The waters for which exemption is sought are:

(i) wholly artificial and not a modified or channelized natural stream; or,

(ii) intermittent watercourses which, in the absence of runoff from storm drains and wastewater discharges, acts as tributaries only following the occurrence of rainfall and which normally do not contain contiguous areas of standing water; or,

(iii) are channelized or modified natural watercourses which were historically intermittent as described in (ii) above.

2. The waters are not used for potable water supplies, or recreation, and do not contain a significant population of fish or wildlife.

3. Reasonable assurance has been provided that the alternative criteria will adequately protect the designated uses of adjacent downstream waters;

4. The alternative criteria are not less stringent than the minimum standards prescribed for all waters at all times in Section 17-3.051, F.A.C.;

5. The alternative criteria are in the public interest and there is no reasonable relationship between the economic, social, and environmental costs of compliance with existing criteria and the economic, social and environmental benefits of compliance;

6. Compliance with the alternative criteria will adequately protect present and future potable water supplies and human health;

7. Compliance with the alternative criteria will adequately protect the population of animals, plants, or aquatic life then utilizing the waters;

8. The waters are not lakes or ponds; and,

9. Achievement of Class III standards would provide no reasonable expection of future recreational use of the waters.

(b) The Secretary shall specify by Order the alternative criteria, if any, which the Secretary determines to have been demonstrated by the preponderance of the competent substantial evidence to be more appropriate than the Class III or Class IV criteria specified in the petition.

(c) The Department shall modify the Petitioner's permit consistent with the Secretary's Order.

(7) Exemptions for Water Bodies Classified for Navigation, Utility and Industrial Use.

(a) The Secretary may, upon the petition of an affected person or permit applicant and after public notice in the Florida Administrative Weekly and in a newspaper of general circulation in the area of the waters affected, and after opportunity for public hearing pursuant to Chapter 120, Florida Statutes, issue an Order for the duration of the permit specifically exempting sources of

pollution from the Class V water quality criteria contained in Section 17-3.141, F.A.C., upon affirmative demonstration by the petitioner of the following:

1. Granting the exemption is in the public interest; and,

2. Compliance with presently specified criteria is unnecessary for the protection of potable water supplies and animals, plants, or aquatic life utilizing the waters; and,

3. Granting the exemption will not interfere with existing uses or the designated use of the waters or contiguous waters; and,

4. There is no reasonable relationship between the economic, social, and environmental costs of compliance with existing criteria and the economic, social and environmental benefits of compliance; and additionally,

5. The present specific water quality criteria cannot be met with currently available technology; or,

6. The costs of compliance with the presently specified criteria involved are so high that they must be spread over a considerable period of time; or,

7. Some other type of hardship will occur.

(b) The Petitioner shall affirmatively demonstrate those criteria which the Petitioner believes more appropriately apply to the waters for which the exemption is sought.

(c) The Secretary shall specify, by Order, only those criteria which the Secreatry determines to have been demonstrated by the preponderance of competent substantial evidence to be more appropriate.

(d) The Department shall modify the Petitioner's permit consistent with the Secretary's Order.

(8) Exemption for Existing Effluent Ditches.

(a) The Secretary or a District Manager may, upon the petition of a wastewater discharger for whom a Department permit has been issued prior to the effective date of this rule, and after public notice and opportunity for public hearing, issue an order for the duration of the petitioner's permit exempting waters of the state in an effluent ditch from all water quality criteria except those specified in Section 17-3.051, F.A.C. In order to qualify for this exemption, the petitioner shall affirmatively demonstrate that:

1. the ditch is a wholly artificial man-made conveyance that was constructed as a part of the wastewater treatment process;

2. the ditch contains flowing water only when there is a discharge or immediately after rainfall;

3. the petitioner has legal control of the ditch and abutting land sufficient to restrict public access;

4. migration of indigenous aquatic organisms into the ditch will be prevented; and

5. the ditch is not used for recreation and contains no significant population of fish or wildlife. "Significant population of fish or wildlife" shall mean the presence of commercially or recreationally important species or significant quantities of organisms which provide food for such species.

(b) The Department shall modify the Petitioner's permit, consistent with the Secretary's or District Manager's Order.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.101, 403.121, 403.141, 403.161, 403.182, 403.201, 403.502, 403.702, 403.708, F.S. History: New 3-1-79, Amended 1-1-83, 2-1-83.

17-4.244 Mixing Zones: Surface Waters.

(1) Zones of mixing for non-thermal components of discharges.

(a) The Department may allow the water quality adjacent to a point of discharge to be degraded to the extent that only the minimum conditions described in Section 17-3.051(1), Florida Administrative Code, apply within a limited, defined region known as the mixing zone. Under the circumstances defined elsewhere in this section, a mixing zone may be allowed so as to provide an opportunity for mixing and thus to reduce the costs of treatment. However, no mixing zone or combination of mixing zones shall be allowed to significantly impair any of the designated uses of the receiving body of water.

(b) A zone of mixing shall be determined based on consideration of the following:

1. The condition of the receiving body of water including present and future flow conditions and present and future sources of pollutants.

2. The nature, volume and frequency of the proposed discharge of waste including any possible synergistic effects with other pollutants or substances which may be present in the receiving body of water.

3. The cumulative effect of the proposed mixing zone and other mixing zones in the vicinity.

(c) Except for the thermal component of discharges and nitrogen and phosphorus acting as nutrients, to which this paragraph is inapplicable, mixing zones which do not adhere to all of provisions (1)(d) through (1)(i) below shall be presumed to constitute a significant impairment of the designated uses of surface waters of Classes I, II and III. However, an applicant for a specified mixing zone who affirmatively demonstrates in a public hearing, pursuant to Chapter 120, Florida Statutes and after public notice in the Florida Administrative Weekly and in a newspaper of general circulation in the area where the mixing zone is proposed, that a proposed mixing zone which does not comply with one or more of the provisions of paragraphs (1)(d) through (1)(i) will not produce a significant adverse effect on the established community of organisms in the receiving body of water or otherwise significantly impair any of the designated uses of the receiving body of water, shall be exempt from those requirements. The Secretary shall authorize that mixing zone for which the applicant makes an affirmative demonstration by the preponderance of competent substantial evidence that the applicable requirements of this section have been met.

(d) A mixing zone shall not include an existing drinking water supply intake nor include any other existing water supply intake if such mixing zone would significantly impair the purposes for which the supply is utilized.

(e) A mixing zone shall not include a nursery area of indigenous aquatic life nor include any area

approved by the Department of Natural Resources for shellfish harvesting.

(f) In canals, rivers, streams, and other similar water bodies, the length of a zone of mixing shall be 800 meters unless a shorter length is necessary to prevent significant impairment of a designated use. In no case, shall a mixing zone be larger than that necessary to meet water quality standards.

(g) In lakes, estuaries, bays, lagoons, bayous and sounds, the area of a mixing zone shall be 125,600 square meters unless a lesser area is necessary to prevent significant impairment of a designated use. In no case shall a mixing zone be larger than that necessary to meet water quality standards.

(h) The mixing zones in a given water body shall not cumulatively exceed the limits described below:

1. In rivers, canals, and other similar water bodies: 10% of the total length;

2. In lakes, estuaries, bays, lagoons, bayous and sounds: 10% of the total area.

(i) Additional standards which apply within mixing zones in Class I, II and Class III waters are as follows:

1. The dissolved oxygen within a mixing zone shall not average less than 4.0 milligrams per litre in the mixing zone volume; and,

2. The turbidity within the mixing zone shall not average greater than 41 Nephelometric Turbidity Units in the mixing zone volume above natural background.

(j) Mixing zones in Class IV and V waters are subject only to the provisions of (d) above and of Section 17-3.051, F.A.C., and shall not significantly impair the designated uses of the receiving body of water.

(2) Until such time as a permit is issued, modified, or renewed, discharges in existence prior to the effective date of this rule shall continue to meet such mixing zone restrictions (for each component or characteristic of a discharge):

(a) As are specified by permit; or,

(b) Which were applied to the discharge in the Department's permitting process prior to the effective date of this rule.

(3) Except for discharges covered by (2) above, after the adoption of this rule there shall be no zone of mixing for any component of any discharge unless a Department permit containing a description of its boundaries has been issued for that component of the discharge.

(4) Waters within mixing zones shall not be degraded below the applicable minimum standards prescribed for all waters at all times in Section 17-3.051, F.A.C. In determining compliance with the provisions of 17-3.051(1), F.A.C., the average concentration of the wastes in the mixing zone shall be measured or computed using scientific techniques approved by the Department; provided that, in no event shall the maximum concentration of wastes in the mixing zone exceed the amount lethal to 50% of the test organisms in 96 hours (96 hr LC_{50}) for a species significant to the indigenous aquatic community. The dissolved oxygen value within a mixing zone shall not be less than 1.5 milligrams per liter at any time or place.

(5) Except for the minimum conditions of waters as specified in Section 17-3.051, F.A.C., and the

provisions of Section 17-4.244, F.A.C., no other water quality criteria apply within a mixing zone.

(6) Mixing zones for dredge and fill permits shall not be subject to provisions (1)(c) through (1)(j), (2), (3), (4), or (5) of this section, provided that applicable water quality standards are met at the boundary and outside the mixing zone.

(a) The dimensions of dredge and fill mixing zones shall be proposed by the applicant and approved, modified or denied by the Department.

(b) Criteria for departmental evaluation of a proposed mixing zone shall include site-specific biological and hydrographic considerations.

(c) In no case, however, shall the boundary of a dredge and fill mixing zone be more than 150 meters downstream in flowing streams or 150 meters in radius in other bodies of water, where these distances are measured from the cutterhead, return flow discharge, or other points of generation of turbidity or other pollutants.

(7) Where a receiving body of water fails to meet a water quality standard for pollutants set forth in department rules, a steam electric generating plant discharge of pollutants that is existing or licensed on July 1, 1984, may be granted a mixing zone, provided that:

(a) The standard would not be met in the water body in the absence of the discharge; and

(b) The discharge is in compliance with all applicable technology-based effluent limitations; and

(c) The discharge does not cause a measurable increase in the degree of noncompliance with the standard at the boundary of the mixing zone; and

(d) The discharge otherwise complies with the mixing zone provisions specified in this section.

(8) Additional relief from mixing zone restrictions necessary to prevent significant impairment of a designated use is through:

(a) Reclassification of the water body pursuant to Section 17-3.081, Florida Administrative Code;

(b) Variance granted for any one of the following reasons:

1. There is no practicable means known or available for the adequate control of the pollution involved.

2. Compliance with the particular requirement or requirements from which a variance is sought will necessitate the taking of measures, which, because of their extent or cost, must be spread over a considerable period of time. A variance granted for this reason shall prescribe a timetable for the taking of measures required.

3. To relieve or prevent hardship of a kind other than those provided for in paragraphs 1. or 2. Variances and renewals thereof granted upon authority of this sub-paragraph shall each be limited to a period of 24 months except that variances granted pursuant to the Florida Electrical Power Plant Siting Act may extend for the life of the permit or certification.

(c) Modification of the requirements of this section for specific criteria by the Secretary upon compliance with the notice and hearing requirements for mixing zones set forth in (1)(c) above and upon affirmative demonstration by an applicant by the preponderance of competent substantial evidence that:

1. The applicant's discharge from a source existing on the effective date of this rule complies with best technology economically achievable, best management practices, or other requirements set forth in Chapter 17-6, F.A.C., and there is no reasonable relationship between the economic, social, and environmental costs and the economic, social and environmental benefits to be obtained by imposing more stringent discharge limitations necessary to comply with mixing zone requirements of Subsection 17-4.244(1), F.A.C., and the provisions relating to dissolved oxygen in Subsection 17-4.244(4), F.A.C.

2. No discharger may be issued more than one permit or permit modification or renewal which allows a modification pursuant to this subsection unless the applicant affirmatively demonstrates that it has undertaken a continuing program, approved by the Department, designed to consider water quality conditions and review or develop any reasonable means of achieving compliance with the water quality criteria from which relief has been granted pursuant to this subsection.

3. With respect to paragraphs 17-4.244(1)(c), F.A.C., and 17-4.244 (7)(c), F.A.C., the applicant must affirmatively demonstrate the minimum area of the water body necessary to achieve compliance with either subsection. Within a minimum area determined by the Secretary to be necessary to achieve compliance, the discharger shall be exempt from the criterion for which a demonstration has been made.

(d) Whenever site specific alternative criteria are established pursuant to Section 17-3.031, Florida Administrative Code, or Subsection 17-3.061(2)(g), Florida Administrative Code, the alternative criteria shall apply within any mixing zone established pursuant to 17-4.244, Florida Administrative Code, if less than the requirements of paragraph 17-4.244(1)(i) or Subsection 17-4.244(4), Florida Administrative Code.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.101, 403.121, 403.141, 403.161, 403.182, 403.201, 403.502, 403.702, 403.708, F.S. History: Formerly part of 17-3.05, Revised and Renumbered 3-1-79, Amended 10-2-80, 1-1-83, 2-1-83, 12-19-84.

17-4.245 Installations Discharging to Ground Water; Permitting and Monitoring Requirements.

(1) Statement of Intent and Definitions.

(a) It is the intent of the Department whenever possible to incorporate ground water discharge considerations into other appropriate Department permits, and not to require a separate permit for ground water discharges; provided, however, that any published notice of proposed agency action shall contain notice that ground water considerations are being incorporated into such other permits.

(b) It is also the intent of the Department, in implementing the ground water provisions of this Chapter, to coordinate, cooperate, and, where feasible, enter into interagency agreements with the various water management districts that are vitally concerned with maintaining ground water quality.

(c) For the purposes of this section, "Existing Installation"

shall mean any installation having filed a complete application for a water discharge permit on or before January 1, 1983, or in fact discharging to ground water on or before July 1, 1982. "Existing Installation" shall not include any installation under Department Order to obtain a ground water permit. Any installation under Department Order to obtain a ground water permit which submits a complete application for a ground water permit by January 1, 1983, shall comply with monitoring and zone of discharge requirements applicable to new installations and shall be prohibited from causing a violation of secondary drinking water standards outside a zone of discharge after July 1, 1985; these installations shall comply with the terms and conditions of the Department Order applicable to such installations and are prohibited from causing a violation of secondary standards at any private or public water supply well outside the zone of discharge. For other terms in this section, the definitions contained in Chapter 17-3, F.A.C., shall prevail over any inconsistent definitions established elsewhere by Department rule.

(2) General Prohibitions and Exemptions.

(a) Unless exempted by subsection (c) below or by Section 17-4.243, F.A.C., no installation shall discharge into ground water, either directly or indirectly, any contaminant that causes a violation in the water quality standards and criteria for the receiving ground water as established in Chapter 17-3, Part IV, F.A.C., except within a zone of discharge established by permit or rule pursuant to this section.

(b) No zone of discharge shall be allowed under any of the following circumstances:

1. Discharges through natural or man-made conduits, such as wells and sinkholes, that allow direct contact with Class G-I and Class G-II ground water, except for projects designed to recharge aquifers with surface water of comparable quality, or projects designed to transfer water across or between aquifers of comparable quality for the purpose of storage or conservation.

2. Discharges that may cause an imminent hazard to the public or the environment through contamination of underground supplies of drinking water or surface water affected by the ground water.

(c) The following installations are exempt from obtaining zones of discharge in order to discharge to ground water:

1. Installations discharging into Class G-III ground water, as long as the discharge does not threaten to impair the designated use of adjacent waters and as long as such discharges comply with the requirements of Chapter 17-28, F.A.C., if applicable.

2. Installations discharging into Class G-IV ground water, as long as such discharges comply with the requirements in Chapter 17-28, F.A.C.

(3) Dimensions of zones of discharge for Class G-I ground water. No zone of discharge shall be allowed into Class G-I ground water, except as follows:

(a) Domestic wastewater and stormwater sites authorized by Department permit or rule shall have zones of discharge extending no more than 100 feet from the site boundary

or to the installation's property boundary, whichever is less, unless a smaller zone of discharge is necessary to protect the designated use of adjacent waters outside the zone of discharge.

(b) Other discharge sites may be granted zones of discharge of the same size as those in (a) if the discharges are as clean as the domestic waste in chemical, physical and microbiological quality treated to the degree required in Section 17-6.080(3)(a), F.A.C.

(c) Installations authorized to discharge to ground water at the time of its reclassification to Class G-I by the Commission shall meet the same requirements as existing installations in G-II ground water as described in subparagraph (4)(b) below; however, should such existing installations wish to increase the discharge volume or change the composition of the waste stream above permitted levels as of the date of G-I classification, the waste stream shall be distinctly separate from the existing stream and shall meet all provisions applicable to new installations discharging to G-I ground water as described in (a) or (b) above.

(4) Dimensions of zones of discharge to Class G-II and Class G-III ground water. Upon affirmative demonstration by an installation owner that a ground water discharge will not impair the designated uses of contiguous waters outside a zone of discharge, the Department shall establish a zone of discharge for Class G-II ground water and, where appropriate pursuant to subsection (2)(c)1. above, Class G-III ground water, in one of the following manners:

(a) A zone of discharge for any installation that is not an existing installation as defined herein shall be established in accordance with 1. or 2. below, and 3. if applicable, at the permit applicant's option, but the zone of discharge shall not extend beyond the permit applicant's property boundary:

1. The Department may establish a zone of discharge larger than that provided in 2. below upon an affirmative demonstration by the applicant that:

a. The size and shape of the requested zone of discharge will not cause violations of applicable ground water standards in present and future potable water supplies; and

b. The size and shape of the requested zone of discharge will not interfere with existing uses or the designated use of contiguous waters, or cause a violation of applicable surface water quality criteria of contiguous waters outside a permitted mixing zone; and

c. The economic and social benefits of compliance with the standards for a zone of discharge of larger dimensions than those in 2. below are higher than the economic, social and environmental costs resulting from the larger zone of discharge.

2. Any applicant seeking a zone of discharge and not electing to use the above procedure shall have a zone of discharge established by the Department. The boundary of the zone of discharge shall be 100 feet from the site boundary or to the installation's property boundary, whichever is less, unless a smaller zone of discharge is necessary to protect the designated use of contiguous waters.

3. Where multiple sites occur

within close proximity, a single zone of discharge for the sites may be established in the same manner as either 1. or 2. above.

(b) Existing installations shall have the zone of discharge specified in the permit or extending to the owner's property line if no zone of discharge is defined in the permit, until such time as the permit is renewed or modified as provided in subsection (5) below.

(c) Unless a permit defining a zone of discharge is otherwise required by Departmental rule, the following installations shall not be required to obtain a permit establishing a zone of discharge:

1. Agricultural fields, ditches and canals;

2. Livestock waste lagoons exempted from permitting under Section 17-6.300, F.A.C.; and

3. Stormwater facilities.

These installations shall have a zone of discharge of 100 feet from the site or to the installation's property boundary, whichever is less, unless a different zone is specified in any appropriate Department permit. If the discharge from the installation threatens to violate ground water standards at the boundary of the zone of discharge, or otherwise threatens to impair the designated use of contiguous waters, the Department shall require the installation owner to obtain a ground water permit if he has none, define an appropriate zone of discharge or modify it if a permit exists, and institute appropriate monitoring plans pursuant to (6) below.

(5) Permit renewal and modification procedures. Permits for installations discharging into ground water shall be renewed or modified in the following manner:

(a) Permits shall be renewed at the time specified in the permit unless a modification is sought pursuant to (b) below. If no time is specified in the permit, the renewal shall be in conjunction with renewal of any other appropriate Department permit, or January 1, 1988, whichever is sooner.

(b) At any time, including the time of permit renewal, the Department may order or a permit holder may petition for modification of the zone of discharge or monitoring requirements for any of the following reasons, in addition to reasons contained in Section 17-4.08, F.A.C.:

1. Monitoring data indicates that the discharge plume has resulted or may in the foreseeable future result in a violation of applicable water quality standards beyond the boundary of the existing zone of discharge; or

2. Continuation of the existing zone of discharge will impair the designated use of underground sources of drinking water or the surface waters immediately affected by the ground water; or

3. Continuation of the existing zone will result in an imminent threat to public health or the environment; or

4. A zone of discharge smaller than the existing zone will afford necessary protection to the water resources at a cost that is commensurate with the benefits to the public of such additional protection; or

5. The monitoring data provided by the installation owner are inadequate to allow a determination of compliance with applicable zone of discharge limitations and the

owner fails to provide reasonable additional data requested by the Department; or

6. A change in the chemical, physical or microbiological composition, or the volume or the location of the discharge, necessitates a change in the zone of discharge or the monitoring scheme to assure compliance.

(c) Unless modified pursuant to (b) above, a permit holder shall continue to have the same zone of discharge in the new permit as that allowed in the existing permit. If no zone of discharge is specified in the existing permit, the new permit shall specify the boundary of the zone of discharge.

(d) If a modification is requested pursuant to (b), a zone of discharge shall be established in the following manner:

1. The modification request may be made by either the Department or the installation owner, and shall be based upon a showing that one of the conditions in (b)1.-6. has occurred.

2. Once the party seeking the modification has established that one of the conditions in (b)1.-6. has occurred, the Department shall modify the zone of discharge or monitoring requirements in a manner to assure that none of the conditions in (b)1.-3. will occur, based upon the monitoring data received pursuant to the monitoring program implemented pursuant to subsection (6) below.

3. No zone shall be modified to allow the zone to extend beyond the limits of the installation owner's property line except as provided in 4. below.

4. Upon affirmative demonstration by the owner of an existing installation, after an opportunity for a public hearing, after written notification to owners of property underlain by the proposed zone of discharge and after public notice in the Florida Administrative Weekly and in a newspaper of general circulation in the area in which the zone of discharge is proposed, the owner may request that the zone of discharge be modified to extend beyond his property boundary for certain specified water quality parameters, provided that the following conditions are met:

a. The discharge will not significantly impair any of the designated uses of the receiving ground water or surface water; and

b. The discharge will not in the foreseeable future result in a violation of applicable ground water standards in a currently utilized source of drinking water outside the zone of discharge; and

c. The discharge will not prevent persons within the proposed zone of discharge from enjoying the reasonable and beneficial use of their property.

If the application is granted, it shall be recorded in the property records of affected parcels by the recipient of the exemptions.

(6) Monitoring requirements and exemptions.

(a) Statement of intent. The purpose of monitoring is to ensure that the permitting of zones of discharge, or exemptions therefrom, will not cause a violation of ground water standards. Monitoring is intended to allow a predictive evaluation of the movement and composition of the discharge plume. Efforts shall be made in all cases to minimize the number and cost of monitoring wells consistent with the ability to obtain reliable

information.

(b) General requirements. Unless otherwise exempted by the Department, any installation discharging into ground water shall establish a monitoring program as provided below. However, a monitoring program instituted under some other State, Federal, or local governmental regulation or permit may be substituted for this program if it is in substantial compliance with this subsection.

(c) Plan submission and timetable. The following timetables shall apply:

1. New installations shall submit to the Department monitoring plans in conjunction with permit applications.

2. Existing installations shall submit to the Department an acceptable monitoring plan on or before the date set in the following timetable:

TYPE OF DISCHARGE	DATE
A. Organic Waste	January 1983
B. Inorganic Waste	April 1983
C. Landfills (Both Domestic and Industrial)	May 1983
D. Industrial Septic Tanks	August 1983
E. Pulp and Paper	August 1983
F. Phosphogypsum Stacks and Ponds	September 1983
G. Laundries	October 1983
H. Oil and Gas Producers	December 1983
I. Citrus	December 1983
J. Food and Beverages	January 1984
K. Domestic Waste	February 1984
L. Power Plants	February 1984
M. Others	March 1984
N. Mining and Minerals	March 1984

3. Installations exempt from obtaining permits to discharge to ground water are required to develop a monitoring plan only upon Department order that the installation owner obtain a permit defining ground water discharge.

(d) Monitoring plan contents. Using part or all of the information listed from 1. through 13. below, the installation owner shall provide the Department with a plan containing findings, recommendations and plans for ground water monitoring derived from site specific information. The plan shall show the location(s) of the proposed unaffected natural background and downgradient monitor well(s), construction details of the monitor well(s) and a water sampling and chemical analysis protocol which can determine background quality of the ground water in the vicinity of the site and any deviations in the receiving quality of the ground water in the downgradient monitor well(s). The Department will evaluate the adequacy of the plan upon submittal; however, it is desirable for the

applicant to arrange a preapplication meeting with the Department to resolve the needed information at an early stage of application preparation. The following information is the type generally required for detailed assessment of the most complex plans, with less complex cases not needing this degree of evaluation:

1. Hydrogeological, physical and chemical data for the site, including:

a. Direction and rate of ground water flow, and background ground water quality;

b. Porosity, horizontal and vertical permeability for the aquifer(s) and the depth to, and lithology of, the first confining bed(s);

c. Vertical permeability, thickness, and extent of any confining beds;

d. Topography, soil information and surface water drainage systems surrounding the site;

2. Waste disposal rate and frequency, chemical composition, method of discharge, pond volume, spray-field dimension, or other applicable site specific information;

3. Toxicity of waste;

4. Present and anticipated wastewater volume, seepage rate to the receiving ground water, physical, chemical, microbiological (whichever is applicable) characteristics of the leachate;

5. Disposal system water balance;

6. Present and reasonably expected future pollution sources located within one mile radius of the site;

7. Inventory depth, construction details, and cones of depression of water supply wells and monitor wells located within one mile radius of the site or potentially affected by the discharge;

8. Site specific economic and feasibility considerations;

9. Chronological information on water levels in the monitor wells and water quality data on water supplies collected from the water supply and monitor wells;

10. Type and number of waste disposal facilities within the installation;

11. Chronological information on surface water flows and water quality upstream and downstream from the site;

12. Construction and operation details of disposal facilities;

13. History of construction and land development in the vicinity of the site.

(e) Plan approval. Within 90 days of the date of the Department's receipt of a completed monitoring plan from existing installations described above in subparagraph (c)2. above, or at the time of permit issuance or denial, whichever is appropriate, the Department shall either approve or deny the monitoring plan.

(f) Implementation of monitoring program. The installation owner shall initiate implementation of the monitoring program based upon the plan within 90 days of the date an appropriate permit is issued. In the case of an existing installation, the owner shall initiate implementation within 90 days after submission and Department approval pursuant to the timetable in subparagraph (c)2. above. If the Department determines from the monitoring plan that the discharge will not impair the designated use of the underlying ground water, the Department may exempt the installation owner from implementing

a monitoring program.

(g) Location of monitoring wells to detect migration of contaminants. Unless the installation owner can demonstrate that detection can be obtained by a methodology other than the use of monitoring wells, wells shall be located as follows:

1. One well located in a manner to determine the natural unaffected background quality of the ground water;

2. One well at the edge of the zone of discharge downgradient from the discharge site;

3. One intermediate well downgradient from the site and within the zone of discharge designed to detect the chemical, physical and microbiological (if applicable) characteristics of the discharge plume; and

4. Such other wells as are dictated by the complexity of the hydrogeology of the site, the magnitude and direction of the plume or the likelihood of threat to the public health, to ensure adequate and reliable monitoring data in generally accepted engineering or hydro-geological practice.

(h) Special monitoring requirements for Class G-III ground water. Discharges to Class G-III ground water shall be monitored to assure compliance with the standards in Section 17-3.402, F.A.C.,; alternatively, the permittee may institute a ground water monitoring program which shall demonstrate that the criteria in Section 17-3.402, F.A.C., are not violated.

(i) Special monitoring requirements for Class G-IV ground water. The Department shall specify applicable monitoring criteria on a case-by-case basis for installations which discharge to Class G-IV waters in confined aquifers.

(j) Monitoring exemptions. The Department shall exempt the following installations from ground water monitoring requirements:

1. Domestic sewage treatment installations with less than 100,000 gpd design capacity; stormwater facilities; agricultural fields, ditches and canals; and livestock waste lagoons exempted from permitting under Section 17-6.300, F.A.C.; as long as the discharges present no potential hazard to human health or the environment, or endanger a source of drinking water; and as long as the facilities do not discharge directly to ground water.

2. Wastewater ponds, cooling ponds, or other discharge waters meeting the minimum criteria of Section 17-3.402, F.A.C., and the applicable standards for the receiving ground water and contiguous surface waters; provided, however, that if necessary to ensure that the water quality criteria and standards are being met, the Department may require the installation owner to determine the background water quality of the receiving ground water and regularly sample the quality of the discharge prior to contact with ground water.

(k) Reporting requirements. Installations required to monitor shall submit the following reports:

1. Within 90 days from the date of plan approval by the Department, the permittee shall submit a report stating the volume and chemical, physical and microbiological composition of the discharge at the point of release or contact with the ground water at the site boundary.

2. On a quarterly basis thereafter, or such other frequency

specified in the permit, the permittee shall submit reports from the discharge site and all monitoring wells indicating the type, number and concentration of discharge constituents or parameters indicated by the report in 1. above that have been approved by the Department as appropriate criteria to monitor in the monitoring program based upon their potential to exceed the minimum criteria contained in section 17-3.402, F.A.C., and the appropriate standards for the particular class of water adjacent to the zone of discharge as described in Sections 17-3.404 through 17-3.406, F.A.C. The report shall also state what is the current nature of the discharge plume relative to the previous report with regard to its size, direction and rate of movement.

3. At any time there is a change in the permitted volume, location or chemical, physical and microbiological composition of the discharge plume, the permittee shall notify the Department and, if requested by the Department, submit a new report containing the information required in 1. above.

(7) Corrective action. Whether or not an installation is operating under a currently valid Department permit, the Department may order the installation owner to take corrective action under the following circumstances:

(a) Where the installation is discharging into the ground water in a manner which represents an imminent hazard to public health, the Department shall require the installation owner to take immediate action to remove or reduce the hazard in such a way as to prevent any threat to the public health and the environment. Such action may include but not be limited to clean up of the aquifer, cessation of the discharge, or confinement or containment of the waste plume.

(b) Where no imminent hazard exists, but the plume has extended beyond the zone of discharge or otherwise threatens or is likely to threaten in the foreseeable future to impair the designated use of an underground source of drinking water or surface water immediately affected by the ground water, the Department shall require the installation owner to take appropriate action to clean up, increase the degree of treatment prior to discharge, contain or otherwise correct the violation of water quality standards. The type of corrective action shall be based upon the following factors:

1. Direction of the plume movement in relationship to existing and potential sources of drinking water;

2. Plume size both in the areal and vertical dimensions;

3. Rate of migration of the plume;

4. Level of toxicity of the plume;

5. Rate at which the plume is being diluted;

6. The costs of clean up or other corrective action in comparison with the benefits to the public of such corrective action; and

7. Current and projected future use of adjacent ground and surface waters affected by the plume.

(8) Exemptions from secondary drinking water standards outside a zone of discharge in Class G-II ground water.

(a) Existing installations discharging into Class G-II ground water are exempt from compliance with the secondary drinking water

standards established as part of the standards for Class G-II ground water in Section 17-3.404, F.A.C., outside the installation's zone of discharge until July 1, 1985; provided, however, that such installations are prohibited from causing a violation of such secondary standards at any private or public water supply well outside the zone of discharge.

(b) Existing cooling ponds approved by the Department for treatment of thermal discharges to surface water as defined in Section 17-3.05(1)(c)(iii), F.A.C., are exempt from secondary standards so long as the cooling pond waters are monitored pursuant to Department permit to ensure that the pond does not impair the designated use of adjacent and affected ground waters and surface waters impacted by the ground water. In addition, the Secretary may order such monitoring of ground waters as may be reasonably necessary to ensure that the designated use of affected ground waters and surface waters is not impaired.

Specific Authority: 403.061, 403.062, 403,087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.101, 403.121, 403.141, 403.161, 403.182, 403.201, 403.502, 403.504, 403.702, 403.708, F.S. History: New 3-1-79, Amended 1-1-83.

17-4.246 Sampling and Testing Methods.

(1) With regard to any monitoring requirements that may be imposed upon persons subject to this Chapter, the Department may require monitoring and sampling only for those pollutants that may reasonably be expected to be generated by and contained in the permitted discharge or result from the permitted activity in amounts which may reasonably be expected to violate water quality standards.

(2) Field testing, sample collection and preservation and laboratory testing, including quality control procedures, shall be in accordance with methods approved by the Department. Approved methods as published by the Department or as published in Standard Methods, A.S.T.M. or EPA Methods shall be used. Approved methods for chemical analyses are summarized in the Federal Register, December 1, 1976 (41FR52780) except that turbidity shall be measured using a Jackson candle apparatus or its equivalent.

(3) Equivalent, alternative methods may be approved by the Secretary. Such approval of alternative methods shall be based upon a technical demonstration, through comparison of analyses of replicate samples, that the proposed alternate method measures the relevant parameters with the degree of accuracy of the approved method. The written approval and the technical justification upon which it is based shall be executed by the Secretary, filed, and shall be available for public inspection at the Department's Tallahassee, district and subdistrict offices.

(4) As a quality control procedure the Department may require persons who submit test data to the Department to analyze a reasonable number of reference samples, not to exceed one percent of the tests performed on an annual basis, for parameters tested by those persons. These samples shall be provided by the Department.

(5) Any of the following conditions may be grounds for determining that monitoring data do not meet the requirements of this Section:

(a) Failure to maintain those laboratory test records commonly maintained by other laboratories conducting the same tests; or,

(b) Failure to maintain data quality assurance records which shall include information on instrument calibration and maintenance, sample collection and analysis times, and test results for duplicate, spiked and split or reference samples.

(6) Using generally accepted scientific procedures, the Department shall establish detection limits for each parameter for which a test method has been approved. When properly conducted testing procedures using an approved method show a parameter to be below the detection limit, its value shall be assumed to be zero for the purpose of that test if the measurement is not to be averaged with other values. If the measurement is to be used for this calculation, and the calculated average thus obtained shall be compared to the detection limit. If the calculated average is less than the detection limit, the value shall be assumed to be zero. However, nothing shall preclude the use of other scientific procedures acceptable to the Department for the purpose of establishing concentrations.

(7) The submission of fraudulent data to the Department by any person may subject such person to the imposition of sanctions pursuant to Section 403.087(6) or Section 403.161, F.S.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.091, 403.101, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: Formerly 17-3.03, Amended and Renumbered 3-1-79.

17-4.247 Pollution Surveys. Surveys of waters and treatment plant effluents shall be made in accordance with good sanitary engineering practice and shall be of sufficient scope to provide information as requested by the Department in cases where the Department deems such survey necessary to provide information relative to estimations of effects of stationary installations on receiving waters. Such surveys shall take into account relevant factors such as the physical, chemical, biological, and bacteriological condition of the waters.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.091, 403.101, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: Formerly 28-5.20, 17-3.20, Amended and Renumbered 3-1-79.

17-4.248 Stormwater.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.091, 403.101, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: New 3-1-79, Transferred to Chapter 17-25, F.A.C., and Amended 2-1-82.

17-4.249 Preservation of Rights.

(1) In the event any of the moderating provisions described in 17-3.011(19)(b), F.A.C., are declared invalid by a court of competent jurisdiction or a hearing officer pursuant to Section 120.56, Florida Statutes, then the Environmental Regulation Commission shall, at the earliest opportunity, reconsider the affected provisions and all other relevant portions of this rule to determine if alternative provisions should be adopted in order to resolve issues resulting from such decision or action and to assure that the intent expressed in 17-3.011 (19), F.A.C., is fully implemented.

(2) Until final agency action has been taken by the Commission upon its consideration of alternative provisions, the rights of affected permitted dischargers, affected dischargers whose permits would otherwise expire prior to that action, and affected existing stormwater dischargers shall be preserved in the following manner:

(a) Existing permits shall remain in full force and effect;

(b) Existing permits which would otherwise expire prior to final agency action by the Commission upon its consideration of alternative provisions shall remain in full force and effect until application for permit renewals can be made following the action within a time prescribed by the Commission;

(c) Significant existing stormwater dischargers who have been notified that the Department will require permits under provisions of Section 17-4.248, F.A.C., will be required to file application for permits only for those components of the proposed discharge not affected by the action described in (1) above.

(d) Thereafter, in the event any alternative provisions adopted by the Environmental Regulation Commission are disapproved by the Environmental Protection Agency, then the provisions of subsections (1) and (2) above shall apply as if the moderating provisions had been declared invalid.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.091, 403.101, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S. History: New 3-1-79.

17-4.25 Water Pollution Temporary Operation Permits; Conditions.

(1) A person who does not qualify for a water pollution operation permit or has been denied such permit may apply to the Department for a water pollution temporary operation permit. Application shall be made in accordance with Part I of Chapter 17-4, Florida Administrative Code.

(2) The Department shall give notice to people resident in the drainage area of the receiving waters for the proposed discharge of the time in which they may present objections to the proposed discharge.

(3) No water pollution temporary permit shall be granted until all requirements of subsection (4) of 403.088, FS., (1971) are fulfilled.

(4) If the Department deems such action is necessary and desirable to protect the quality of the receiving waters and promotes the public interest, it may issue a Temporary Operation Permit which places restrictions or limitations

on increasing sewage through or additional connections to the sewage treatment facility involved.

(5) Pursuant to Section 403.088, Florida Statutes, and Department Rule 17-1.25(4), Florida Administrative Code, the owner of any sewage treatment facility which is operating under conditions contained in a Temporary Operation Permit which prohibit increases in sewage flow, may apply to the Department for a modification of its Temporary Operation Permit to allow additional connections and increased discharge of sewage from such facility in accordance with the following provisions:

(a) When the Department receives such an application, prominent notice shall be given to the public residing in the drainage area of the receiving waters of the sewer discharge as to the proposed increase in sewage connections and sewage flow, the degree to which such sewage wastes are being treated, and soliciting written comments relevant thereto within thirty (30) days of publication.

(b) The application shall contain specific evidence and information which demonstrates that the applicant is making a good faith effort to build or improve its sewage treatment facilities so as to comply with the rules and regultions of the Department. For this purpose, the applicant shall be deemed to have satisfied the requirement of demonstrating a "good faith effort" only if the Department is provided reasonable assurances that an approved treatment facility will be under construction by July 1, 1975, and completed by July 1, 1977, whose sanitary wastes will meet water quality standards and which will provide the required treatment efficiency. For the purposes of this section, the term "required treatment efficiency" shall mean secondary treatment with 90% efficiency in removal of biochemical oxygen demand and suspended solids, or advanced waste treatment, as defined in Section 17-6.01(3)(b)1., Florida Administrative Code, where applicable, or ordered by the Commission.

(c) The application shall contain written certification that the applicant will comply with Departmental rules, regulations, permit conditions, and applicable local law and regulations.

(d) The burden shall be upon the applicant to affirmatively show to the Department by the submission of sufficient chemical and biological data and other competent scientific evidence that the proposed additional sewage connections and increased sewage flow will not be sufficiently detrimental to the health, safety and welfare of the citizens of the State of Florida or to the natural environment including fish, plant and aquatic life.

(e) The application shall provide reasonable assurances that the proposed connections will not result in the creation of a public health hazard.

(6) If, based upon the sufficiency and weight of the evidence submitted, and after consideration of public comment and objections, the Department determines that the requirements of paragraphs (5)(a), (b), (c), (d), and (e) above have been fully satisfied, then additional connections and sewage flow may be allowed and the Temporary Operation Permit modified as follows:

(a) If the facility will attain required treatment efficiency in

90 days, allow additional flow up to a limit of 10% above the average monthly flow for the preceding 12 month period.

(b) If the facility will attain required treatment efficiency in 240 days, allow additional flow up to a limit of 7% above the averge monthly flow for the preceding 12 month period.

(c) If the facility will attain required treatment efficiency in 365 days, allow additional flow up to a limit of 5% above the average monthly flow for the preceding 12 month period.

(d) If the applicant provides reasonable assurances that a facility that will attain the required treatment efficiency will be under construction by July 1, 1975, and completed by July 1, 1977, additional flow up to a limit of 3% above the average monthly flow for the preceding 12 month period will be allowed.

(e) If approved ocean outfalls will be utilized, the percentages in the above section (a), (b), (c), and (d) may be increased to 30%, 20%, 15%, and 10% respectively.

(7) The Department shall not grant a modification of a Temporary Operation Permit pursuant to Section 403.088, Florida Statutes, in excess of the flow increases contained in paragraph (6) unless, after due notice, it holds a public hearing before a Departmental hearing examiner in order to receive testimony, evidence and public comment, and the Commission thereafter issues final approval of such flow increase.

(8) When the issuance or modification of a Temporary Operation Permit is granted an applicant pursuant to paragraph (6), the Department shall periodically evaluate and require the applicant to submit information to the Department on the following:

(a) The affirmative steps taken by the applicant to build, improve or upgrade its treatment facilities; and,

(b) The extent of any environmental damage that is resulting from the operation of the facility and any continued increases in sewer connections to the facility. To assist in this determination, the Temporary Operation Permit modification may require the applicant to operate a continuous water quality monitoring program approved by the Department, and submit reports thereon.

(9) In accordance with the procedures set forth in Chapter 17-4.10, Florida Administrative Code, the Department may revoke the permit modification previously granted by the Department if the Department determines the following:

(a) that the affirmative steps contained in paragraph (8)(a) have not been taken, or

(b) that the increase in connections or sewage flow is detrimental to the health, safety and welfare of the citizens of Florida or the natural environment of the area involved, or

(c) that revocation should proceed upon any other ground set forth in Section 403.087, F.S., or in Department Rule 17-4.10, Florida Administrative Code.

(10) If the Department denies an application for a modification of a Temporary Operation Permit, the applicant may request a hearing before the Department pursuant to Section 17-4.15, Florida Administrative Code, by filing a petition for review in acordance with Department

Rule 17-1.25(5), Florida Administrative Code.

(11) No modification of a Temporary Operation Permit shall be given, pursuant to Section 403.088(5)(c), Florida Statutes, after June 30, 1975.

Specific Authority: 403.021, 403.031, 403.061, 403.088, F.S.
Law Implemented: 403.021, 403.031, 043.061, 403.087, 403.088(5)(c), F.S. History: New 5-17-72, Amended 3-26-74.

17-4.26 Permits Required for Sewage Works.

(1) No person shall operate, maintain, construct, alter, modify, or expand any sewage collection system, sewage disposal system or sewage treatment facility without a current and valid permit from the Department, pursuant to the provision of Chapter 17-6, Florida Administrative Code.

(2) The Department shall deny an application for a permit unless the sewage collection, treatment and disposal system will provide adequate and effective treatment in accordance with the rules and regulations of the Department.

(3) Applications for a permit under this section shall be in accordance with Part I or Part III, Chapter 17-4, Florida Administrative Code, and on forms adopted in Section 17-1.122, Florida Administrative Code.

Specific Authority: 403.061, F.S.
Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, F.S.
History: New 5-17-72, Amended 8-7-73, 5-14-81, 7-8-82.

17-4.27 Drainage Wells; Permits.

(1)(a) Before any municipal or private corporation or persons shall use an existing well or sink, drive or drill a new well for discharge of sewage or surface water, the owner of existing well or well drilling contractor and the owner of property in the case of a new well shall apply to the Department for a permit authorizing drilling and use of said well.

(b) Drainage well shall be considered to have the same meaning as absorbing well.

(2) Drainage well, Applications.

Applications for drainage well permit shall be on forms supplied by the Department and accompanied by the following data:

(a) Completed report of inspection by county or regional engineer.

(b) Location and depth of well and depth of casing of all water supply wells within one (1) mile radius of proposed well.

(c) Nature of waters to be discharged into proposed drainage well including analysis thereof, source, estimated quantity and pertinent bacteriological analyses if deemed necessary by the Commission.

(d) If transmittal ditches or depressions are used to allow flow of surface or other waters to the well, a complete drawing of the drained area shall be supplied and considered a part of the drainage structure.

(e) If drainage well or drainage structure will present possible pollution hazard to underground water or water supply wells within one (1) mile thereof, additional data may be requested.

(f) All applications shall be signed by the well drilling contractor and owner of property where proposed well or drainage structure

is located or his duly authorized agent.

(g) In all cases except for wells to receive condenser cooling waters or where receiving aquifer or aquifers contain fifteen hundred (1500) parts per million or more of chlorides, bacteriological examination must be made of water from all water supply wells within one (1) mile radius that are drilled to approximate depth of proposed drainage well. The bacteriological survey shall be conducted in the following manner:

1. Samples shall be collected from each well for the first three days of each week for a period of four weeks.

2. Duplicate samples shall be collected in each case after well has been pumped at least twenty minutes. Whenever a drainage well installation is approved following preliminary bacteriological survey of neighboring water supply wells, an identical survey of the same well shall be conducted following opening of drainage well.

(3) Effective Date of Permits.

No permit for operation or drilling of a drainage well shall become effective or operative until filed with the clerk of the circuit court as required in Section 387.03, FS.

(4) Drainage Wells, Drilling Requirements.

(a) A log showing various strata pierced by the well shall be forwarded to the Department within two days after completion of drilling operation.

(b) Samples of strata formations pierced shall be forwarded to the State Geologist, P. O. Drawer 631, Tallahassee, Florida, when drilling is completed.

(c) If casing is used within the well it shall be first quality lap-welded pipe only. Use of butt welded pipe is prohibited.

(d) Practice of dynamiting clogged wells shall not be resorted to except upon written permission of the Commission.

(5) Drainage Well Permit Revocation or Modification.

Drainage well permits are revocable or subject to modification by the Commission in accordance with provisions of Section 387.03 and Sections 120.60 and 160.68, FS. Pumping into drainage wells unless specifically authorized in permit will constitute violations of permit and be cause for permit revocation.

(6) Test wells or borings shall be filled with concrete within five days after completion of testing purposes for which it was drilled. Such test wells or borings shall not be used as drainage wells unless permit has been obtained in accordance with this chapter. Failure to obtain permit prior to drilling of said well or boring shall bar future use except for testing purposes not connected with drainage in any manner whatsoever.

(7) Within ten days after abandonment of drainage wells, they shall be backfilled from bottom to top with neat cement grout.

Specific Authority: 403.021, 403.031, 403.061, 403.087, 403.088, F.S. Law Implemented: 403.021, 403.031, 403.061, 403.087, 403.088, 403.101, 403.182, F.S. History: Formerly 17-3.12, 17-3.13, 17-3.14, 17-3.15, 17-3.16, 17-3.19 FAC, Revised 5-17-72.

17-4.28 Dredging or Filling; Permits, Certifications. This section applies only to dredging or filling for which a complete application was received prior to October 1, 1984, or for dredging or filling which is grandfathered by Subsections 403.913(6) and (8), F.S. and Sections 17-12.120, 17-12.130, and 17-12.140, F.A.C. All other dredging or filling is subject to Chapter 17-12, F.A.C.

(1) Regardless of whether a permit is required, all dredging or filling activities conducted in or connecting to waters of the state shall comply with Chapter 17-3, F.A.C. Compliance shall be in regard to the long-term, as well as the short-term effects of the projects.

(2) Pursuant to Sections 403.061, 403.087, or 403.088, F.S., those dredging or filling activities which are to be conducted in, or connected directly or via an excavated water body or series of excavated water bodies to, the following categories of waters of the state to their landward extent as defined by Section 17-4.02(17), F.A.C. require permit from the department prior to being undertaken:

(a) rivers and natural tributaries thereto;

(b) streams and natural tributaries thereto;

(c) bays, bayous, sounds, estuaries, and natural tributaries thereto;

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

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

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

(g) natural tributaries do not include intermittent natural water courses which act as tributaries only following the occurrence of rainfall and which normally do not contain contiguous areas of standing water.

The department recognizes that the natural border of certain water bodies listed in this section may be difficult to establish because of seasonal fluctuations in water levels and other characteristics unique to a given terrain. The intent of the vegetation indices in Section 17-4.02(17), F.A.C., is to guide in the establishment of the border of the water bodies listed in the section. It is the intent of this rule to include in the boundaries of such water bodies areas which are customarily submerged and exchange waters with a recognizable water body (i.e., areas within the landward extent of waters of the state as defined in Section 17-4.02(17)). Isolated areas which infrequently exchange water with a described water body or provide only insignificant benefit to the water quality of a water body are intended to be designated as uplands. The vegetation indices in Section 17-4.02(17), F.A.C., are presumed to accurately delineate the landward extent of such water bodies.

(3) The applicant for a dredge and/or fill permit or a federal certification for a dredging and/or filling activity shall affirmatively provide reasonable assurance to the

department that the short-term and long-term effects of the activity will not result in violations of the water quality criteria, standards, requirements and provisions of Chapter 17-3, Florida Administrative Code. The Department shall, upon denying any application, furnish the applicant an official statement specifying with particularity the reasons for denial, including a precise statement of those violations of water quality criteria, standards, requirements and provisions it expects to be caused by such activity and the manner in which such effects are expected to be caused.

(4) With regard to the review of the following types of dredging or filling activities, the department will provide a statement as to the necessity of obtaining a permit. Said statement will be provided by the Department within thirty (30) calendar days of receipt of a short-form application. The types of projects described below may be combined in one short-form application. If any portion of the proposed project exceeds the criteria for short-form applications, the application as filed shall be processed as a standard-form application. Successive short-form applications shall not be processed for portions of a project whose total scope exceeds the criteria established. Applications shall be made on the application form as set forth in Subsection 17-1.1221(15), F.A.C.

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

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

(c) New riprap revetments of any length and new vertical bulkheads, seawalls or similar structures not exceeding 500 linear feet of shoreline, except those exempted under F.A.C. Rule 17-4.04(9)(f). This linear footage limitation shall include total shoreline distance existing on the body of water prior to the commencement of work. Applications will not be approved under this section on a cumulative basis.

(d) The installation of buoys, aids to navigation except those described in Section 17-4.04(10)(b), F.A.C., the installation of signs, fences, and ski ramps, and the installation of fish attractors by

the Florida Game and Fresh Water Fish Commission.

(e) The performance for ten years from the date of issuance of the original permit of the maintenance dredging of permitted navigation channels, port harbors, turning basins, and harbor berths. The phrase "original permit" used in this subsection means the original permit issued by the state pursuant to Chapter 253, Florida Statutes. Maintenance dredging permits of up to ten years may also be obtained pursuant to Section 17-4.28(11)(e), F.A.C.

(f) The installation of subaqueous transmission and distribution lines entrenched in (not exceeding 10,000 cubic yards of dredging), laid on or embedded (as defined in 17-4.02(14), F.A.C.) in the bottoms of waters of the state carrying water, wastewater, electricity, communication cables, oil and gas, except those exempted in Section 17-4.04(10)(c), F.A.C.

(g) The construction in or on the waters of the State of footbridges and vehicular bridges.

(h) Reserved.

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

(j) The construction of artificial reefs.

(k) The performance of maintenance dredging (except for those projects described in Section 17-4.28(4)(e), F.A.C.) providing there is not more than 10,000 cubic yards of material removed from the waters of the State.

(5) Emergencies; Classification and Procedure.

(a) Class A

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

2. No permit shall be required for temporary measures taken to correct or give relief from Class A emergencies. Immediately after the occurrence of a Class A emergency, the appropriate district office of the department shall be notified of the emergency. Within fourteen (14) calendar days after the correction of the emergency a report to the district office of the department shall be made outlining the details of the emergency and the steps taken for its temporary relief. The report shall be a written description of all of the work performed involving dredge and fill activities and shall set forth any pollution control measures which were utilized or are being utilized to prevent pollution of waters of the state. A permit shall be required in connection with dredge and fill activities for permanent measures in relief of Class A emergencies.

(b) Class B

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

2. No permit shall be required for temporary measures needed to correct or give relief from Class B emergencies. Temporary measures shall be limited to only those

minimum works required to protect against loss of life, limb, health or property or which immediately threaten plant and animal life. The appropriate district office of the department shall be notified within twenty-four (24) hours after occurrence of a Class B emergency, and a written report shall be given within fourteen (14) calendar days after completion of the temporary measures which have been taken. The report shall be a written description of all works which have been performed as well as pollution control measures utilized. A permit shall be required in connection with dredge and fill activities for permanent measures taken for the relief of Class B emergencies.

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

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

(b) The Department shall give special consideration to applications for the construction of residential canals and their connection to the categories of waters listed in Section 17-4.28(2) where such canals and connections were shown on a plat recorded prior to April 3, 1970, and where such canals and connections constitute a part of the contractual obligations of the applicant incurred pursuant to land sales contracts executed prior to April 3, 1970, and where there has been a continuing, bona fide effort by the applicant since the date of recording said plat to fulfill the plan of development set forth in the plat and undertaken by the terms of said contractual obligations. In determining the nature and extent of the applicant's obligations to purchasers, the plat shall be considered together with sales contracts and other related documents which combine to make up the applicant's legally enforceable obligations purchasers of property within the recorded plat.

(c) A permit and/or certification shall be issued for such canals and connections, provided that the applicant makes all reasonable changes in the design and plan of the canals, including drainage thereto, and connections which the Department determines are necessary to ensure that the water quality standards, requirements, criteria, and provisions of Chapter 17-3, Florida Administrative Code, will be met in the canals as well as in the waters to which the canals are to be connected; provided that in determining what changes reasonably should be made and whether the permit and/or certification should be issued, the Department and/or Commission shall balance the contractual obligations involved

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

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

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

(8)(a) The department recognizes the special value and importance of Class II waters to Florida's economy as existing or potential sites of commercial and recreational shellfish harvesting and as a nursery area for fish and shellfish. Therefore, it shall be the department's policy to deny applications for permits or certifications for dredging or filling activities in Class II waters, except where the applicant has submitted a plan or procedure which will adequately protect the project area and areas in the vicinity of the project from significant damage. The department

shall not issue a permit for dredging or filling directly in areas approved for shellfish harvesting by the Department of Natural Resources. Provided, however, that the staff of the department may issue permits or certifications for maintenance dredging of existing navigational channels, for the construction of coastal protection structures and for the installation of transmission and distribution lines for carrying potable water, electricity or communication cables in rights-of-way previously used for such lines.

(b) The department shall also deny applications for permits or certifications for dredging and/or filling activities in any class of waters where the proximity of such activities to Class II waters would be expected to have an impact on the Class II waters, and where reasonable assurance has not been provided that the activities will not result in violations of the applicable provisions of Chapter 17-3, Florida Administrative Code, in the Class II waters.

(9) Reserved.

(10) The Department shall issue a permit for dredging and/or filling in an upland residential drainage system located above permanent control structures when such upland drainage system is normally dry and where the application for such permit is accompanied by an affidavit, together with supporting data satisfactory to the department, signed by a Registered Professional Engineer, and certifying the accuracy of such data, that such upland drainage system will, when combined with other drainage systems through which the drainage will flow have a one year storm retention capacity and where such drainage will not discharge into any of the waters listed in Section 17-4.28(2), Florida Administrative Code, water which violates the standards designated for such waters.

(11) Additionally, the following requirements shall apply and, where in conflict, shall supercede those contained in Part I of Chapter 17-4, Florida Administrative Code.

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

1. preparation of a hydrographic survey pursuant to sections 253.123 and 253.124, Florida Statutes;

2. submission of any required lease, license, easement or other form of consent from the Board of Trustees of the Internal Improvement Trust Fund or the Department of Natural Resources authorizing the proposed use of sovereignty or other lands of the State, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, pursuant to section 253.77, Florida Statutes.

3. submission of a competent survey prepared in the manner prescribed by Chapter 177, Florida Statutes, and generally accepted

professional surveying standards, establishing mean high water or ordinary high water lines for purposes of determining the boundary of navigable waters under Chapter 253, Florida Statutes; and

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

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

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

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

(e) Every application for a permit shall be approved or denied within ninety (90) days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions. The ninety (90) day period shall be tolled by the initiation of a proceeding under section 120.57, Florida Statutes, and shall resume ten (10) days after the recommended order is submitted to the Department and the parties. Any application for a license not approved or denied within the ninety (90) day period, within fifteen (15) days after conclusion of a public hearing held on the application, or within forty-five (45) days after the recommended order is submitted to the Department and the parties, whichever is latest, shall be deemed approved.

(f) No department permit authorizing construction in, on or over navigable waters or by dredging or filling in waters of the state,

unless extended by the department, shall be valid for more than five (5) years from the date of receipt by the applicant of all state and federal governmental authorizations as may be required for completion of the proposed work. Provided, however, certain maintenance dredging permits issued pursuant to standard applications may be granted for renewable periods of up to ten (10) years from the date described in the preceding sentence, and certain spoil disposal site permits may be issued for up to twenty-five years in accordance with section 403.061(24), F.S.

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

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

(12) Nothing herein except Section 17-4.04(10), F.A.C., shall limit the necessity of a person to obtain a certification required by Public Law 92-500.

(13) Those dredging and/or filling activities for which valid certifications (or waivers) under Public Laws 92-500 and 91-224 or permits under Chapter 403, Florida Statutes, have been obtained for the dredging and/or filling and which are being conducted in compliance with the conditions and requirements of such certifications or permits do not require new certifications or permits under this section. In addition, the department shall not require a permit and/or certification for upland drainage systems which were reviewed for their dredging and/or filling aspects and which previously have been approved in writing as to those dredging and/or filling aspects by the Department's main office in Tallahassee, provided the drainage systems are constructed in conformance to the plan approved by the Department and any conditions and requirements of such approval.

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

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

Specific Authority: 403.061, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.802, 403.813, 403.817, F.S. History: New 6-10-75; Amended 10-26-75, 7-8-76; Joint Administrative Procedures Committee Objection, Filed 1-12-76, See FAW Vol. 1, No. 28; Amended 7-19-77; Joint Administrative Procedures Committee Objection Withdrawn See Vol. 3, No. 30, 7-29-77; Amended 2-6-78, 2-18-79, 3-11-81, 7-8-82, 3-15-84, 10-16-84.

17-4.29 Construction, Dredging or Filling in, on or over Navigable Waters; Permits Required Pursuant to Chapter 253, F.S. This section applies only to dredging or filling for which a complete application was received prior to October 1, 1984, or for dredging or filling which is grandfathered by Subsections 403.913(6) and (8), F.S. and Sections 17-12.120, 17-12.130, and 17-12.140, F.A.C. All other dredging or filling is subject to Chapter 17-12, F.A.C. The provisions of this section apply only in regard to the requirements of Chapter 253, F.S., and do not relieve any persons from complying with Chapter 403, F.S.

(1) Subject to the statutory limitations and exemptions of Sections 403.501-.515 and 403.813(1) and (2), Florida Statutes, and as otherwise limited by general or special statute or department rule, the following activities at or below the line of mean high water or ordinary high water in, on, or over the navigable waters of the State require a department permit;

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

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

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

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

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

(2) Any person desiring to obtain a permit from the Department to undertake the work described in (1) above shall make application on the application forms prescribed by Section 17-1.1221(15), Florida Administrative Code, in accordance with the instructions for standard and short form "Application for

Construction, Dredging and Filling in the Waters of Florida" contained in Section 17-1.1221(15), F.A.C.

(3) The following activities shall be considered short form projects, for which the application, as set forth in Section 17-1.1221(15), F.A.C., shall be completed and submitted to the department. The types of projects described below may be combined in one application. If any portion of the proposed project exceeds the criteria for short-form applications, the application as filed shall be processed as a standard-form application. Successive short-form applications shall not be processed for portions of a project whose total scope exceeds the criteria established.

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

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

(c) New riprap revetments of any length and new vertical bulkheads, seawalls or similar structures not exceeding 500 linear feet of shoreline except those exempted under F.A.C. Rule 17-4.04(9)(f). This linear footage limitation shall include total shoreline distance existing on the body of water prior to the commencement of work. Applications will not be approved under this section on a cumulative basis.

(d) The installation of buoys, aids to navigation except those described in Section 17-4.04(10)(b), F.A.C., the installation of signs, fences, and ski ramps, and the installation of fish attractors by the Florida Game and Fresh Water Fish Commission.

(e) The performance for ten (10) years from the date of issuance of the original permit of maintenance dredging of permitted navigation channels, port harbors, turning basins and harbor berths. The phrase "original permit" used in this subsection means the original permit issued by the state pursuant to Chapter 253, Florida Statutes. Maintenance dredging permits of up to ten years may also be obtained pursuant to Section 17-4.28(11)(e).

(f) The installation of subaqueous transmission and distribution lines entrenched in (not exceeding 10,000 cubic yards of dredging), laid on or embedded (as defined in Section 17-4.02(14)) in

the bottoms of navigable waters of the state carrying water, wastewater, electricity, communication cables, oil and gas.

(g) The construction in, on or over the waters of the state of footbridges and vehicular bridges.

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

(i) The construction of artificial reefs.

(j) The performance of maintenance dredging [except for those projects described in Subsection 17-4.29(3)(e), F.A.C.] providing there is not more than 10,000 cubic yards of filling in the waters of the state.

(4) Application for and the issuance and denial of permits under this section shall be made in accordance with the provisions of Part I of Chapter 17-4, F.A.C., where applicable. Additionally, the requirements specified in Section 17-4.28(11), F.A.C., shall apply. The emergency provisions contained in Subsection 17-4.28(5), F.A.C., shall also apply to construction, dredging or filling in, on or over the navigable waters of the state pursuant to Chapter 253, F.S. The fee provision contained in Subsection 17-4.05(4), F.A.C., shall apply.

(5) Before issuance of a permit under this section, a biological survey, ecological study, and hydrographic survey, if such hydrographic survey is deemed necessary by the Department, must be prepared by or under the supervision of the Department which contains findings and recommendations with reference to the effects of the proposed activity upon fish, wildlife or other natural resources. A less extensive biological survey and ecological study shall be prepared by the Department in evaluating short form aplications submitted pursuant to Subsection 17-4.29(3), Florida Administrative Code. However, if deemed necessary, the department may require the applicant to conduct and submit a hydrographic survey.

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

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

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

(7) The Department shall upon denying any application furnish the

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

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

Specific Authority: 253.03(7), 403.805, F.S. Law Implemented: 253.03, 253.123, 253.124, 403.813, F.S. History: New 10-26-75, Amended 7-19-77, 2-18-79, 3-11-81, 7-8-82, 3-15-84, 10-16-84.

17-4.30 All Other Permits. All other permits required under this Chapter must be obtained pursuant to Chapter 403, FS., and Part I of this Chapter.

Specific Authority: 403.061, 403.087, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.101, F.S. History: New 5-17-72.

17-4.31 Application Forms for Permit to Dredge and Fill.

Specific Authority: 403.061, 403.087, 253.03(7), F.S. Law Implemented: 403.021(2), 403.087 (6), 403.061(16), 403.061(18), 403.088(3)(b), 403.087(2), 403.813, 253.123, 253.124, F.S. History: New 10-26-75, Amended 7-8-76, Transferred to 17-1.1221(15), Amended 2-18-79.

17-4.32 Certification and Acceptance.

(1) Pursuant to the provisions of subsections 253.126(1) and (2) and paragraphs 403.061(4)(a) and (b), Florida Statutes, this section establishes the regulatory mechanism for departmental acceptance of Department of Transportation (DOT) certification that all requirements imposed by statute, rule or standard for environmental control and protection shall be met in the maintenance, repair or replacement of existing structures as set forth in the certification and formal acceptance thereof. Such certification and acceptance thereof shall constitute a permit for the conduct of the activity as described and in the manner set forth therein.

(2) The procedures in this section shall supersede other departmental procedural rules when in conflict; however, no provision of this section shall supersede any air, noise, or water quality standard extant or adopted in the future

by the Department. The procedures in this section shall not preclude the Department from conducting investigations for compliance with the certification and formal acceptance, for compliance with the statutes, rules or standards pertaining to environmental control and protection, or from taking all necessary enforcement action pertaining to violatons found to exist. Activities not having specific procedures set forth in this section shall be governed by other applicable sections of this code.

(3) Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Typical drawings (plan, section, elevation) of the structural

features of the activity being certified.

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

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

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

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

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

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

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

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

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

(a) Within thirty (30) days of receipt by the Department of a certification, the Department shall notify DOT whether Departmental authorization for the proposed activity(ies) is required. If Departmental authorization is required,

the Department shall notify, DOT of any apparent errors or omissions in the certification, and request any additional information the Department is authorized by law to require.

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

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

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

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

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

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

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

(6) Recertification.

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

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

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

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

4. A statement of any modifications proposed, including the reasons therefor and supporting documents as necessary.

(b) The Department shall process the recertification in accordance with subsection (5) of this section.

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

(8) Compliance.

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

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

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

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

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

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

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

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

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

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

(b) The Department may institute modification proceedings by issuing a notice of intent and offering an opportunity for hearing pursuant to Chapter 17-1, Florida Administrative Code, and Chapter 120, Florida Statutes.

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

2. DOT shall be afforded the opportunity to dispute the modification and to present evidence to substantiate continuation of the

certification and acceptance until the expiration date on the acceptance.

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

1. To conform to new or additional conditions resulting from changes in water quality standards adopted pursuant to Chapter 120, F.S., or any of the reasons set forth in Section 17-4.08, F.A.C.; or

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

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

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

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

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

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

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

(b) The cumulative list of violations or a particularly severe violation in one instance may be used as evidence in the revocation proceedings.

(c) Grounds for revocation of an acceptance shall be the same as those for permits as set forth in Section 403.087, Florida Statutes.

Specific Authority: 253.031(7), 403.061, 403.805, F.S. Law Implemented: 253.123, 253.124, 253.126(1)(2), 403.061(14)(a)(b), 403.087, 403.088, 403.802, 403.813, F.S. History: New 7-12-79, Amended 3-11-81.

PART III

17-4.51 Scope of Part III. This part defines general permits, sets forth the general and specific conditions of each general permit, and establishes the procedures for persons who may wish to use a general permit.
Specific Authority: 403.814(1), F.S.
Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.814, 403.702-403.73, 403.851-403.864, F.S. History: New 7-8-82.

17-4.52 Definition. A general permit is a permit issued by rule of the Department pursuant to Section 403.814(1), Florida Statutes, to undertake certain activities which cause minimal adverse environmental impact when performed in accordance with specific requirements and practices.
Specific Authority: 403.814(1), F.S.
Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.814, 403.702-403.73, 403.851-403.864, F.S. History: New 7-8-82.

17-4.53 Procedures.

(1) Persons wishing to use one or more of the general permits set forth in this Part shall, at least 30 days before commencing work, notify the Department in writing or on forms adopted by the department describing the proposed project and including supporting documents depicting the proposed project, the location, and other pertinent information as required by this Part to demonstrate qualification for the requested general permit. Persons wishing to use a general permit shall notify the appropriate district or subdistrict office of the Department by certified mail, return receipt requested. Persons wishing to use a general permit are hereby placed on notice that projects undertaken without proof of notice to the Department shall be considered as being undertaken without a permit and subject to enforcement pursuant to Section 403.161, F.S.

(2) A proposed project which may be reasonably expected to violate air, water quality, or drinking water standards or be contrary to the public interest as set forth in Chapter 253, F.S., shall not be granted use of a general permit.

(3) There shall be no fee required for notices requesting the use of a general permit.

(4) No project which is located in the Biscayne Bay Aquatic Preserve is eligible for a general permit pursuant to Section 258.165, F.S.

(5) Suspension or revocation of the use of a general permit shall be in accordance with Chapter 120, F.S. Good cause for the suspension or revocation shall include:

(a) Submission of false or inaccurate information in the notification for use of a general permit or in the required reports;

(b) Violation of law, Department orders, rules or permit conditions;

(c) Refusal of lawful inspection under Section 403.091, F.S.; or

(d) Any other act on the part of the permittee in the use of the general permit which results or may result in harm or injury to human health or welfare; to cause harm or injury to animal, plant or aquatic life, or to cause harm or injury to property.

(6) Unless otherwise required below as part of a specific category of general permit, persons

qualifying for the use of a general permit are not required to but may publish in a newspaper of general circulation in the area affected by the proposed project a notice of intent to use a general permit. The notice, if published, shall follow substantially the format in Fla. Admin. Code Rule 17-1.62 and shall be published within 14 days of the date when the department receives notification pursuant to Rule 17-4.53(1). No person who has published notice shall begin work until after the 21 days for requesting a hearing has passed or a hearing is held and a decision is rendered. Specific Authority: 403.814(1), F.S. Law Implemented: 253.123, 253.124, 258.165, 403.061, 403.087, 403.088, 403.702-403.73, 403.814, 403.851-403.864, F.S. History: New 7-8-82, Amended 6-16-84.

17-4.54 General Conditions for All General Permits.

(1) The terms, conditions, requirements, limitations, and restrictions set forth in this Part are "general and specific permit conditions" and are binding upon the permittee. The conditions are enforceable under Chapter 403, F.S.

(2) The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit. The permittee is placed on notice that violation of the permit may result in suspension or revocation of the permittee's use of the general permit and may result in institution of legal proceedings as the Department may consider appropriate.

(3) The general permit does not convey any vested rights or any exclusive privileges. It does not authorize any injury to public or private property nor any invasion of personal rights. It does not authorize any infringement of federal, state or local laws or regulations. It does not obviate the necessity for obtaining any other federal, state or local permits that may be required or operate to allow the permittee to violate any more stringent standards established by federal or local law.

(4) The general permit does not relieve the permittee from liability and the penalties therefore when the construction or operation of the permitted activity causes harm or injury to human health or welfare; causes harm or injury to animal, plant or aquatic life; or causes harm or injury to property. It does not allow the permittee to cause pollution in contravention of Florida Statutes and Department rules.

(5) The general permit conveys no title to land or water, nor does it constitute State recognition or acknowledgement of title. It does not constitute authority for reclamation of submerged lands. Only the Board of Trustees of the Internal Improvement Trust Fund may express State opinion as to title.

(6) No general permit shall authorize the use of state owned land without the prior consent of the Board of Trustees of the Internal Improvement Trust Fund pursuant to Section 253.77, F.S.

(7) The general permit may be modified, suspended or revoked in accordance with Chapter 120, Florida Statutes, if the Secretary determines that there has been a violation of any of the terms or conditions of the permit; there has been a violation of state water quality

standards or state air quality standards; or the permittee has submitted false, incomplete or inaccurate data or information.

(8) The general permit shall not be transferred to a third party except pursuant to Fla. Admin. Code Rule 17-4.12.

(9) The general permit authorizes construction and where applicable operation of the permitted facility. However, the permittee shall give notice of continued use of a general permit thirty (30) days before the expiration of this permit.

(10) The permittee agrees in accepting the general permit to make every reasonable effort to conduct the specific activity or construction authorized by the general permit in a manner that will minimize any adverse impact on the adjacent property or public use of the adjacent property, where applicable, and on the environment, including fish, wildlife, natural resources of the area, water quality or air quality.

(11) The permittee agrees in accepting the general permit to allow a duly authorized representative of the Department access to the permitted facility or activity at reasonable times for the purpose of inspection and testing to determine compliance with the permit and the department rules.

(12) The permittee agrees to maintain any permitted facility, or activity in good condition and in accordance with the plans submitted to the department under Rule 17-4.53(1).

(13) A permittee's use of a general permit is limited to five (5) years. However, the permittee may request continued use of the general permit by notifying the department pursuant to Rule 17-4.53(1).

Specific Authority: 403.814(1), F.S. Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.702-403.73, 403.814, 403.851-403.864, F.S. History: New 7-8-82.

17-4.55 General Permit to U.S. Forest Service for Minor Works within National Forests in Florida.

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

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

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

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

(d) Bathing beach restoration at developed recreation sites where maintenance dredging is less than 100 cubic yards per year and less than 100 cubic yards per single occurrence;

(e) Dock construction, replacement and maintenance for docks of up to 1000 square feet of over water surface area, in Outstanding Florida Waters subject to restrictions

listed in Section 403.813(2)(b) and (d), F.S.;

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

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

(2) This general permit is subject to the general conditions of Rule 17-4.54 and the following specific conditions:

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

(b) The U.S. Forest Service or its contractors shall follow Best Management Practices pursuant to Section 208 of Public Law 95-217 and detailed in the Silviculture Best Management Practices Manual, published by the Florida Division of Forestry, Department of Agriculture and Consumer Services, and referenced in Rule 17-25.03(1)(a).

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

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

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

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

Specific Authority: 403.814(1), F.S. Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, F.S. History: New 7-8-82.

17-4.56 General Permit to Florida Game and Fresh Water Fish Commission for use of Rotenone.

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

(2) This general permit is subject to the general conditions of Rule 17-4.54 and the following specific conditions:

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

(b) The chemical selected shall be used in a lesser strength than the EPA approved label amounts where the lesser strength is sufficient to accomplish the test. At no time shall greater strength than the label amount be used.

(c) The chemical shall be used only under the direct on site

supervision of a staff member of the Florida Game and Fresh Water Fish Commission.

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

Specific Authority: 403.814(1), F.S. Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, F.S. History: New 7-8-82.

17-4.57 General Permit for Installation or Maintenance of Boat Ramps.

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

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

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

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

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

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

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

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

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

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

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

(2) This general permit shall be subject to the general conditions in Rule 17-4.54 and the following specific conditions:

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

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

Specific Authority: 403.814(1), F.S. Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, F.S. History: New 7-8-82.

17-4.58 General Permit for Rip Rap.

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

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

dimensions; and

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

(c) There are no reinforcing rods or other similar protrusions in concrete rubble; and

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

(e) There is no filling or dredging associated with the placement of rip rap other than the rip rap material itself.

(2) This general permit shall be subject to the general conditions of Rule 17-4.54 and specific conditions as follows:

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

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

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

(d) There shall be no filling or backfilling to reclaim land lost by avulsion or erosion.

Specific Authority: 403.814(1), F.S. Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, F.S. History: New 7-8-82.

17-4.59 General Permit for Headwalls, and Culverts Associated with a Stormwater Discharge Facility.

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

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

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

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

(d) The culvert and the headwall shall not extend more than one (1) foot waterward of the existing shoreline.

(2) This general permit shall be subject to the general conditions in Rule 17-4.54 and the specific conditions as follows:

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

(b) There shall be no backfilling to obtain useable upland or to straighten an otherwise sinuous shoreline.

Specific Authority: 403.814(1), F.S. Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, F.S. History: New 7-8-82.

17-4.60 General Permit for Wastewater Disposal System for a Laundromat.

(1) A general permit is hereby granted to any person constructing or operating a wastewater disposal system for a laundromat, which has been designed in accordance with the standards and criteria set for in Fla. Admin. Code Rule 17-6.300(1)(a) 3.a. and b., provided,

(a) The design volume of flow is less than 10,000 gallons per day; and

(b) There is a screen filter for coarse materials; and

(c) There is a trickling filter, sand filter and a drain field or an alternate system which will provide the required treatment; and

(d) A percolation test has been performed which demonstrates the reliability of the expected performance of the system and is submitted to the Department.

(2) This general permit shall be subject to the general conditions of Rule 17-4.54 and the following specific conditions:

(a) Within thirty (30) days of completion of construction, the engineer of record shall certify to the Department that the permitted construction is complete and that it was done in accordance with the plans submitted to the Department except where minor deviation was necessary. All deviations shall be described in detail and the reasons therefore enumerated.

(b) There shall be no discharge of dry cleaning materials.

(c) This general permit does not relieve the permittee of the responsibility for obtaining a dredge and fill permit where it is required.

Specific Authority: 403.814(1), F.S. Law Implemented: 403.061, 403.087, 403.088, 403.814, F.S. History: New 7-8-82.

17-4.61 General Permit for Solid Waste Transfer Station.

(1) A general permit is hereby granted to any person for the construction and operation of a solid waste transfer station that has been designed or will be operated in accordance with the standards and criteria set forth in Fla. Admin. Code Rule 17-7.091.

(2) This general permit is subject to the general conditions of Rule 17-4.54 and the following specific conditions:

(a) Within thirty (30) days of completion of construction, the engineer of record shall certify to the Department that the permitted construction is complete and that it was done in accordance with the plans submitted to the Department except where minor deviation was necessary. All deviations shall be described in detail and the reasons therefore enumerated.

(b) Monthly operating reports shall be filed with the Department and the local pollution control office, where applicable, which contain information on the volume, type and frequencies of waste being received. Reports shall be submitted no later than the fifteenth day of the succeeding month.

(c) No hazardous or infectious waste shall be accepted at the transfer station.

(d) This general permit does not relieve the permittee of the responsibility for obtaining a dredge and fill permit where it is required.

Specific Authority: 403.814(1), F.S. Law Implemented: 403.061, 403.087, 403.088, 403.702-403.73, 403.814, F.S. History: New 7-8-82.

17-4.62 General Permit for Wastewater Collection Systems.

(1) A general permit is hereby granted to any person for the construction of a wastewater collection system that has been designed in accordance with the standards and criteria set forth in Fla. Admin. Code Rule 17-6.050, provided that

(a) Notice to the Department under Rule 17-4.53(1) is submitted

on Form 17-1.122(43); and

(b) The treatment facility is not under a moratorium of any kind; and

(c) The treatment facility to which the system will be connected has the capacity to receive the wastewater generated by the proposed collection system, and will continue to operate in compliance with Rule 17-6.

(2) This general permit is subject to the general conditions of Rule 17-4.54 and the following specific conditions:

(a) The permittee or his engineer of record shall file with the Department upon completion of the work a copy of the plans and specifications for the system "as built."

(b) This general permit does not relieve the permittee of the responsibility for obtaining a dredge and fill permit where it is required.

Specific Authority: 403.814(1), F.S. Law Implemented: 403.061, 403.087, 403.088, 403.814, F.S. History: New 7-8-82.

17-4.63 General Permit for the Construction of an Extension to a Public Water Supply Distribution System.

(1) A general permit is hereby granted to any person for the construction of an extension to a public drinking water system that has been designed in accordance with the standards and criteria set forth in Florida Administrative Code Rule 17-22, provided that

(a) Notice to the Department under Rule 17-4.53(1) is submitted on Form 17-1.122(43); and

(b) The treatment facility to which the system will be connected has the capacity to provide the potable water supply required by this system and is in compliance with the standards and criteria set forth in Rule 17-22 for the drinking water system and the quality of water which it provides.

(2) This general permit is subject to the general conditions of Rule 17-4.54 and the following specific conditions:

(a) The permittee or his engineer of record shall file with the Department upon completion of the work a copy of the plans and specifications for the system "as built."

(b) Before the system may be placed into service, a certification of construction completion by the engineer of record and a copy of satisfactory bacteriological results pursuant to Rule 17-22.107(2) must be submitted to the Department or designated county health unit and a letter of clearance be issued.

(c) This general permit does not relieve the permittee of the responsibility for obtaining a dredge and fill permit where it is required.

Specific Authority: 403.814(1), F.S. Law Implemented: 373.016(3), 373.046, 373.309(2), 403.852(12), 403.053(1)(3), 403.861(2), 403.861(6)(8)(9), F.S. History: New 7-8-82.

17-4.64 General Permit for Land Application of Grade II Domestic Wastewater Treatment Sludge.

(1) As a result of the potential harm to human health or the environment resulting from sludge disposal activities, it is important that public notice be given before a general permit for such activities is utilized. Therefore, a general

permit is hereby granted to any person for land application of Grade II domestic wastewater treatment sludge; provided:

(a) The person intending to apply the sludge to the land submits a completed General Permit Application for Grade II Sludges, as specified in Fla. Admin. Code Rule 17-7.60.

(b) The permit applicant, within 14 days of notice to the department, has published in a newspaper of general circulation in the area affected, a notice of the intended land application of Grade II sludge. The notice shall include the name of the applicant and a brief description of the proposed activity and location.

(c) The sludge is land applied pursuant to the requirements of Fla. Admin. Code Rule 17-7.54(5).

(2) The general permit shall be subject to the general conditions of Fla. Admin. Code Rule 17-4.54.
Specific Authority: 403.814, F.S.
Law Implemented: 403.061, 403.087, 403.702, through 403.715, 403.814, F.S. History: New 6-16-84.

17-4.65 (Reserved).

17-4.66 General Permit to the Florida Department of Transportation for Minor Works Within Existing FDOT Rights-of-Way or Easements.

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

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

(b) The widening of existing bridges and bridge approaches to accommodate widening of the roadway where the excavation of material or the deposition of material shall not exceed 1000 cubic yards in waters of the state. The area from which material is excavated or to which material is deposited shall not exceed a total of 0.50 acres for any one location (project site). The 1000 cubic yardage limitation shall be separately applied to excavation and deposition of material.

(c) Culvert placement, replacement and maintenance, in streams of less than 10 cubic feet per second average discharge at the culvert location or streams draining less than 10 square miles, provided that construction does not cause scour in the downstream waters or increase the velocity of the water downstream and the material excavated or deposited as fill shall not exceed 1000 cubic yards in waters of the state.

(d) Bridge construction for structures up to 400 feet in length and two lanes or less in width supported by pilings or trestles where the effects of pollutants discharged into open waters can be minimized.

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

(f) Channel clearing and shaping to facilitate maximum hydraulic efficiency of designed structure

detailed in paragraphs (c) and (d) above.

(2) This general permit shall be subject to the general conditions of Section 17-4.54 and the following specific conditions:

(a) The permittee shall use Best Management Practices, including turbidity curtains or similar devices, in strict adherence to the Florida Department of Transportation Standard Specifications for Road and Bridge Construction to prevent violation of state water quality standards.

(b) The fill areas and the banks of the water body shall be stabilized by vegetation or rip rap to prevent erosion as appropriate.

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

(d) The permittee shall notify the appropriate department district office annually what specific projects are planned for that year. Notification shall include location, typical drawings and approximate commencement dates. At the close of each year, the permittee shall notify the appropriate department office by letter which projects were completed, including any projects which were substituted for a listed project, which are still under construction and which will be included in future plans.

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

(f) The permittee shall limit bridge construction to those bridges spanning bank to bank with no causeway approaches in the floodplain unless there are sufficient culverts in the causeway to prevent downstream scour or increase in the velocity of the water downstream.

(g) The permittee shall limit crossings of any particular stream to an average of one every 1/2 mile.

(3) This general permit shall not apply where the widening of the existing roadway will necessitate application for and receipt of a permit for stormwater discharge.

Specific Authority: 403.814(1), F.S. Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.8[illegible] 403.814, 403.817, F.S. History: New 4-26-84.

17-4.67 General Permit for Certain Silviculture Operations.

(1) A general permit is hereby granted to any person engaged in silviculture operations to conduct the minor works described below:

(a) Culvert placement, replacement and maintenance, in streams of less than 10 cubic feet per second average discharge at the culvert location or streams draining less than 10 square miles, except for culverts associated with low water crossings, provided that construction does not cause scour in the downstream waters or increase the velocity of the water downstream.

(b) Bridge construction, replacement and maintenance for structures up to 400 feet in length and

two lanes or less in width supported by pilings or trestles where the effects of pollutants discharged into open waters can be minimized.

(c) Construction and maintenance of low water crossings (hard surface crossings over which water flows during storm events or immediately thereafter) provided construction does not cause scour in the downstream waters or increase the velocity of the water downstream.

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

(e) Channel clearing and shaping to facilitate maximum hydraulic efficiency of designed structure detailed in paragraphs (a), (b), and (c) above.

(f) Site preparation and access roads on existing silviculture lands including any ditch constructed or maintained with a total cross-sectional area at the outfall of less than 35 square feet when a berm or buffer zone of vegetation separates the site being prepared and the open water. Where an access road crosses open water, the crossing construction shall be in accordance with paragraphs (a), (b), (c), (d), or (e) above.

(2) This general permit shall be subject to the general conditions of Section 17-4.54 and the following specific conditions:

(a) The permittee shall notify the Division of Forestry, Department of Agriculture and Consumer Services, of the proposed project which shall include the type of project and the approximate location.

(b) The permittee shall use Best Management Practices pursuant to Section 208 of Public Law 95-217 and detailed in the Silviculture Best Management Practices Manual, published by the Florida Division of Forestry, Department of Agriculture and Consumer Services, and referenced in Fla. Admin. Code Rule 17-25.03(1)(a).

(c) The permittee shall stabilize fill areas and stream banks disturbed by the activity by revegetation or rip rap as appropriate.

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

(e) The permittee shall limit bridge construction to those bridges spanning bank to bank with no causeway approaches in the floodplain unless there are sufficient culverts in the causeway to prevent downstream scour or increase in the velocity of the water downstream. This limitation does not apply to maintenance of existing bridges or to the construction of temporary log and pole bridges.

(f) The permittee shall limit crossings of any particular stream to an average of one every 1/2 mile.

(3) This general permit does not apply to activities which convert waters of the state to uplands by draining the land, site preparation or other practices designed to bring an area not used for silviculture into such use. However,

it shall apply to activities on areas lying fallow as part of a conventional rotational cycle of an established silvicultural operation. An operation ceases to be established when the area on which it was conducted has been converted to another use or has lain idle more than 3 years.
Specific Authority: 403.814(1), F.S. Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, F.S. History: New 4-26-84.

17-4.68 General Permit for the Construction of Artificial Reefs.

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

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

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

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

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

(2) This general permit shall be subject to the general conditions of Section 17-4.54 and the following specific conditions:

(a) The permittee shall conduct a survey of the bottomland on which the reef is to be built and shall submit the survey to the department with notice pursuant to Section 17-4.53 demonstrating that the bottom does not have grassbeds, or hardbottom or other corals; and

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

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

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

(e) The permittee shall notify the National Ocean Service, National Oceanographic and Atmospheric Association, U. S. Department of Commerce, Rockville, Maryland, of the precise location of the reef.
Specific Authority: 403.814(1), F.S. Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, F.S. History: New 4-26-84.

17-4.69 General Permit for Certain Piers and Associated Structures.

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

(a) Construction of private, single-family piers where the pier:

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

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

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

(b) Construction of boat shelters associated with a pier where

the shelter has no walls or doors.

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

(2) This general permit shall be subject to the general conditions of Section 17-4.54 and specific conditions as follows:

(a) Construction shall not occur over submerged grassbeds.

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

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

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

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

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

Specific Authority: 403.814(1), F.S. Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, F.S. History: New 4-26-84.

17-4.70 General Permit for Certain Agricultural Operations.

(1) A general permit is hereby granted to any person engaging in agricultural operations to conduct minor works as described below:

(a) Construction of a sump associated with flowing waters of the state where the sump:

1. Is excavated at its lowest point no deeper than 6 feet below the existing surface elevation; and

2. Is excavated with a minimum side slope of 2H:1V; and

3. Is fenced to prevent livestock from entering the sump; and

4. Is used for irrigation of agricultural products or for stock watering when the water is transported from the sump to a watering trough or similar structure; and

5. Is no more than 1/2 acre in size; and

6. Is excavated at or near the line demarcating the landward extent of waters of the state; and

7. Is not excavated in peat soils; and

8. The natural vegetation is retained surrounding the sump or any area of natural vegetation destroyed during construction of the sump is revegetated to prevent erosion.

(b) The construction of a water control structure to withdraw or discharge 10,000 gallons per minute or less at the intersection of a drainage or irrigation ditch and waters of the state provided the linear distance of the ditch between the structure and waters of the state or any easement adjacent to waters of the state is 6 feet or less.

(c) Construction activities described below:

1. Installation of culverts,

including replacement or maintenance of the culverts, in streams of less than 10 cubic feet per second average discharge at the culvert location provided that the installation does not cause scour in the downstream waters or increase the velocity of the water downstream.

2. Bridge construction, including replacement and maintenance of the bridge, for a structure up to 400 feet in length and two lanes or less in width supported by pilings or trestles where no dredging or filling occurs in waters of the state except for the installation of the pilings.

3. Construction and maintenance of low water crossings (hard surface crossings over which water flows during storm events or immediately thereafter) including the culverts necessary for maintaining the normal flow of water provided the structure does not cause scour in the downstream waters or increase the velocity of the water downstream.

4. Temporary stream channel diversions necessary to complete the projects detailed in paragraph 1., 2., and 3. above, provided the area used for the temporary diversion is restored to its previous contours and elevations.

5. Channel clearing and shaping to facilitate maximum hydraulic efficiency of designed structures detailed in paragraphs 1., 2., and 3. above.

(2) This general permit shall be subject to the general conditions of Section 17-4.54 and the following specific conditions:

(a) The permittee shall not construct the sump for the purposes of draining the area or of changing the natural vegetation or for the purposes of fish farming in the sump or stormwater treatment.

(b) The permittee shall use hay bales or other devices to prevent erosion of soil, rock, or other materials during excavation of a sump. All excavated material shall be placed on the upland in a manner that will prevent its re-entry into waters of the state.

(c) No more than three sumps may be constructed in each one mile reach of the water body.

(d) At no time shall the sump impound flowing waters of the state.

(e) No fertilizers, pesticides, herbicides or other chemicals shall be added or discharged into the sump.

(f) The permittee shall not obstruct navigation or otherwise interfere with the public use of waters of the state.

(g) Any pump which is installed as a part of a water control structure shall be certified by a professional engineer or shall have a performance curve certified by a professional engineer on behalf of the manufacturer attesting to the actual capacity of the pump.

(h) When constructing the structures detailed in subsection (1)(c), in addition to compliance with paragraph (f) above, the permittee shall:

1. Stabilize fill areas and stream banks disturbed by the construction activity by revegetation or rip rap as appropriate.

2. Limit stream channel relocation to streams which have an average annual discharge of 10 cubic feet per second or less. The length of relocated channels or those significantly altered shall be limited to 200 feet per stream. A stream

channel shall be altered only when such a measure will reduce the long term adverse water quality impacts and will maintain or restore the stream's natural hydraulic capability.

3. Limit bridge construction to those bridges spanning bank to bank with no causeway approaches in the floodplain.

4. Limit crossings of any particular stream to an average of one every 1/2 mile.

(3) The use of this permit by any person for constructing a water control structure does not imply, grant or otherwise authorize pursuant to Chapters 373 or 403, F.S. the withdrawal of water from or discharge of water to waters of the state.

Specific Authority: 403.814(1), F.S. Law Implemented: 253.123, 253.124, 403.061, 403.087, 403.088, 403.813, 403.814, 403.817, F.S. History: New 4-26-84.

CHAPTER 17-6

WASTEWATER FACILITIES

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PART I
DOMESTIC WASTEWATER FACILITIES

Subpart A General

17-6.010 Authority, Intent and Policy.

(1) Section 403.021(2), Florida Statutes, as amended, the Florida Air and Water Pollution Control Act, established that no wastes are to be discharged to any waters of the state without first being given the degree of treatment necessary to protect the beneficial uses of such water. Toward this end, Sections 403.085 and 403.086, Florida Statutes, set forth requirements for the treatment and disposal of domestic and industrial wastewater. Section 403.051(3)(a), Florida Statutes, mandates that any department planning, design, construction, modification or operating standards, criteria, and requirements for wastewater facilities be developed as a rule or regulation. This chapter is promulgated to implement the provisions and requirements of Sections 403.051, 403.085, 403.086, 403.087, 403.088, Florida Statutes, concerning wastewater facilities.

(2) It is the policy of the department to encourage an applicant, prior to submittal of a permit application, to study and evaluate wastewater treatment alternative techniques and to discuss alternatives with the department.

(a) The department encourages inclusion of relevant public health, economic, scientific, energy, engineering and environmental considerations in such evaluations. Each prospective wastewater facility shall be assessed on an individual basis.

(b) The department encourages environmentally acceptable alternatives which provide the most economic and energy efficient methods of complying with the requirements of this chapter, and promote the beneficial re-use of treated effluents and residuals.

(3) The Commission, recognizing the complexity of water quality management and the necessity to temper regulatory actions with the realities of technological progress and social and economic well-being, nevertheless, intends to prohibit any discharge of pollution that constitutes a hazard to human health.

(4) These rules shall be liberally construed to assure that all waters of the state shall be free from components of wastewater discharges which, alone or in combination with other substances, are acutely toxic; are present in concentrations which are carcinogenic, mutagenic, or teratogenic to humans, animals, or aquatic species; or otherwise pose a serious threat to the public health, safety, and welfare.

(5) This chapter provides for exemptions, allowances for existing facilities, and variations from requirements. Unless specifically denoted otherwise, (e.g., denoted as applicable to modifications of existing facilities), requirements shall be applicable only to new domestic wastewater facilities for which construction permit applications are approved by the department after the effective date of this chapter. Generally, the applicability of requirements not denoted as affecting existing facilities shall be reviewed on a case-by-case basis when such facilities are to be modified or if treatment processes are altered such that the quality of effluent or reliability of such processes is affected. Where violations of permit conditions or water quality standards have occured, appropriate requirements in this chapter may be deemed applicable to existing facilities by the Secretary or designee. Requirements for bringing existing facilities into compliance are specified in Section 17-6.160.

(6) The requirements of this chapter represent the specific requirements of the Florida Department of Environmental Regulation and of Local Pollution Control Programs approved and established pursuant to Section 403.182, F.S., where such authority has been delegated to those programs. It may be necessary for wastewater facilities to conform with requirements of other agencies, established via interagency agreements (e.g., for mosquito control); the absence of reference to such arrangements in this chapter does not negate the need for compliance with those requirements.

(7) Pursuant to Section 403.1815, Florida Statutes, the department may authorize a county or municipality to independently regulate the construction of collection system laterals, 10 inches or less in diameter, which may be connected to wastewater facilities owned by the county or municipality and which operate on a gravity flow principle. Such delegation does not negate the necessity for complying with the applicable design standards contained in this chapter.

Specific Authority: 403.061, 403.087, F.S. Law Implemented: 403.021, 403.061, 403.062, 403.085, 403.086, 403.087, 403.088, F.S. History: New 1-1-82.

17-6.020 Exemptions.
The following sources are exempted from the requirements of this Part:

(1) Any domestic wastewater facility of a design capacity of 2,000 gallons per day average daily flow, or less, which serves the complete wastewater treatment and disposal needs of a single establishment.

(2) Septic tank drainfield systems and other on-site sewage systems with subsurface disposal of a design capacity of 5,000 gallons per day average daily flow, or less, which serve the complete wastewater disposal needs of a single establishment, with the exception of restaurant facilities with greater than 3,000 gallons per day average daily flow or those defined as industrial facilities in this Part, and all commercial laundry facilities.

(3) Other means of individual waste treatment or disposal which are otherwise subject to state regulation.

(4) Any single individual service connection from a single establishment to a pretreatment system, or any single individual gravity service connection, with no pretreatment, to a collection system sized and intended to serve such a structure.

Specific Authority: 403.061, 403.087, F.S. Law Implemented: 403.021, 403.061, 403.062, 403.085, 403.086, 403.087, 403.088, F.S. History: New 1-1-82, Amended 5-31-82, 3-31-83.

17-6.030 Definitions.
Terms used in this Chapter shall have the meaning specified below. The meaning of any term not defined below may be taken from definitions in other rules of the department, unless such meaning would defeat the purposes or intent of Chapter 17-6.

(1) "Absorption field" means a drainfield, including the effluent application/distribution system, intended for the treatment of wastewater or disposal of effluent.

(2) "Aquifer" means a geological formation, group of formations, or part of a formation (stratum) that is capable of yielding potentially usable quantities of water from wells or springs.

(3) "Aquitard" means a geological formation or stratum, or artificial barrier, of relatively low permeability which will not transmit water fast enough to furnish an appreciable supply; confining zone.

(4) "Approved methods" means sampling and laboratory testing methods approved by the department, as specified by Section 17-4.246, FAC.

(5) "Arithmetic mean" means the value computed by dividing the sum of a set of terms by the number of terms.

(6) "Assimilative capacity" means the capacity of a body of water or soil-plant system to receive wastewater effluents or sludges without violating the provisions of Chapters 17-3, 17-4, 17-7, FAC, and this chapter.

(7) "Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter present in water or wastewater, reported as a five-day value established as determined using approved methods.

(8) "Chloride" means the negatively charged chloride ion (Cl^-) in water or wastewater, as determined using approved methods.

(9) "Coastal waters" means all

estuarine, gulf, or ocean waters which are not classified as open ocean waters.

(10) "Collection/transmission systems" means sewers, pipelines, conduits, pumping stations, force mains, and all other facilities used for collection and transmission of wastewater from individual service connections to facilities intended for the purpose of providing treatment prior to release to the environment.

(11) "Collection system lateral" means the furthermost hydraulically-upgradient sewer(s) to which only individual service connections are made. Such sewers shall no longer be considered laterals when the upgradient manhole, clean-out, or pumping appurtenance has one or more tributary sewers serving two or more individual establishments.

(12) "Commission" means the Environmental Regulation Commission.

(13) "Composite sample" means a combination of individual samples of wastewater or effluent taken at selected intervals, generally hourly or less for some specified time period, to minimize the effect of the variability of the individual sample.

(14) "Conductivity" means the standardized numerical expression of the ability of water or wastewater to carry an electric current, as determined using approved methods.

(15) "Department" means the Department of Environmental Regulation.

(16) "Developed areas" means areas in or adjacent to residential, commercial, or residentially or commercially-zoned areas.

(17) "Disinfection" means the selective destruction of pathogens in wastewater effluents and sludges.

(18) "Disposal system" means injection wells, effluent outfalls, subsurface drain systems, and other facilities utilized for the release of effluents into the environment.

(19) "District office" means the regional district offices of the department.

(20) "Domestic wastewater" means wastewater derived principally from dwellings, business buildings, institutions, and the like; sanitary wastewater; sewage. Where wastewater from sources other than typical domestic sources (e.g., industrial sources) is combined and treated with wastes from domestic sources, the determination of whether or not the wastewater treatment plant is designated as "domestic" shall be made by the department considering any or all of the following: sludge classification (currently in "reserved" status); whether wastewaters have been pretreated or contain constituents within 50-150%, by concentration, of typical domestic wastewater; and whether the permittee, when not required to provide more stringent or otherwise specific levels of treatment, can provide assurance of facility compliance with domestic wastewater treatment standards contained in this chapter.

(21) "Drinking water" means water satisfactory for drinking, culinary, and other domestic purposes meeting the quality standards of the department, as contained in Chapter 17-22, FAC; potable water.

(22) "Effluent", unless specifically stated otherwise, means treated wastewater flowing out of the treatment plant.

(23) "Effluent limitation" means any restriction established by the department on quantities, rates, or concentrations of chemical,

physical, biological, or other constituents which are discharged from sources into the environment of the state.

(24) "Establishment" means a housing, commercial, or institutional development, including, but not limited to, a place of business, assembly, or residence, whether multiple or single family. An establishment will include all buildings, structures, mobile homes, and appurtenant lands.

(25) "Fecal coliforms" means members of the coliform group capable of producing gas from lactose at 44.5°C, as determined using approved methods.

(26) "Geometric mean" means the nth root of the product of n numbers.

(27) "Grab sample" means a single sample of wastewater or effluent.

(28) "Groundwater" means water below the land surface in the zone of saturation where water is at or above atmospheric pressure.

(29) "Holding pond" means a storage tank or artificial impoundment or pond constructed above, on, below, or partly below the ground surface that is designed and maintained to store a specific volume of fluid and minimize fluid losses other than those primarily occurring by evaporation; generally, holding ponds are not intended to provide a mechanism for pollutant reduction. When used in conjunction with rapid-rate land application systems or other systems described in Section 17-6.040(4)(q), holding ponds can also provide a mechanism to accomplish nitrogen reduction.

(30) "Hydrogeology" means the branch of hydrology that deals with groundwater, its occurrence and movements, its replenishment and depletion, the properties of rocks that control groundwater movement and storage, and the methods of investigation and use of groundwater.

(31) "Individual service connection" means the sewer which connects the point(s) at which wastewater leaves an establishment which is its source and the point at which it enters a collection or pretreatment system.

(32) "Industrial wastewater" means wastewater not otherwise defined as domestic wastewater, including the runoff and leachate from areas that receive pollutants associated with industrial or commercial storage, handling or processing.

(33) "Land application" means the utilization or disposal of effluents or sludges on, above, or into the surface of the ground through spray irrigation, land spreading, or other methods.

(34) "Local program" means any county, municipality, or combination thereof that has established and administers a pollution control program approved by the department in compliance with Section 403.182, F.S., as amended.

(35) "Membrane filter (MF) method" means a method for the direct enumeration of specific microorganisms resulting from the passage of an appropriate volume of water or wastewater through a membrane filter that retains the microorganisms present in the sample, using approved methods.

(36) "Milligrams per liter (mg/l)" means the quantity of material present in water or wastewater expressed on the basis of the weight (milligrams) per unit volume of solution (liter).

(37) "Milliliter (ml)" means

the metric unit of capacity equal to one thousandth of the volume of a liter.

(38) "Modification" means any alteration, expansion, upgrade, extension, addition, or replacement of an existing wastewater facility for which a construction permit is required from the department after the effective date of this chapter; modify.

(39) "Monitoring well" means a strategically located well from which groundwater levels are measured and samples are withdrawn for water quality analysis.

(40) "Most probable number (MPN) method" means a method for the detection and estimation of specific microorganisms in water or wastewater samples by the multiple fermentation tube technique, as determined using approved methods.

(41) "NGVD" means National Geodetic Vertical Datum.

(42) "Nitrate (NO_3)" means the nitrogen content present in water or wastewater attributable to the nitrate (NO_3^-) ion and expressed as elemental nitrogen, N, as determined using approved methods.

(43) "Nitrite (NO_2)" means the nitrogen content present in water or wastewater attributable to the nitrite (NO_2^-) ion and expressed as elemental nitrogen, N, as determined using approved methods.

(44) "Ocean outfall" means the outlet or structure through which effluent is finally discharged to the marine environment which includes the territorial sea, contiguous zone and the ocean.

(45) "Open ocean waters" means all surface waters extending seaward from the most seaward natural 90-foot (15-fathom) isobath. Contour lines may be determined from National Oceanic and Atmospheric Administration Charts.

(46) "Operator" means any person, including the owner, in actual charge of the operation, supervision and maintenance of a wastewater treatment or disposal system, or portion thereof, as certified in accordance with Chapter 17-16, FAC.

(47) "Outfall" means the outlet or structure through which effluent is finally discharged to a receiving water.

(48) "Pathogens" means disease-producing organisms.

(49) "Percolation" means the generally vertical movement of water through soil or other unconsolidated medium to the water table and to lower aquifers where occurring.

(50) "Percolation pond" means an artificial impoundment similar to a holding pond for which the design and operation provides for fluid losses through percolation/seepage in addition to evaporative losses.

(51) "Permittee" means the person or entity to which a permit for a wastewater facility is issued by the department. The term "permittee" shall be functionally synonymous with the terms "owner" and "licensee", but shall not include licensed individuals (e.g., operators) unless they are the person(s) to whom a facility permit is issued by the department. The term shall extend to a permit "applicant" for purposes of this chapter. To the extent that this chapter imposes duties with respect to the construction, operation, maintenance or monitoring of a facility and for reporting to or securing permits from the department, ultimate responsibility lies with the owner of the facility. Nevertheless, Chapter 403, F.S., creates joint and several

liability for those responsible for violations.

(52) "pH" means the negative common logarithm of the hydrogen-ion activity in moles per liter, as determined using approved methods.

(53) "Pollution" means the presence in the outdoor atmosphere or waters of the state of any substances, contaminants, noise, or man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of air or water in quantities or levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, including outdoor recreation.

(54) "Pretreatment" means the conditioning of wastes by the originator of the wastewater which is not exclusively of domestic origin, prior to introduction into the collection system, to levels which the permittee has agreed in writing, so as not to interfere with compliance of the treatment facility with the requirements of this chapter or hinder the disposal or use of sludge.

(55) "Secondary treatment" means wastewater treatment to a level that will achieve the effluent limitations specified in Part I, Section 17-6.060(1)(a) of this chapter.

(56) "Secretary" means the Secretary of the department.

(57) "Seepage" means the lateral and vertical interchange of water between an unconfined aquifer and surface waters.

(58) "Shallow water supply well" means any potable water well which pumps from an unconfined aquifer containing groundwaters of Class G-II quality, as defined by Chapter 17-3, FAC.

(59) "Sludge" means the accumulated solids, residues, and precipitates generated as a result of wastewater treatment. Included are mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar waste disposal appurtenances.

(60) "Subsurface drain" means an underground conduit system (which may include one or more vertical water wells) made of various construction materials (e.g., tile) installed to collect unconfined groundwaters and applied effluents, and provide conveyance to the treatment plant or discharge point; underdrain.

(61) Surface water" means water upon the surface of the earth, whether contained in bounds created naturally or artifically or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth's surface.

(62) "Technology-based effluent limitation (TBEL)" means a minimum waste treatment requirement, established by the department, based on treatment technology. The minimum treatment requirements may be set at levels more stringent than that which is necessary to meet water quality standards of the receiving water body as set out specifically in other sections of this rule.

(63) "Total chlorine residual" means the chlorine remaining in water or wastewater at the end of a specific contact period as combined and free chlorine, measured analytically by approved methods as combined chlorine residual.

(64) "Total coliforms" means the group of bacteria, consisting predominantly of Enterobacter, Escherichia and Klebsiella, which

are biochemically characterized as aerobic or facultative anaerobic, gram-negative, non-sporeforming rod shaped bacteria that ferment lactose with gas formation within 48 hours at 35°C, as determined using approved methods.

(65) "Total dissolved solids (TDS)" means the amount of dissolved constituents present in water or wastewater, usually expressed in milligrams per liter and analyzed as filtrable residue, as determined using approved methods.

(66) "Total Kjeldahl nitrogen (TKN)" means the sum of free ammonia and organic nitrogen compounds in water or wastewater and expressed as elemental nitrogen, N, as determined using approved methods.

(67) "Total nitrogen (TN)" means the total content of the nitrogen species of organic nitrogen, ammonia, nitrate and nitrite present in water or wastewater and expressed as elemental nitrogen, N, as determined using approved methods.

(68) "Total organic carbon (TOC)" means the carbon content in water or wastewater that is present in the form of organic material, as determined using approved methods.

(69) "Total phosphorus (TP)" means the total phosphate content of water or wastewater including all of the orthophosphates and condensed phosphates, both soluble and insoluble, and organic and inorganic species and expressed as elemental phosphorus, P, as determined using approved methods.

(70) "Total suspended solids (TSS)" means solids that either float on the surface of, or are suspended in, water or wastewater; the quantity of material removed from a sample in a laboratory test referred to as nonfiltrable residue, as determined using approved methods.

(71) "Treatment" means any method, technique, or process which changes the physical, chemical, or biological character or composition of wastewater and thereby reduces its potential for polluting waters of the state.

(72) "Treatment plant" means any plant or other works used for the purpose of treating, stabilizing, or holding wastes.

(73) "Turbidity" means a condition in water or wastewater caused by the presence of suspended matter, resulting in the scattering and absorption of light rays, as determined using approved methods.

(74) "Type I facility" means a wastewater facility having a design average daily flow of 500,000 gallons per day or greater.

(75) "Type II facility" means a wastewater facility having a design average daily flow of 100,000 up to but not including 500,000 gallons per day.

(76) "Type III facility" means a wastewater facility having a design average daily flow of over 2,000 up to but not including 100,000 gallons per day.

(77) "Unconfined aquifer" means an aquifer that has a water table.

(78) "Underground injection" means effluent disposal by well injection into underground geologic formations.

(79) "Vector" means a carrier organism that is capable of transmitting a pathogen from one organism to another.

(80) "Virus" means an ultramicroscopic, obligate, intracellular, parasitic pathogen consisting of a single type nucleic acid (either RNA or DNA) and a protein coat.

(81) "Wastes" means sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any waters of the State.

(82) "Wastewater" means the combination of the liquid and water-carried pollutants from residences, commercial buildings, industrial plants, and institutions together with any groundwater, surface runoff or leachate that may be present.

(83) "Wastewater facilities" means any or all of the following: the collection/transmission system, the treatment plant, and the disposal system.

(84) "Waters" shall be as defined in Section 403.031(3), Florida Statutes.

(85) "Water hammer" means a dynamic pressure caused by the sudden transformation of kinetic energy to pressure energy when a liquid flowing full in a pipeline is abruptly stopped.

(86) "Water quality-based effluent limitation (WQBEL)" means an effluent limitation, which may be more stringent than a technology-based effluent limitation, that has been determined necessary by the department to ensure that water quality standards in a receiving body of water will not be violated.

(87) "Water quality standards" are comprised of designated most beneficial uses (classification of waters), the numerical and narrative criteria applied to the specific water use or classification, the Florida anti-degradation policy of Outstanding Florida Waters and the moderating provisions contained in Chapters 17-3 and 17-4 of the Florida Administrative Code.

(88) "Water table" means the upper surface of the zone of saturation where groundwater pressures are equal to atmospheric pressure, except where that surface is formed by an impermeable stratum.

(89) "Zone of mixing" means a volume of surface water containing the point or area of discharge and within which an opportunity for the mixture of wastes with receiving surface waters has been afforded; mixing zone.

Specific Authority: 403.061, 403.087, F.S. Law Implemented: 403.021, 403.061, 403.062, 403.085, 403.086, 403.087, 403.088, F.S. History: New 1-1-82, Amended 5-31-82, 3-31-83, 1-29-84.

Subpart B Design/Performance Considerations

17-6.040 General Technical Guidance.

(1) The technical standards and criteria contained in the following standard manuals and technical publications listed in (4) below and those referenced throughout this chapter are hereby incorporated by reference and may be applied, if applicable, in determining whether permits to construct or modify domestic wastewater facilities shall be issued or denied. However, the standards and criteria adopted by Subsection (4)(q) shall be followed for land application systems.

(2) Deviations from the standards and criteria contained in the publications listed in (4) below may be approved by the department provided that:

(a) The engineer's report provides reasonable assurance that the proposed design will provide collection, transmission, treatment and disposal meeting the requirements of this rule; and either

(b) conforming with these standards cannot be done except at unreasonably higher costs; or

(c) it is not technically feasible to conform to these standards because of site conditions or incompatibility with a proposed facility design employing new and innovative techniques which assure compliance with the remainder of this chapter.

(3) The department may require deviation from the standards and criteria contained in the publications listed in (4) below upon a finding that conformance to them will not assure compliance with the remainder of this chapter or other rules of the department.

(4) Standard Manuals and Publications

(a) Water Pollution Control Federation, 1977. Manual of Practice No. 8. Wastewater Treatment Plant Design. W.P.C.F., 2626 Pennsylvania Avenue, N.W., Washington, D.C. 20037.

(b) Water Pollution Control Federation, 1970 (fourth printing). Manual of Practice No. 9. Design and Construction of Sanitary and Storm Sewers. W.P.C.F.; 2626 Pennsylvania Avenue, N.W., Washington, D.C. 20037.

(c) Great Lakes/Upper Mississippi River Board of State Sanitary Engineers, 1978 edition. Recommended Standards for Sewage Works. Health Education Service, Inc., P. O. Box 7283, Albany, New York 12224.

(d) U. S. Environmental Protection Agency, 1976. Phosphorus Removal-Process Design Manual. Environmental Research Information Center, Technology Transfer, U. S. Environmental Protection Agency, 26 West St. Clair, Cincinnati, Ohio 45268.

(e) U. S. Environmental Protection Agency, 1973. Carbon Absorption-Process Design Manual. Environmental Research Information Center, Technology Transfer, U. S. Environmental Protection Agency, 26 West St. Clair, Cincinnati, Ohio 45268.

(f) U. S. Environmental Protection Agency, 1975. Suspended Solids Removal-Process Design Manual. Environmental Research Information Center, Technology Transfer, U. S. Environmental Protection Agency, 26 West St. Clair, Cincinnati, Ohio 45268.

(g) U. S. Environmental Protection Agency, 1974. Upgrading Existing Wastewater Treatment Plants-Process Design Manual. Environmental Research Information Center, Technology Transfer, U. S. Environmental Protection Agency, 26 West St. Clair, Cincinnati, Ohio 45268.

(h) U. S. Environmental Protection Agency, 1974. Sulfide Control in Sanitary Sewerage Systems-Process Design Manual. Environmental Research Information Center, Technology Transfer, U. S. Environmental Protection Agency, 26 West St. Clair, Cincinnati, Ohio 45268.

(i) U. S. Environmental Protection Agency, 1975. Nitrogen Control-Process Design Manual. Environmental Research Information Center, Technology Transfer, U. S. Environmental Protection Agency, 26 West St. Clair, Cincinnati, Ohio 45268.

(j) U. S. Environmental Protection Agency, 1981. Land Treatment of Municipal Wastewater-Process Design Manual. Environmental Research Information Center, Technology Transfer, U.S. Environmental Protection Agency, 26 West St. Clair, Cincinnati, Ohio 45268.

(k) U. S. Environmental Protection Agency, 1977. Wastewater Treatment Facilities for Sewered Small Municipalities-Process Design

Manual. Environmental Research Information Center, Technology Transfer, U. S. Environmental Protection Agency, 26 West St. Clair, Cincinnati, Ohio 45268.

(l) U. S. Environmental Protection Agency, 1979. Sludge Treatment and Disposal-Process Design Manual. Environmental Research Information Center, Technology Transfer, U. S. Environmental Protection Agency, 26 West St. Clair, Cincinnati, Ohio 45268.

(m) U. S. Environmental Protection Agency, 1974. Design Criteria for Mechanical, Electric, and Fluid System and Component Reliability-MCD-05. General Services Administration, Centralized Mailing Lists Services, Bldg. 41, Denver Federal Center, Denver, Colorado 80225.

(n) U. S. Environmental Protection Agency, 1974. Protection of Shellfish Waters-MCD-06. General Services Administration, Centralized Mailing Lists Services, Bldg. 41, Denver Federal Center, Denver, Colorado 80225.

(o) U.S. Environmental Protection Agency, 1977. Procedures Manual for Groundwater Monitoring at Solid Waste Disposal Facilities. Solid Waste Information, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268.

(p) U. S. Environmental Protection Agency, 1980. Design Manual-Onsite Wastewater Treatment and Disposal Systems. Environmental Research Information Center, Technology Transfer, U.S. Environmental Protection Agency 26 West St. Clair, Cincinnati, Ohio 45268.

(q) Florida Department of Environmental Regulation, 1983. Land Application of Domestic Wastewater Effluent in Florida. Office of Public Information, 2600 Blair Stone Road, Tallahassee, Florida 32301.

(r) U. S. Department of Agriculture, Soil Conservation Service, 1973. Drainage of Agricultural Land. Water Information Center, Inc., 6800 Jericho Turnpike, Syosset, New York 11791.

(s) Florida Department of Transporation, 1979. Land Use, Cover, and Forms Classification System-A Technical Manual. FDER Office of Public Information, 2600 Blair Stone Road, Tallahassee, Florida 32301.

(t) U. S. Environmental Protection Agency, 1976. Direct Environmental Factors at Municipal Wastewater Works-MCD-20. General Services Administration, Centralized Mailing Lists Services, Bldg. 41, Denver Federal Center, Denver, Colorado 80225.

(5) Members of the public may request and obtain copies of the publications listed in (4) above by contacting the appropriate publisher at the address indicated. Copies of the above publications are on file with the Florida Secretary of State and the Joint Administrative Procedures Committee. Copies are also on file and available for review in the department's Tallahassee offices (including the Office of Public Information) and in the department's district, subdistrict, and branch offices where they may be reviewed during normal business hours.

Specific Authority: 403.061(7), F.S.
Law Implemented: 403.061, 403.085, 403.086, 403.087, 403.088, F.S.
History: New 6-24-80, Formerly 17-6.30, Renumbered and Amended 1-1-82, Amended 5-31-82, 1-29-84.

17-6.041 Low Pressure Sewer Systems.

The manual entitled Design and Specification Guidelines for Low Pressure Sewer Systems, June 1981,

prepared by a Technical Advisory Committee for the State of Florida Department of Environmental Regulation, is herein incorporated by reference and shall be used in evaluation of the design and construction of low pressure sewer systems in Florida. Approval of low pressure sewer systems as an alternative to conventional sewerage systems shall be in accordance with the conditions listed below, unless other special circumstances justifying their use are affirmatively demonstrated:

(1) Where total costs of conventional sewers would be excessive because of:

(a) high groundwater table;

(b) shallow bedrock; or

(c) unstable soil conditions; or

(2) Where total costs of conventional sewers would be excessive because of:

(a) multiple lift stations; or

(b) excessive depth of excavation due to nature of terrain; or

(3) Costs of providing centralized sewage collection would be excessive in low density rural communities and in areas characterized by slow or unpredictable growth; or

(4) To provide environmentally acceptable centralized sewage collection systems in waterfront developments and recreational areas where conventional gravity systems are infeasible; or

(5) To provide immediate relief to failing on-site disposal systems.

It will be the responsibility of the applicant to evaluate all potential alternative sewage collection systems and justify the selection of the low pressure sewer system based on engineering and economic considerations. Based on the information furnished by the applicant, the department will decide the acceptability, the scope and extent of the low pressure sewer system to be permitted.

Specific Authority: 403.061(7), F.S.
Law Implemented: 403.061, 403.085, 403.086, 403.087, 403.088, F.S.
History: New 7-7-81.

17-6.042 Septic Tank Systems.

(1) The approval of septic tank drainfield systems and other on-site waste treatment systems with subsurface disposal not exempted under Subsection 17-6.020(2) shall be in accordance with Sections 17-6.060 and 17-6.080(3), F.A.C.

(2) An applicant for a permit to construct a domestic waste treatment system which is intended to treat more than 5,000 gallons per day average daily flow may be referred to the Department of Health and Rehabilitative Services (DHRS) for regulation under Chapter 10D-6, F.A.C., when the layout and distribution of buildings and other structures on the property make it difficult or impossible to consolidate flows through a central waste treatment facility, or when the waste flows are so intermittent as to prevent the proper operation of a waste treatment plant. Establishments that may be referred to DHRS pursuant to this subsection include, but are not limited to, campgrounds, fish camps and parks. The Department may refer such an application only after obtaining the permission of the applicant and the concurrence of the appropriate county health unit of DHRS. Prior to such referral, the applicant shall withdraw any application already filed with the Department of Environmental Regulation.

Specific Authority: 403.061, 403.062, 403.081, 403.804, F.S.
Law Implemented: 403.021, 403.061, 403.086, 403.087, 403.088, F.S.
History: New 7-31-83.

17-6.050 Collection/Transmission Systems.

(1) New collection/transmission systems and modifications of existing systems for which construction permits are required by the department shall be designed:

(a) in accordance with the provisions of Section 17-6.040; and

(b) to be located on public right-of-ways, land owned by the permittee, or easements; and

(c) to preclude the deliberate introduction of storm water runoff, air conditioning system condensate water, closed system cooling water, and sources of uncontaminated wastewater.

(2) In addition to (1), above, the following criteria shall also be incorporated, where applicable, into the design of new systems and modifications of existing systems, unless denoted otherwise:

(a) Pump stations and lift stations discharging through pipes 6 inches in diameter, or smaller, shall be designed with a standard receptacle for connecting portable power generating equipment and a riser, with appropriate coupling device and valving, to the discharge pipe in order to connect portable pumps (and appurtenances). Pump stations and lift stations discharging through larger pipes shall have suitable design features to provide reasonable assurances of uninterrupted flow. All pump station and lift station reliability design features shall be compatible with the available temporary service power generating and pumping equipment of the authority responsible for operation and maintenance of the collection/transmission system.

(b) Pumping stations shall be protected from lightning and transient voltage surges. As a minimum, stations shall be equipped with lightning arrestors, surge capacitors or other similar protection devices, and phase protection. Small pumping stations serving a single building may not be required to provide surge protection devices where it is demonstrated in the engineering report that they are not necessary. Complex or critical pumping stations shall be designed to incorporate standby pumping capability, power generation, and other appropriate features pursuant to Section 17-6.040(4)(m).

(c) New pumping stations shall be designed and located on the site so as to minimize adverse effects resulting from odors, noise, and lighting. All such design control measures shall be described in the engineering report. The permittee shall give reasonable assurance that the facility shall not cause odor, noise or lighting in such amounts or at such levels that they adversely affect neighboring residents, in commercial or residential areas, so as to be potentially harmful or injurious to human health or welfare or unreasonably interfere with the enjoyment of life or property, including outdoor recreation. Reasonable assurance may be based on such means as aeration, landscaping, treatment of vented gases, buffer zones owned or under the control of the permittee, chemical additions, prechlorination, ozonation, innovative structural design or other similar techniques and methods, as

may be required.

(d) New pumping stations shall be enclosed with a fence or otherwise designed with appropriate features that discourage the entry of animals and unauthorized persons.

(e) In areas with high water tables, the pump station shall be designed to include measures to withstand flotation forces when empty. The potential for damage or interruption of operation because of flooding shall be considered by the permittee when siting new pumping stations at inland or coastal locations. The electrical and mechanical equipment shall be protected from physical damage by the 100-year flood. The pumping station shall be designed to remain fully operational and accessible during the 25-year flood; lesser flood levels may be designed for, dependent on local conditions, but in no case shall less than a 10-year flood be used. Design considerations (water surface elevation, forces arising from water movement, etc.) shall be addressed in the engineering report and shall be based upon available information; where site-specific information is unavailable, sound engineering practices shall be used in siting and design of pump station facilities.

(f) Branches of intersecting force mains shall be provided with appropriate valves such that one branch may be shut down for maintenance and repair without interrupting the flow of other branches. Stubouts on a force main, placed in anticipation of future connections, shall be equipped with a valve to allow such connections without interruption of service.

(g) Sewers crossing under water mains shall be laid to provide a minimum vertical distance of 18 inches between the invert of the upper pipe and the crown of the lower pipe. Where this minimum separation cannot be maintained, the crossing shall be arranged so that the sewer pipe joints and water main joints are equidistant from the point of crossing with no less than 10 feet between any two joints. Alternatively, the sewer main may be placed in a sleeve or encased in concrete to obtain the equivalent of the required 10-feet separation.

(h) Where there is no alternative to sewer pipes crossing over a water main, the criteria for minimum separation between lines and joints in (g), above, shall be required.

(i) Where a conflict in the routing of collection/transmission system lines, storm mains and water mains requires that they intersect and no alternative routing is feasible, a conflict manhole shall be designed for the point of intersection. The design shall maintain the protective measures specified in (g) and (h), above. In addition, special provisions to provide reasonable assurance that the integrity of all systems involved shall be included in the design and described in the engineering report. Such provisions shall include but are not limited to requiring that the design assures:

1. Manhole settling and differential settling between the pipes and the manhole will be minimized, and

2. flexible, water-tight, wall-to-pipe joints are capable of accommodating any remaining differential settling or other potential stresses; and

3. sizing of the manhole shall be sufficient to insure normal operation and maintenance of the manhole.

(j) Special protection shall be furnished for sewer lines crossing canals or other waterways subject to maintenance dredging or where damage may occur from water craft anchorage so as to minimize the potential for unintentional discharge of wastewater into surface waters.

1. Subaqueous lines shall be buried at least three feet below the design or actual bottom, whichever is deeper, of a canal and other dredged waterway or the natural bottom of streams, rivers, estuaries, bays, and other natural water bodies. Designs with less than the three-foot minimum cover shall be protected by a concrete cap, sleeve, or some other properly engineered device to insure adequate protection of the line; subaqueous crossings shall be designed to lie on the bottom of waterways only when the engineering report provides reasonable assurance that, because of the depth of the water or other circumstances, the pipeline shall be adequately protected from damage from natural occurrences or mankind's activities.

2. Subaqueous crossings shall be clearly marked by permanent warning signs placed on the banks of canals, streams, and rivers clearly identifying the nature and location (including depths below design or natural bottom) of the crossings. Crossings of lakes, bays and other large bodies of water shall be similarly identified at the shore and, with suitably fixed signs, in any area where anchoring may normally be expected. Signs shall have characteristics compatible with surrounding land use, while serving the intended purpose.

3. Aerial crossings, whether hung from existing structures, self-supporting, or supported by utility bridges or structures, shall be designed to maintain existing or required navigational capabilities within the waterway and to reserve the riparian rights of adjacent property owners.

4. Provisions for testing the integrity of underwater lines shall be made and special pipe material suitable for underwater construction shall be used.

5. Lines shall be designed to incorporate valves or other flow regulating devices (which may include pump stations) on the shoreline or at such distances from the shoreline as may be approved by the department to prevent discharge in the event the line is damaged.

Specific Authority: 403.061, 403.087, F.S. Law Implemented: 403.021, 403.061, 403.062, 403.085, 403.086, 403.087, 403.088, F.S. History: New 1-1-82, Amended 5-31-82.

17-6.060 Effluent Limitations.

The waste treatment standards contained in this section generally shall be met before discharge into holding ponds (if applicable), disposal systems, or surface waters classified pursuant to Chapter 17-3, FAC. Waste treatment, at a minimum, shall consist of secondary treatment and, to the extent necessary, disinfection and pH control. Additional levels of treatment (beyond secondary) may be required pursuant to provisions contained in this section as well as in Section 17-6.080. These design/performance standards shall be enforceable pursuant to the operational compliance criteria in Section 17-6.180. General technical guidance is provided by references listed under Section 17-6.040.

Discharges which would not result, at a minimum, in the protection of surface and ground water quality criteria shall not be allowed. Effluent limitations shall be achieved at the appropriate locations specified pursuant to both this section and Section 17-6.080.

(1) Technology-Based Effluent Limitations (TBELs).

(a) Secondary Treatment

1. Surface water disposal (excluding ocean outfalls)

All domestic wastewater facilities are required, at a minimum, to provide secondary treatment of wastewater. New facilities and modifications of existing facilities shall be designed to achieve an effluent after disinfection containing not more than 20 mg/l BOD and 20 mg/l TSS, or 90% removal of each of these pollutants from the wastewater influent, whichever is more stringent. All facilities shall be operated to achieve, at a minimum, the specified effluent limitations (20 mg/l). All facilities, whether new or existing, shall be subject to provisions of Section 17-6.010(5), regarding the applicability of the above requirements, and Section 17-6.160, and 17-6.180 regarding compliance with the above requirements. Appropriate disinfection and pH control of effluents shall also be required.

2. Surface water disposal via ocean outfall

a. All domestic wastewater treatment plants discharging to Class III coastal waters shall meet, at a minimum, the appropriate secondary treatment criteria contained in Subsection (1)(a)1., above. Appropriate disinfection and pH control of the effluents shall also be required. Discharges to coastal waters are subject to the applicable limitations of Section 17-6.080.

b. All domestic wastewater treatment plants discharging to open ocean waters are required, at a minimum, to provide secondary treatment as defined herein. New treatment plants and modifications of existing plants shall be designed to achieve an effluent prior to discharge containing not more than 30 mg/l BOD and 30 mg/l TSS, or 85% removal of these pollutants from the wastewater influent, whichever is more stringent. All facilities, whether new or existing, shall be operated to achieve, at a minimum, the specified effluent limitations (30 mg/l) and shall be subject to the provisions of Sections 17-6.160 and 17-6.180 regarding compliance with the above requirements. Appropriate disinfection and pH control of the effluents shall also be required. Deviations from the minimum design and operating levels of treatment for all facilities, whether new or existing, discharging to open ocean waters may only be approved pursuant to Section 17-6.080(2)(f).

3. Land application or groundwater disposal (excluding underground injection)

a. The secondary treatment criteria specified in Subsection (1)(a)1., above, at a minimum, generally are applicable as pre-application waste treatment requirements for all facilities, whether new or existing. The design for more stringent levels of treatment may be required by the department as a result of the method of effluent application/distribution; the extent of intended public access; the characteristics of the potential receiving surface waters (i.e., where overland flow runoff or

application site underdrainage is involved); or groundwater protection pursuant to effluent disposal provisions of Section 17-6.080(3).

b. Under the restricted conditions stipulated in applicable portions of Section 17-6.040(4)(q) for overland flow and certain underdrained slow-rate land application systems, preapplication concentrations of BOD and TSS in the effluent prior to discharge onto application sites are not required to be in conformance with the secondary treatment standard specified above. However, the secondary treatment standard, at a minimum, shall be met prior to final effluent release to surface waters via facilities designed for operational control of effluent.

4. Groundwater disposal via underground injection

a. The secondary treatment criteria specified in Subsection (1)(a)1. above, at a minimum, shall apply to all facilities utilizing Class I wells injecting domestic effluent into Class G-IV waters. Deviations from the minimum design and operating levels of treatment for such facilities may only be approved pursuant to Section 17-6.080(4)(d).

b. The design of new facilities and modifications of existing facilities to achieve pollutant reduction to levels beyond that specified by secondary treatment shall be required for effluents discharged from Class V wells into Class G-II waters. These levels shall be as specified in Section 17-6.080(4)(b).

(b) Additional Levels of Treatment

1. The design of new facilities and modification of existing facilities to achieve pollutant reduction to levels beyond that specified by secondary treatment shall be required prior to discharge to Class I waters. Class I reliability, as described in Section 17-6.040(4)(m), shall be provided at a minimum. Treatment shall be provided such that effluent limitations generally are met after disinfection (However, reasonable assurances shall be provided that the TSS limitation in 1.b., below, will be achieved prior to disinfection regardless of the actual effluent compliance monitoring location.) and:

a. effluent discharge meets water quality standards pursuant to Section 17-6.060(2) below (no mixing zone shall be allowed); and

b. effluent discharge shall not exceed 5 milligrams per liter TSS; and

c. effluent discharge shall not exceed 10 milligrams per liter TN; and

d. effluent contains maximum pollutant levels less than those specified for community water systems in Chapter 17-22, FAC. These criteria may be relaxed, by the department, up to the level of the ambient receiving surface water characteristics (but in no case to exceed the levels set for Class I waters) where such characteristics exceed the levels stipulated in Chapter 17-22, FAC; or to reflect the characteristics of water reaching the sewer system which may violate community drinking water standards prior to further contamination (if any) resulting from the introduction of domestic and/or industrial wastes. Enforcement of community drinking water standards shall be pursuant to Chapter 17-22, FAC.

2. The design of facilities to

achieve pollutant reduction to levels beyond that specified by secondary treatment may be required for effluents discharged from land application sites (including site underdrainage systems) to surface waters in order to maintain water quality standards for the receiving waters. These levels may be established via WQBELs (i.e., Subsection (2)(a), below).

(c) Disinfection

1. All wastewater treatment facilities shall be designed and operated such that disinfection to the extent necessary to protect public health is provided and the microbiological pollutants shall not violate the criteria for the receiving waters (if any), as contained in Chapter 17-3, FAC.

2. The department is cognizant of the potentially harmful effects of chlorine used in conjunction with wastewater treatment and encourages the use of alternative disinfection methods. Residual levels, or similar criteria for establishing disinfection of alternative disinfectants, may be accepted by the department based upon information provided by the permittee in the engineering report which serves as evidence that appropriate microbiological criteria will be met and which provides reasonable assurance of public health protection. Dechlorination may be required by the department to ensure that applicable water quality standards will be met and other appropriate effluent limitations imposed pursuant to this chapter will be achieved. Maximum permissible residual levels in the effluent immediately following chlorination and the necessity for dechlorination shall be established as appropriate based upon information provided by the permittee in the engineering report regarding impacts on the receiving surface or ground water; such residual levels are subject to department approval.

3. Disinfection criteria are specified below for discharges from all facilities; applicability of the criteria to effluent disposal alternatives shall be as contained in Section 17-6.080. Microbiological requirements generally shall be met prior to achieving other required effluent limitations.

a. A basic level of disinfection, hereinafter referred to as "basic disinfection", shall result in not more than 200 fecal coliform values per 100 ml of effluent sample. Where chlorine is utilized for disinfection, maintenance of 0.5 mg/l minimum total chlorine residual after 15 minutes contact time at maximum daily flow, or after 30 minutes contact time at average daily flow, whichever provides for the higher level of public health protection, shall be accepted as evidence that the microbiological criterion will be met.

b. A higher level of disinfection, hereinafter referred to as "high-level disinfection", utilized in conjunction with additional TSS control (beyond secondary treatment levels) to maximize disinfection effectiveness shall result in an effluent for which fecal coliforms (per 100 ml of sample) are below detectable limits. Where chlorine is utilized for disinfection, maintenance of 1.0 mg/l total chlorine residual after 15 minutes contact time at maximum daily flow, or after 30 minutes contact time at average daily flow, whichever provides for the higher level of public health protection, shall be accepted as

evidence that the above microbiological criterion will be met.

c. An intermediate level of disinfection, hereinafter referred to as "intermediate disinfection", shall result in not more than 14 MPN fecal coliform values per 100 ml of effluent sample. Where chlorine is utilized for disinfection, residual criteria contained in b., above, shall apply.

d. A lower level of disinfection, hereinafter referred to as "low-level disinfection", allowable under highly controlled conditions for overland flow and certain underdrained slow-rate land application systems as specified in applicable portions of Section 17-6.040(4)(q), shall result in an effluent containing not more than 2400 fecal coliform values per 100 ml of sample.

(d) pH.

All facilities shall be designed and operated to maintain effluent values for pH, after disinfection, within the range of 6.0 to 8.5.

(2) Water Quality-Based Effluent Limitations (WQBELs)

(a) Surface water disposal

1. In addition to TBELs specified in Subsection 17-6.060(1), above, the design of facilities may be required to provide for additional treatment to satisfy water quality standards for receiving surface waters.

2. The WQBELs shall be determined by the department based upon the characteristics of the discharge, the receiving water characteristics, and the criteria and standards of Chapters 17-3, 17-4, FAC, and this chapter. The department shall supply the information regarding ambient water quality which is necessary for this determination. No zone of mixing, as contained in Section 17-4.244, FAC, shall be provided for any parameters for which the permittee fails or declines to provide the necessary characteristics of the discharge. WQBELs shall be met after disinfection.

3. The WQBELs shall be determined by application of accepted scientific methods. It is recognized that models and other scientific methods of predicting the concentrations of pollutants result in estimated values of concentrations. Such estimates shall be acceptable for the purpose of determining effluent limitations provided that the most reliable and complete data reasonably available to the department have been applied. Accepted scientific methods shall be based upon, but not limited to, a consideration of the following:

a. The condition of the receiving body of water, including present and future flow conditions and present and future sources of pollutants; and

b. The nature, volume, and frequency of the proposed discharge of waste, including any possible synergistic effects with other pollutants or substances which may be present in the receiving body of water.

(b) Groundwater disposal

1. In addition to any TBELs specified in Section 17-6.060(1), above, the design of facilities may be required to provide for additional treatment to satisfy water quality standards for receiving groundwaters.

2. Such limitations shall be established by the department based upon characteristics of the effluent discharge and other information such

as project location, soils, hydrogeologic conditions, ambient water quality, the considerations listed in the provisions of Section 17-4.245, FAC, and other relevant factors the department may deem appropriate.
Specific Authority: 403.061, 403.087, F.S. Law Implemented: 403.021, 403.061, 403.062, 403.085, 403.086, 403.087, 403.088, F.S.
History: New 1-1-82, Amended 5-31-82, 1-29-84.

17-6.070 Treatment Plants.

(1) General

(a) New wastewater treatment plants and modifications of existing plants shall be designed in accordance with sound engineering practice. General technical guidance is provided by references listed under Section 17-6.040.

(b) Innovative or alternative treatment processes for Type I and Type II facilities shall be reviewed on their merit. When sufficient supporting information has been presented to the department, installation may be allowed on an experimental basis for the period of time necessary to evaluate the new technology. Except as provided in Section 403.088(4)(a), F.S., an operating permit shall not be issued unless the permittee has provided data in the engineering report which demonstrates to the department that the technology is capable of consistently and reliably producing effluent meeting the standards of Chapter 17-3, FAC, and this chapter.

(c) For Type III conventional wastewater treatment plants and the treatment units commonly referred to as "package plants" utilized for domestic wastewater treatment in smaller communities, residential areas, institutions, commercial establishments, recreational areas, or similar areas:

1. Generally, it shall be a design objective to select proven treatment processes and equipment that will efficiently and reliably meet required effluent limitations, while minimizing the amount and complexity of routine operation and maintenance requirements for the system.

2. The design shall be conservative and shall sufficiently provide for alternative process adjustments necessary for adequately treating widely varying (shock) hydraulic, organic, or toxic loadings often experienced with these types of plants.

3. The design shall consider reliability requirements for emergency conditions, availability of parts for rapid repair, performance of analytical measurements required for process control, routine monitoring, and other considerations necessary to insure facility compliance with the requirements of this chapter.

(2) Plant Sites

(a) New treatment plants and modifications to existing plants shall be designed and located on the site so as to minimize adverse effects resulting from odors, noise, aerosol drift and lighting. All such design control measures shall be described in the engineering report. The permittee shall give reasonable assurance that the treatment plant or modifications to an existing plant shall not cause odor, noise, aerosol drift or lighting in such amounts or at such levels that they adversely affect neighboring residents, in commercial or residential areas, so as to be potentially

harmful or injurious to human health or welfare or unreasonably interfere with the enjoyment of life or property, including outdoor recreation. Reasonable assurance may be based on such means as aeration, landscaping, treatment of vented gases, buffer zones owned or under the control of the permittee, chemical additions, prechlorination, ozonation, innovative structural design or other similar techniques and methods, as may be required. The design shall include adequate aeration.

(b) All treatment plant sites shall be enclosed with a fence or otherwise designed with appropriate features that discourage the entry of animals and unauthorized persons.

(3) Provisions shall be made in the design for easy access points for the purpose of obtaining representative influent and effluent samples. These access points shall be dry points which can be reached safely.

(4) Provisions for flow measurements shall be in accordance with Chapter 17-19, FAC.

(5) The potential for damage or interruption of operation because of flooding shall be considered by the permittee when siting new treatment plants and expansions of existing plants at inland or coastal locations. The treatment plant structures essential for the purpose of treating, stabilizing, conveying, or holding incompletely treated waste and electrical and mechanical equipment shall be protected from physical damage by the 100-year flood. The treatment plant shall be designed to remain fully operational and accessible during the 25-year flood; lesser flood levels may be designed for, dependent on local conditions, but in no case shall less than a 10-year flood be used. Design considerations (water surface elevation, forces arising from water movement, etc.) shall be addressed in the engineering report and shall be based upon available information; where site-specific information is unavailable, sound engineering practices shall be used in siting and design of treatment plant facilities.

Specific Authority: 403.061, 403.087, F.S. Law Implemented: 403.021, 403.061, 403.062, 403.086, 403.087, 403.088, F.S. History: New 1-1-82.

17-6.080 Effluent Disposal.

(1) Surface Water Discharge (excluding ocean outfalls)

(a) Outfalls for all facilities, whether new or existing, shall not discharge effluents which do not meet, at a minimum, applicable secondary treatment, basic disinfection and pH levels contained in Section 17-6.060 prior to discharge to the receiving surface waters.

(b) Outfalls for new facilities or modifications of existing facilities shall not discharge effluents to Class I waters unless the effluent meets the appropriate additional treatment standards (beyond secondary) and high-level disinfection criteria contained in Section 17-6.060(1)(b) and (c), respectively, prior to discharge to the receiving surface water. Outfalls for new facilities or modifications of existing facilities shall discharge not less than 500 feet from any existing or approved (but not yet constructed) potable water intake. However, all facilities, whether new or existing, shall provide for the TSS control (referenced in Section 17-6.060(1)(b)1.) and high-level

disinfection, or an alternative to these combined requirements, to ensure protection from virus.

(c) Outfalls potentially discharging to waters contiguous to Class I waters

The necessity for treatment in addition to that required in (a), above, shall be dependent upon the extent of travel time. Travel time shall be the elapsed time from the point of final effluent monitoring to effluent arrival at the boundary of Class I waters or at the 500 foot no discharge zone surrounding potable water intakes (if any), as referenced in (b), above, whichever results in the shorter elapsed time. Travel time determinations shall be based upon the expected flow of the receiving water during the typically wettest month of the year. Information available from public or private scientific or engineering firms may be utilized; velocity data from other waters may be used provided it is documented in the engineering report that the water body from which such data is derived is hydrologically similar to the receiving water at issue.

1. Effluent discharged from all facilities to waters tributary or contiguous to Class I waters, regardless of whether travel time is greater than 4 hours, shall be subject to technology-based or water quality-based limitations imposed for the specific receiving waters in accordance with Section 17-6.060(1) or (2); and additionally

2. Whenever travel time of the effluent is less than or equal to 4 hours, new facilities and modifications of existing facilities discharging to waters tributary or contiguous to Class I waters, shall be required to provide wastewater treatment such that the drinking water criteria set by Chapter 17-22, FAC, will not be violated at the edge of the mixing zone (which shall not extend into Class I waters). However, Chapter 17-22 criteria may be relaxed up to the level of ambient receiving surface water quality (but in no case violate the water quality criteria for Class III waters) where ambient water quality is lower than the criteria stipulated in Chapter 17-22, FAC; or to reflect the quality of water reaching the sewer system which may violate community drinking water standards prior to further contamination (if any) resulting from the introduction of domestic and/or industrial wastes. Enforcement of community drinking water standards shall be pursuant to Chapter 17-22, FAC.

a. Class I reliability, as described in Section 17-6.040(4)(m), shall be provided, at a minimum, for new facilities and modification of existing facilities. Provisions for automatic notification of downstream potable water treatment facilities and effluent recirculation to ensure adequate wastewater treatment shall be included for reliability assurance.

b. Effluent storage prior to discharge to receiving waters may be required. Storage volume requirements shall be equal to the maximum daily flow (at which adequate treatment can be provided) of the facility multiplied by the sum of the number of full (24 hours) days per week when the operator is not on-site. The operator may be on-site more often than required pursuant to Chapter 17-16, FAC; where on-site attendance is provided in lieu of storage capacity, such attendance

schedules shall be stipulated by permit.

(d) Outfalls shall not discharge effluents into Class II waters.

(e) Limitations beyond the minimum secondary treatment, basic disinfection and pH levels that are required, or (as appropriate) additional WQBELs, on new facilities which would discharge to waters tributary to or contiguous to Class II waters shall be required when the travel time of effluent (the elapsed time from the point of final disinfection monitoring to arrival at conditionally-approved or approved shellfish harvesting areas during maximum - expected surface water velocities) is less than or equal to 72 hours. Intermediate disinfection, as described in Section 17-6.060(1)(c), shall be required for all new and existing facilities. Class I reliability, as described in Section 17-6.040(4)(m), shall be provided at a minimum. Additionally, storage of the disinfected effluents in a holding pond and recirculating capability (for additional treatment) shall be required as follows:

1. Where the travel time is less than or equal to 24 hours, storage volume requirements shall be equal to the maximum daily flow (at which adequate treatment can be provided) of the facility multiplied by the sum of the number of full days per week when the operator is not on-site plus an additional 24-hour period. The operator may be on-site more often than required pursuant to Chapter 17-16, FAC; where on-site attendance is provided in lieu of storage capacity, such attendance schedules shall be stipulated by permit.

2. Where the travel time is greater than 24 hours, but less than or equal to 72 hours, storage volume requirements shall be equal to the maximum daily flow (at which adequate treatment can be provided) of the facility multiplied by the number of full days per week when the operator is not on-site. The operator may be on-site more often than required pursuant to Chapter 17-16, FAC; where on-site attendance is provided in lieu of storage capacity, such attendance schedules shall be stipulated by permit.

(f) Outfalls shall be designed with respect to depth and location so as to minimize oxygen demand and adverse effects on the receiving water.

(2) Ocean Outfalls

(a) Outfalls for all facilities, whether new or existing, shall not discharge effluent to coastal or open ocean waters which does not meet, at a minimum, applicable secondary treatment and pH criteria contained in Section 17-6.060. Where applicable, discharges to coastal waters shall be subject to the limitations of Section 17-4.242, FAC, regarding Outstanding Florida Waters, and of Subsections (1)(d) and (1)(e), above, regarding discharges to Class II waters and waters contiguous to Class II waters, respectively.

(b) Outfalls for all facilities, whether new or existing, shall not discharge effluent to Class III coastal waters which has not also received basic disinfection prior to the discharge. Outfalls for all facilities, whether new or existing, shall not discharge effluent to open ocean waters without also being disinfected to the extent necessary to achieve Class III microbiological standards at the edge of the mixing

zone established pursuant to Subsection (d), below. If basic disinfection is not provided, the engineering report shall affirmatively demonstrate the level of disinfection that is more appropriate.

(c) Deviations from minimum waste treatment requirements for effluent discharges to open ocean waters from all facilities, whether new or existing, may only be approved pursuant to (f), below.

(d) Mixing zones for effluent discharges via ocean outfalls may be established as follows:

1. All coastal water discharge facilities shall be subject to the applicable provisions of Section 17-4.244, FAC.

2. All open ocean water discharge facilities shall be subject to the applicable provisions of Section 17-4.244, FAC, except that:

a. Appropriate dimensions of the mixing zone, for effluents having received treatment in accordance with (c), above, and discharged from new facilities or modifications of existing facilities, may be established by the permittee pursuant to the provisions of (f), below.

b. Mixing zone criteria currently applicable to existing facilities may be modified by order of the Secretary, pursuant to (f), below.

(e) Outfalls for new facilities and modifications of existing facilities shall be designed in accordance with sound engineering practice. General technical guidance is provided by applicable references listed under Section 17-6.040. Additionally:

1. Outfalls shall be designed with respect to depth and location so as to minimize adverse effects on public health and environmental quality. The design shall address the initial dilution, dispersion, and decay rates of the effluent wastes in surrounding waters in order to accomplish these objectives.

2. Outfalls shall be designed to ensure structural integrity so as to minimize potential damage from natural occurences (e.g., wave action) or human activities (e.g., anchorage).

(f) Alternative levels of treatment may be allowed for ocean outfall discharges to open ocean waters from any facility, whether new or existing, as provided below.

1. The Secretary may issue an order, upon petition of an affected permittee and after public hearing, that specifies alternatives to treatment requirements of Sections 17-6.060(1)(a)2.b. and 17-6.080(2); and mixing zone requirements of Section 17-4.244, FAC; and

2. Such order shall remain in effect as long as applicable water quality criteria specified in Chapter 17-3, FAC, are met and the effluent meets statutory treatment requirements; however,

3. Such order may be issued only after affirmative demonstration by the Petitioner of the following:

a. Granting the order is in the public interest; and

b. Compliance with minimum treatment requirements in Sections 17-6.060(1)(a)2.b and 17-6.080(2) for these discharges is not required to assure adequate protection of public health and the marine environment; and

c. Granting the order will not interfere with existing uses or the designated uses of the receiving waters or contiguous waters, or otherwise impair the recreational use, bathing waters, or economic

values associated with the area potentially affected by the discharge; and

d. There is no reasonable relationship between the economic, social, and environmental costs of compliance with the treatment requirements and the benefits associated therewith; and

e. Oceanographic features influencing the effects of the proposed discharge support the proposed level of treatment and any proposed extent of the mixing zone; and

f. The facility will be constructed (where applicable) and operated so that there is no occurrence of inadequately treated wastewater reaching contiguous coastal waters; and

g. An acceptable monitoring program for the discharge has been proposed and would be implemented by the permittee.

(3) Land Application

(a) The following requirements are applicable for slow-rate, rapid-rate, overland flow, absorption field and other land application systems potentially discharging to Class G-II groundwaters as described in Chapter 17-3, FAC. Requirements for systems involving potential discharges to other classes of groundwater (as defined by Chapter 17-3, FAC) will be established by the department on a case-by-case basis with the permittee.

(b) Systems shall be designed to meet applicable requirements contained in Section 17-6.040(4)(q). Minimum design waste treatment standards specified in (c) below are described in Section 17-6.060 and shall be enforceable pursuant to the operational criteria in Section 17-6.180.

(c) Waste treatment, at a minimum, shall consist of secondary treatment and, to the extent necessary, basic disinfection and pH control. Generally, these criteria are applicable as preapplication waste treatment requirements for all facilities, whether new or existing.

1. Less stringent preapplication treatment levels may be allowed under the restricted conditions stipulated in applicable portions of Section 17-6.040(4)(q) for overland flow and certain underdrained slow-rate land application systems; however, regardless of the level of preapplication treatment provided, the effluent finally released to receiving surface water, via the operational control facilities, shall meet the appropriate requirements of Section 17-6.060.

2. Additional levels of preapplication treatment (beyond the minimum) may be required by the department as a result of the method of effluent application/distribution; the extent of intended public access; the characteristics of the potential receiving surface waters (e.g., where application site underdrainage is designed); or groundwater protection pursuant to effluent disposal provisions of Section 17-6.040(4)(q).

(d) Protection of groundwater quality is of concern. The characteristics of background, or ambient, groundwater quality shall be established. Two general situations will be encountered: background quality characteristics may be at or below the criteria numerically quantified in Chapter 17-3, FAC, (i.e., background quality is equal to, or better than, standards) in which case the land application shall not result in degradation of background water quality in excess of the water

quality criteria; or background water quality characteristics may be in excess of the criteria numerically quantified in Chapter 17-3, FAC, (i.e., background quality is worse than standards) in which case the land application shall not result in further degradation of the background water quality. Where a surface water discharge is also involved, the underdrainage or overland flow discharge shall not result in a violation of water quality standards.

(4) Underground Injection

(a) All facilities using Class I wells discharging domestic effluent into Class G-IV waters must meet the secondary treatment and pH limitations specified in Section 17-6.060(1)(a) and (d). Disinfection is not required prior to disposal via any Class I well, whether from any new or existing facility; however, all Class I well permittees must maintain capability to disinfect at a level that is consistent with the alternate discharge mechanism pursuant to Section 17-28.23(4)(c), FAC. Deviations from minimum waste treatment requirements for such discharges may only be approved pursuant to (d), below.

(b) New facilities and modifications of existing facilities using Class V wells discharging domestic effluent into Class G-II waters (except as provided in paragraph (c) below) shall be designed and operated to achieve pollutant reduction to levels beyond that specified by secondary treatment. Class I reliability, as described in Section 17-6.040(4)(m), shall be provided for the treatment plant at a minimum. Effluent limitations shall be met at compliance monitoring location(s) established on a case-by-case basis; however the TSS limitation shall be met prior to disinfection. The following requirements shall be met:

1. Effluent shall contain not more than the concentration set for BOD (and TSS) via secondary treatment criteria in Section 17-6.060(1)(a)1.; and

2. Effluent shall contain not more than 5 mg/l TSS and no detectable fecal coliforms (high-level disinfection criteria); however,

3. As an alternative to 2., above, other methods for ensuring protection from virus may be approved by the department; and

4. Adequate justification for the use of any specific disinfection process and the identification of resulting public health effects shall be provided to the department; and

5. The department may require that the effluent meet the criteria for community drinking water systems specified in Chapter 17-22, FAC, or may establish any individual effluent pollutant criterion specified in Chapter 17-22 at a value up to the level occurring in ambient receiving groundwater. However, no criterion may be established at a concentration in excess of Class G-II water quality standards; and

6. The department may require additional reduction of pollutants which otherwise would be discharged in quantities which may reasonably be anticipated to pose risk to public health or the environment because of acute or chronic toxicity; and

7. Storage capability and recirculation of stored effluent, or provisions for alternative disposal systems, shall be established with the department's approval on a

case-by-case basis.

(c) New facilities and modifications of existing facilities using Class V wells discharging domestic effluent into Class G-II waters of the Biscayne or Floridan Aquifers containing total dissolved solids of 500 milligrams per liter or less shall be designed and operated to achieve pollution reduction as specified below.

1. The Environmental Regulation Commission shall hold a public hearing following the conclusion of any pilot test or the full-scale operational test of any project approved pursuant to Section 403.859(7), F.S., and shall modify the requirements of this paragraph, as necessary or appropriate, based on the results of the test data. The effluent standards described below may be revised if the test data demonstrate that alternative parameters or levels would more effectively control pollutants hazardous to public health and the environment, such as the priority pollutants identified by the United States Environmental Protection Agency and certain lipid-soluble organics.

2. Injected wastewater shall meet the following effluent standards or such other standards as are adopted by rule in accordance with subparagraph 1. above.

a. Total organic carbon (as the arithmetic average of any 21 consecutive samples of injected wastewater) shall not exceed 5 milligrams per liter or the background concentration of total organic carbon, whichever is less; no single sample shall exceed 9 milligrams per liter.

b. Total organic halogen shall not exceed 0.2 milligrams per liter (as Cl^-) as the arithmetic average of any 21 consecutive samples of injected wastewater; no single sample shall exceed 0.3 milligrams per liter.

3. A biological testing procedure approved by the Department shall be conducted to determine the mutagenicity of the injected wastewater.

4. The treatment process prior to injection shall include activated carbon adsorption unless the applicant provides reasonable assurance to the Department that the use of alternative technologies will not result in a discharge of wastes in contravention of the standards described in this paragraph.

5. Alternative and standby disposal or storage facilities shall be provided such that any wastewater not meeting the requirements of this section may be stored for further treatment or disposed of by alternative means approved by the Department.

6. Any project approved pursuant to Section 403.859(7), F.S., shall submit an interim report to the Department one year after the commencement of its full-scale operational test. If a pilot test is conducted prior to the full-scale operational test, an interim report is also required one year after its commencement. The interim report shall describe the technical performance and cost-effectiveness of the test project, as indicated by the test data accumulated during the year. The report shall also discuss the technical and economic feasibility of complying with more and less stringent effluent standards than those specified in this paragraph. The Department shall promptly review the report and present its analysis to the Environmental Regulation Commission.

7. No permit shall be issued for the underground injection of wastewater pursuant to this paragraph until a minimum two-year, full-scale operational test of the project has been concluded, the test data have been reviewed by experienced national authorities, and the reports of the review have been considered by the Department.

8. The requirements of this paragraph are additive and supplement all other requirements imposed by Department rules on the construction and operation of wastewater treatment and disposal facilities, including compliance with the ground water quality standards referenced in Fla. Admin. Code Rule 17-3.404.

(d) Surface equipment for all injection well facilities, whether new or existing, shall be such that manual backup capability to monitor wellhead pressure and flow is provided for systems utilizing automatic and continuous recording equipment. The design of new facilities and modifications of existing facilities shall incorporate additional surface equipment considerations such that:

1. Effluent pumping stations shall be protected from lightning and transient voltage surges. As a minimum, stations shall be equipped with lightning arrestors, surge capacitors or other similar protection devices, and phase protection; and

2. Effluent pumping stations shall be provided with divided compartments to allow access for repair and maintenance purposes without interrupting operation; and

3. Potential surge and water hammer will not jeopardize the safety and integrity of the injection well system; and

4. Surface equipment for multi-well systems provides operational reliability and flexibility in the event of damage to or failure of the pipeline or a well; and

5. Access to the well for geophysical logging without major modifications is enabled; and

6. The wellhead shall be protected in a manner to minimize accidents or vandalism; and

7. Necessary screening for floatable solids prior to injection to avoid plugging of the formation is provided; and

8. Equipment with sufficient reliability and redundancy is provided in accordance with appropriate references contained in Section 17-6.040(4).

(e) Alternative treatment levels may be allowed for Class I well discharges to Class G-IV waters from any facility, whether new or existing, as provided below.

1. The Secretary may issue an order, upon petition of an affected permittee and after public hearing, that specifies an alternative to the treatment requirements specified in Section 17-6.060(1)(a)4.a.; and

2. Such order shall remain in effect as long as applicable water quality criteria specified in Chapter 17-3, FAC, are met and the effluent meets statutory treatment requirements; however,

3. Such order may be issued only after affirmative demonstration by the Petitioner of the following:

a. Granting the order is in the public interest; and

b. Compliance with minimum treatment requirements in Section 17-6.060(1)(a)4.a. for these discharges is not required to assure adequate protection of fresh water storage areas or industrial or utilities supplies, or for present and

future potable water supplies; and

c. Granting the order will not interfere with existing uses or the designated uses of the waters or contiguous waters; and

d. The facility complies with all of the requirements for Class I wells in Chapter 17-28, FAC; and

e. There is no reasonable relationship between the economic, social, and environmental costs of compliance with the treatment requirements and the benefits associated therewith; and

f. The facility will be constructed (where applicable) and operated so that there is no occurrence of inadequately treated wastewater reaching other aquifers or surface waters; and

g. An acceptable monitoring program for the discharge has been proposed and will be implemented by the permittee; and

h. The receiving aquifer is of sufficient transmissivity to preclude clogging of the formation with the effluent; and

i. The injection well system has sufficient built-in redundancy to assure an alternate disposal method (such alternate disposal shall be limited to emergency events); and

j. The surface equipment for multi-well systems is designed to provide continued partial operation in the event of damage to or failure of a pipeline or well.

Specific Authority: 403.061, 403.087, 403.859, F.S. Law Implemented: 403.021, 403.061, 403.062, 403.085, 403.086, 403.087, 403.088, 403.859, F.S. History: New 1-1-82, Amended 5-31-82, 1-29-84.

17-6.090 Sludge Management (RESERVED).

Subpart C Operation and Maintenance

17-6.10 is renumbered as 17-6.400.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.066, 403.087, 403.088, 403.091, 403.101, 403.121, 403.141, 403.161, 403.182, 403.502, 403.704, 403.708, F.S. History: New 3-1-79, Renumbered 1-1-82.

17-6.100 Collection/Transmission Systems.

(1) A collection/transmission system addressed under Section 17-6.050 shall not be placed into operation without prior approval of the department.

(2) All collection/transmission systems shall be operated and maintained so as to provide uninterrupted service as required by this chapter.

(3) All equipment necessary for the collection/transmission of domestic wastewater, including equipment provided pursuant to Section 17-6.050(2), shall be maintained so as to function as intended. In the event odor, noise or lighting adversely affect neighboring developed areas at levels prohibited by 17-6.050(2)(c), corrective action (which may include modifications of the collection/transmission system) shall be taken by the permittee. Other corrective action may be required to ensure compliance with rules of the department.

(4) Copies of record drawings pursuant to Section 17-6.140(2)(a)4. and the approved operation and maintenance manual pursuant to Section 17-6.150(2) shall be kept available at a site acceptable to the department for use by operation and maintenance personnel and for inspection

by department personnel.
Specific Authority: 403.061, 403.087, F.S. Law Implemented: 403.021, 403.061, 403.087, 403.088, F.S. History: New 1-1-82, Amended 1-29-84.

17-6.110 Treatment Plants and Effluent Disposal Systems.

(1) New treatment plants and existing plants which have had modifications which require compliance with the effluent limitations required by this chapter shall be operated and maintained so as to attain, at a minimum, the effluent quality required by the operational criteria specified in Section 17-6.180(1). Existing treatment plants shall, at a minimum, meet effluent limitations as specified in currently valid permits pursuant to Section 17-6.160.

(2) The operation of all treatment plants shall be under the supervision of an operator certified in accordance with Chapter 17-16, FAC. All facility operations shall provide for the minimum care and maintenance of the facility in accordance with Chapter 17-16, FAC.

(3) All equipment necessary for the treatment and disposal of domestic wastewater shall be maintained, at a minimum, so as to function as intended. In the event odor, noise, aerosol drift, or lighting adversely affect neighboring developed areas at the levels prohibited by 17-6.070 (2)(a), corrective action (which may include modifications of the treatment plant) shall be taken by the permittee. Other corrective action may be required to ensure compliance with rules of the department.

(4) All treatment plant permittees shall provide the operating data, records, and analytical results as required to document the operational results of the treatment plant and disposal system. These records shall be transmitted to the appropriate district office of the department, in accordance with Chapter 17-19, FAC.

(5) Copies of the department permit and record drawings pursuant to Section 17-6.140(2)(b)4.; the approved operation and maintenance manual pursuant to Section 17-6.150 (2); schedules; logs; and all recorded operating data shall be kept available at all facilities or other acceptable sites approved by the department for use by plant operators and inspection by the department.

(6) All treatment plant permittees shall be responsible for making all facilities safe in terms of public health and safety at all times, including periods of inactivation or abandonment. The permittee shall give the department written notice at least 60 days prior to inactivation or abandonment of a treatment plant and shall specify what steps will be taken to safeguard public health and safety. The permittee may be ordered to undertake additional steps deemed necessary by the department to protect public health and safety.

(7) Land application systems shall be operated and maintained in accordance with the provisions contained in Section 17-6.040(4)(q).

(8) All underground injection effluent disposal systems shall be operated and maintained in accordance with the provisions contained in Sections 17-28.33, 17-28.34(1) and 17-28.53, FAC.
Specific Authority: 403.061, 403.087, 403.101, F.S. Law Implemented: 403.021, 403.061, 403.062, 403.085, 403.086, 403.087, 403.088, 403.101, F.S. History: New 1-1-82, Amended 5-31-82, 1-29-84.

17-6.120 Sludge Management (RESERVED).

17-6.130 Abnormal Events.

(1) In the event the permittee of any treatment plant or disposal system is temporarily unable to comply with any of the conditions of a permit due to breakdown of equipment, power outages, destruction by hazard of fire, wind, or by other cause, the permittee shall notify the department and the local program (where existing). Notification shall also be required when the above described abnormal events affect any collection/transmission system and result in the disposal of inadequately treated waste violation specified in Section 17-6.180(2)(a). Notification shall be made in person, by telephone, or by telegraph to the nearest office of the department and the local program within 24 hours of breakdown or malfunction.

(2) A written report may be required by the appropriate district office or local program within 72 hours of the notification referenced in (1), above. The report shall describe the nature and cause of the breakdown or malfunction, the steps being taken or planned to be taken to correct the problem and prevent its recurrence, and the time when the wastewater facility is expected to be properly operating.

(3) Following any spill, bypassing, or overflow from any wastewater facility which is not addressed in Section 17-6.180(2)(f), regarding planned "bypasses", and which results in the disposal of inadequately treated waste violation specified in Section 17-6.180(2)(a), the department or the local program may require the permittee to provide, within 90 days, an acceptable contingency plan for preventing the recurrence of similar events and for minimizing their impacts should they reoccur.

Specific Authority: 403.061, 403.087, F.S. Law Implemented: 403.021, 403.061, 403.062, 403.087, 403.088, 403.182, F.S. History: New 1-1-82.

Subpart D Compliance

17-6.140 Permits Required.

(1) Construction Permits.

Construction of new wastewater facilities or modification of existing facilities requires an appropriate permit from the department. Collection/transmission systems can typically be constructed under the general permit procedures and criteria specified in Part III, Chapter 17-4, FAC. For collection/transmission systems involving innovative design or for collection/transmission systems having features not complying with the design/performance criteria in this chapter, a specific permit will be required. Treatment and disposal facilities require a construction permit obtained in accordance with procedures and criteria specified in Parts I and II, Chapter 17-4, FAC. Permittees shall comply with applicable design/performance criteria contained in this chapter as part of the permitting standards under Chapter 17-4, FAC.

(2) Operation Permits.

Operation permits are not issued for collection/transmission systems. Prior departmental approval to place new systems or modifications of existing systems into operation is required, pursuant to Section 17-6.100(1).

Operation of all treatment and disposal facilities, whether new or

existing, requires an appropriate operation permit obtained from the department in accordance with procedures and criteria specified in Parts I and II, Chapter 17-4, FAC. Modifications of existing facilities which will require revisions to a currently valid operation permit and new facilities may be operated under, and in accordance with specific conditions of, a valid construction permit generally for a 6 month period after completion of construction. The permittee may be required to obtain departmental approval prior to placing these facilities into initial operation. An application for an operation permit must be submitted at least 60 days prior to the expiration date of the construction permit.

In addition to pertinent requirements of Chapter 17-4, FAC, the items addressed below shall be submitted to the department as part of the collection/transmission system approval process or the operation permit issuance (or renewal) process discussed above. For modifications of existing treatment and disposal systems which will not require revisions to the currently valid operation permit, the appropriate items addressed below shall be submitted within 60 days after project completion:

(a) Collection/Transmission Systems

1. A written request from the permittee to obtain the approval for use referenced above; and

2. A certification of completion of construction prepared by an engineer (not necessarily the project design engineer but one who has been retained by the permittee to provide professional engineering services during the construction phase of project completion) on forms approved by the department. The engineer shall certify therein that the system has been constructed substantially in accordance with approved plans and specifications, or that any deviations will not prevent the system from functioning in compliance with the requirements of this chapter. The engineer shall note and explain substantial deviations from the approved plans and specifications. Construction deviations greater than ten percent (10%) from approved sewer slopes shall be considered as substantial. The certification shall be based upon on-site observation of construction (scheduled and conducted by the engineer or by a project representative under his direct supervison) for the purpose of determining if the work proceeded in compliance with plans and specifications; and

3. Record drawings furnished by the contractor (based on information gathered and prepared under his direction), and reviewed by the engineer referenced in 2., above, to determine their adequacy. The record drawings shall include a set of approved plans and specifications which identify, at a minimum, substantial deviations referenced in the certification of completion of construction that have occurred since the construction or general permit was issued; and

4. Written certifications on forms approved by the department, from the permittee or the responsible operation and maintenance authority (if other than the permittee), stating that record drawings and an appropriate operation and maintenance manual (pursuant to Section 17-6.150(2)) are available at a specified location; and

5. Written certifications on forms approved by the department from:

a. the permittee or the responsible operation and maintenance authority (if other than the permittee) agreeing to properly operate and maintain the facilities; and from

b. the responsible authority (if any) who operates and maintains the wastewater facility to which the completed system is directly connected stating that the connection(s) have been satisfactorily completed.

(b) Treatment and Disposal Facilities

1. A certification of completion of construction prepared by an engineer (not necessarily the project design engineer but one who has been retained by the permittee to provide professional engineering services during the construction phase of project completion) on forms approved by the department. The engineer shall certify therein that the system has been constructed substantially in accordance with approved plans and specifications, or that any deviations will not prevent the system from functioning in compliance with the requirements of this chapter. The engineer shall note and explain substantial deviations from the approved plans and specifications. The certification shall be based upon on-site observation of construction (scheduled and conducted by the engineer or by a project representative under his direct supervison) for the purpose of determining if the work proceeded in compliance with plans and specifications; and

2. Record drawings furnished by the contractor (based on information gathered and prepared under his direction), and reviewed by the engineer referenced in 1., above, to determine their adequacy. The record drawings shall include a set of approved plans and specifications which identify, at a minimum, substantial deviations referenced in the certification of completion of construction that have occurred since the construction permit was issued; and

3. Plans furnished by the permittee of changes, if any, to the existing treatment or disposal systems that have been made since the issuance of the original construction permit; and

4. Written certification from the permittee on forms approved by the department that:

a. record drawings referenced in 2., above, and an appropriate operation and maintenance manual (pursuant to Section 17-6.150(2)) are available at a specified location; or that

b. updated plans of existing facilities referenced in 3., above, record drawings of modifications referenced in 2., above, and an appropriate operation and maintenance manual (pursuant to Section 17-6.150(2)) are available at a specified location; and

5. A binding agreement for projects involving effluent discharge onto property not owned or under the direct control of the permittee, generally for the term of the useful life of any treatment or disposal facilities, to ensure adequate operation and maintenance of facilities.

Specific Authority: 403.061, 403.087, F.S. Law Implemented: 403.021, 403.061, 403.062, 403.087, 403.088, F.S. History: New 1-1-82, Amended 7-31-83.

17-6.150 Project Documentation.

(1) Comprehensive engineering report documentation to justify any domestic wastewater project shall be submitted with the construction permit application.

(a) Engineering report requirements for land application systems shall be as described in Section 17-6.040(4)(q).

(b) Engineering report requirements for outfalls discharging to coastal or open ocean waters shall include the following considerations, at a minimum.

1. Bottom profiles of the route selected for the outfall and typical cross-sections for outfall segments, joints and diffuser (where provided). All materials shall be described and construction procedures outlined. Structural protection of the outfall shall be addressed; and

2. Disinfection process(es) to be utilized and the operating criteria proposed to establish that microbiological requirements will be met.

(c) Engineering report requirements for new Class I and V underground injection facilities or modification of such facilities shall be as described in Sections 17-28.22, 17-28.32(3), 17-28.33(2), 17-28.34, and 17-28.52, FAC.

(d) Information requirements regarding sludge management (RESERVED).

(2) Operation and Maintenance Manual

(a) An operation and maintenance manual for all domestic wastewater treatment and effluent disposal facilities (including existing facilities) shall be submitted upon request to the department as part of the procedure to obtain an operating permit (including permit renewal) and may be subject to department approval prior to issue of that permit. An operation and maintenance manual for domestic wastewater collection/transmission systems addressed in Section 17-6.050(1) shall be submitted, upon request, to the department as part of the procedure to obtain approval for use per Section 17-6.100(1). The department may accept written certification by the permittee that an appropriate manual is available in lieu of actual submittal. The manual shall provide for the reliable and efficient operation and maintenance of the facilities.

1. The detail of the manual shall be consistent with the complexity of the system. The manual shall be developed in accordance with the unique requirements of the individual wastewater facility and shall provide the operator with adequate information and description regarding the design, operation, and maintenance features of the facility involved.

2. Basic hydraulic and engineering design criteria for the facility shall be included in the manual, as well as information and procedures required for normal control and distribution of wastewater, sludge, and effluent within the facility. Additionally, information concerning process control and performance evaluation for the facility shall be included, as well as equipment and procedural descriptions (including any notification/reporting requirements of appropriate agencies) for emergency operating conditions and listing of spare parts to have on hand. Regular maintenance and repair instructions

for all equipment; laboratory testing equipment and monitoring procedures; safety and personnel requirements; and a "trouble shooting" problem guide shall be included in the manual.

3. Information requirements for land application facilities shall be as contained in Section 17-6.040(4)(q).

4. Information requirements for underground injection well facilities shall be in accordance with Section 17-28.23(3), FAC.

5. A copy of the approved manual shall be provided to the operator by the permittee of the facility; for collection/transmission systems, a copy of the approved manual shall be provided to the person(s) responsible for operation and maintenance of the system, by the party who received the construction permit. The manual shall be available for reference at the facility or other approved site. The permittee shall maintain at least one copy of the approved manual.

(b) The department may require revisions to the manual to reflect any facility alterations performed or to reflect experience resulting from facility operation.

(c) The technical criteria and guidance contained in the technical references listed in (d) below are hereby incorporated by reference and shall be used, where applicable, in determining whether facility operating permits shall be issued or denied except as provided in 1. and 2. below.

1. Deviations from the criteria contained in the references listed in (d) below may be approved by the department provided that the operation and maintenance manual provides reasonable assurance that the proposed operation and maintenance criteria will meet the requirements of this chapter.

2. The department may require deviation from the criteria contained in the references listed in (d) below upon a finding that conformance to them will not assure compliance with the requirements of this chapter or other rules of the department.

(d) Technical References

1. Water Pollution Control Federation, 1976. Manual of Practice No. 11-Operation of Wastewater Treatment Plants. Water Pollution Control Federation, 2626 Pennsylvania Avenue, N.W., Washington, D.C. 20037.

2. California State University, Department of Civil Engineering, 1980. Operation of Wastewater Treatment Plants-Volumes I, II, III. California State University, 600 Jay Street, Sacramento, California 95819.

3. California State University, Department of Civil Engineering, 1970. Operation and Maintenance of Wastewater Collection Systems. California State University, 600 Jay Street, Sacramento, California 95819.

4. New York State Department of Environmental Conservation, 1980. Manual of Instruction for Wastewater Treatment Plant Operators-Volumes I, II. Health Education Service, P. O. Box 7126, Albany, New York 12224.

5. U. S. Environmental Protection Agency, 1977. Aerobic Biological Wastewater Treatment Facilities-Process Control Manual; EPA-430/9-77-006. USEPA Municipal Operations Branch, Office of Water Programs Operations, 401 M Street, S.W., Washington, D.C. 20460.

6. U. S. Environmental Protection Agency, 1977. Package Treatment Plants Operations Manual. USEPA Municipal Operations Branch, Office of Water Programs Operations, 401 M Street, S.W., Washington, D.C. 20460.

(e) Members of the public may request and obtain copies of the references listed in (d) above by contacting the appropriate publisher at the address indicated. Copies of the above publications are on file with the Florida Secretary of State; copies are also on file and available for review in the department's Tallahassee offices (including the Office of Public Information) and in the department's district, subdistrict, and branch offices where they may be reviewed during normal business hours.

Specific Authority: 403.061, 403.087, F.S. Law Implemented: 403.021, 403.061, 403.062, 403.085, 403.086, 403.087, 403.088, F.S. History: New 1-1-82, Amended 5-31-82, 1-29-84.

17-6.160 Existing Facilities.

(1) All permittees of existing domestic wastewater facilities, if operation is continued, shall:

(a) at a minimum, meet secondary or more stringent effluent limitations specified in currently valid permits and comply with each of the applicable provisions of this chapter to the extent presently capable; and

(b) provide a written report within 270 days of the effective date of this chapter detailing each appropriate provision of this chapter with which facilities do not comply, with the exception of the requirements of the Land Application Manual 17-6.040(4)(q) relating to new facilities. If no such report is submitted the facilities will be presumed to be capable of operating in full compliance. As to Type III facilities, the written report need not be submitted until application for renewal is submitted to the department. Construction permits shall contain schedules for achieving full compliance:

1. Where currently valid operating permits expire at least one year from the effective date of this chapter, applications for a construction permit shall be submitted to the department no later than 90 days prior to the expiration of the current operating permit; or

2. Where currently valid operating permits expire prior to one year from the effective date of this chapter, the permit shall be renewed upon application (provided the permittee would have otherwise qualified the operating permit) for a period of one year from the date of expiration of the current operating permit so as to allow submittal, within 90 days prior to expiration of the renewed operating permit, of a construction permit application.

(2) Other than as provided for in Subsection (1)(b)2., above, no operating permit shall be issued or renewed unless the permit applicant demonstrates that the subject facility is in compliance with the applicable provisions of this chapter.

Specific Authority: 403.061, 403.087, F.S. Law Implemented: 403.021, 403.061, 403.062, 403.085, 403.086, 403.087, 403.088, F.S. History: New 1-1-82, Amended 5-31-82.

17-6.170 Variations from Requirements.

(1) The following variations to the requirements of this chapter, in accordance with Section 17-6.010(5),

are provided for domestic wastewater facilities permitted on or before the effective date of this rule.

(a) The no discharge limitation of Section 17-6.080(1)(d) shall not be applicable to existing facilities discharging into Class II waters or Class III waters which are subsequently reclassified as Class II waters.

(b) The requirement contained in Section 17-6.040(4)(q) for a binding agreement (to insure compliance with the construction, operation, maintenance, and monitoring requirements of this chapter) between the permittee of an existing land application project involving treatment or disposal of effluent on property owned by a party other than the permittee shall not be applicable provided:

1. an alternate backup treatment or disposal system is, or can be, permitted by the department, or

2. an approvable contingency plan for treatment or disposal is submitted by the permittee to the department within 90 days after the effective date of this rule.

(2) Additional relief from the criteria established by this chapter may be provided through an exemption, pursuant to Section 17-4.243, FAC, or a variance, pursuant to Section 17-1.57, FAC.

Specific Authority: 403.061, 403.087, F.S. Law Implemented: 403.021, 403.061, 403.062, 403.085, 403.086, 403.087, 403.088, F.S. History: New 1-1-82, Amended 5-31-82, 1-29-84.

17-6.180 Enforcement.

(1) Operational Criteria

(a) General

1. The department may establish facility compliance, or noncompliance, with the waste treatment standards of this chapter using the information submitted pursuant to self-monitoring operational reports required by Chapter 17-19, FAC. For such evaluations, the appropriate effluent compliance concentrations contained in (b), below, shall be applicable. Whenever the department uses the results of a year's operational reports, the annual effluent compliance concentrations given in (b), below, shall be used for compliance determinations. The annual concentrations obtained from self-monitoring operational reports shall be the average of data from consecutive reporting periods (whether daily, monthly, quarterly, or any other basis) which collectively comprise one year; additional compliance determinations may be made for each successive sampling period.

a. For pollutants which are required to be sampled on a bi-weekly or more frequent basis (per Chapter 17-19, FAC), all effluent compliance concentrations shall be applicable. The bi-weekly evaluation shall be based upon the concentration limitation specified for a weekly determination.

b. For pollutants which are required to be sampled on a monthly, quarterly (or less frequent basis), the monthly concentration limitation shall be used as the compliance standard. The annual (as established in 1., above) and maximum-permissible levels shall also be applicable.

2. The department may also take enforcement action based on its own sample collection activities using any of the annual, monthly, weekly, or maximum-permissible operating criteria specified in (b), below.

Use of such data shall not preclude enforcement action pursuant to the provisions of this or any other chapter of the Florida Administrative Code. The use of grab or composite samples for evaluating annual, monthly or weekly compliance shall be generally consistent with grab or composite sampling technique (as opposed to sample scheduling) requirements of Chapter 17-19, FAC, for the specific design flow of the treatment plant at issue. Maximum-permissible concentrations shall be established by grab sampling due to the transient nature of maximum concentrations; it is expected that such samples will be collected during periods of minimal treatment plant pollutant removal efficiencies or maximum organic loading in the effluent. Maximum-permissible concentrations are not intended to be representative of average daily conditions of the treatment plant effluent; grab samples need not be taken at any set time or flow, but the actual time and flow conditions during which such samples are taken shall be recorded.

3. Nothing in this or any other chapters of the Florida Administrative Code shall preclude the use, by the department, of additional or more representative sampling data in establishing compliance status.

(b) Effluent Compliance Concentrations

The applicability of the effluent compliance concentrations contained below to all facilities, whether new or existing, shall depend on the treatment requirements referenced, pursuant to Section 17-6.010(5).

1. In order to determine compliance of a domestic wastewater facility with the secondary treatment standards specified in Section 17-6.060(1)(a)1., (1)(a)2.a., and (1)(a)3.a., the following operational criteria shall be applicable.

a. The arithmetic mean of the BOD or TSS values for the effluent samples collected (whether grab or composite technique is used) during an annual period, as described in Subsection (a)1., above, shall not exceed 20 mg/l.

b. The arithmetic mean of the BOD or TSS values for a minimum of four effluent samples each collected (whether grab or composite technique is used) on a separate day during a period of 30 consecutive days (monthly) shall not exceed 30 mg/l.

c. The arithmetic mean of the BOD or TSS values for a minimum of two effluent samples each collected (whether grab or composite technique is used) on a separate day during a period of 7 consecutive days (weekly) shall not exceed 45 mg/l.

d. Maximum-permissible concentrations of BOD or TSS values in any effluent grab sample at any time shall not exceed 60 mg/l.

2. In order to determine compliance of a domestic wastewater facility with treatment standards more stringent than secondary as specified for additional levels of treatment (i.e., Section 17-6.060(1)(b)), WQBELs (i.e., Section 17-6.060(2)), discharges to contiguous Class I waters (i.e., Section 17-6.080(1)(c)), discharges via shallow well injection systems (i.e., Section 17-6.080(4)(b)), and certain land application systems (i.e., Section 17-6.040(4)(q)), the following operational criteria shall be applicable.

a. The arithmetic mean of the pollutant values for effluent samples collected (whether grab or

composite technique is used) during an annual period, as described in Subsection (a)1., above, shall not exceed the design concentration established for the effluent.

b. The arithmetic mean of the pollutant values for a minimum of four effluent samples each collected (whether grab or composite technique is used) on a separate day during a period of 30 consecutive days (monthly) shall not exceed one and one-quarter times the design concentration for the effluent.

c. The arithmetic mean of the pollutant values for a minimum of two effluent samples each collected (whether grab or composite technique is used) on a separate day during a period of 7 consecutive days (weekly) shall not exceed one and one-half times the design concentration specified for the effluent.

d. Maximum-permissible pollutant concentrations in any effluent grab sample shall not exceed two times the design concentration specified for the effluent.

3. In order to determine compliance of a domestic wastewater facility with the alternative secondary preapplication treatment standards specified in applicable portions of Section 17-6.040(4)(q), the design criteria specified therein shall apply as operational criteria at all times (i.e., the design criteria applies on an annual, monthly, weekly, and maximum-permissible concentration bases). Other operational criteria in this section shall be applicable upon release of the effluent from operational control in order to determine compliance with other requirements of this chapter.

4. In order to determine compliance of a domestic wastewater facility with the basic disinfection level specified in Section 17-6.060 (1)(c)3.a., the following operational criteria (using either MF or equivalent MPN methods) shall be applicable.

a. The arithmetic mean of the monthly fecal coliform values (computed as per b., below) collected during an annual period, as described in Subsection (a)1., above, shall not exceed 200 per 100 ml of effluent sample.

b. The geometric mean of the fecal coliform values for a minimum of ten effluent samples each collected on a separate day during a period of 30 consecutive days (monthly) shall not exceed 200 per 100 ml of sample.

c. No more than ten percent of the samples collected during a period of 30 consecutive days shall exceed 400 fecal coliform values per 100 ml of sample.

d. Any one sample shall not exceed 800 fecal coliform values per 100 ml of sample.

5. In order to determine compliance of a domestic wastewater facility with the intermediate disinfection level specified in Section 17-6.060(1)(c)3.c., the following operational criteria (using the MPN method) shall be applicable.

a. The arithmetic mean of the monthly fecal coliform values (computed as per b., below) collected during an annual period, as described in Subsection (a)1., above, shall exceed 14 per 100 ml of effluent sample.

b. The median value of the fecal coliform values for a minimum number of ten effluent samples each collected on a separate day during a period of 30 consecutive days (monthly) shall not exceed 14 per

100 ml of sample.

c. No more than ten percent of the samples collected during a period of 30 consecutive days shall exceed 43 fecal coliform values per 100 ml of sample.

d. Any one sample shall not exceed 86 fecal coliform values per 100 ml.

6. In order to determine compliance of a domestic wastewater facility with the high-level disinfection criteria and low-level disinfection criteria specified in Section 17-6.060(1)(c)3.b. and 17-6.060(1)(c)3.d., respectively, the design criteria specified therein shall apply as operational criteria at all times. Other operational criteria in this section shall be applicable to effluent involving low-level disinfection preapplication treatment upon release of the effluent from operational control in order to determine compliance with other requirements of this chapter.

7. In order to determine compliance of a domestic wastewater facility with the secondary treatment standards specified in Sections 17-6.060(1)(a)2.b regarding outfalls discharging to open ocean waters, all operational criteria contained in (b)1., above, shall be applicable except that the annual average limitation shall be identicial to the monthly criterion (30 mg/l).

8. In order to determine compliance of a domestic wastewater facility with disinfection criteria (other than the basic level) specified in Section 17-6.080(2)(b), for outfalls discharging to open ocean waters, the disinfection level approved by the department shall apply as operational criteria at all times (i.e., the design criteria applies on an annual, monthly, weekly, and maximum-permissible concentration bases).

9. Effluent compliance criteria, for domestic wastewater facilities established in accordance with Sections 17-6.080(2)(f) and (4)(d), FAC, shall be as approved by the Secretary on a case-by-case basis by Order.

(2) Violations

The following acts and the causing thereof are prohibited.

(a) The release or disposal of excreta, sewage, or other wastewaters or sludge without providing proper treatment approved by the department or otherwise violating provisions of this chapter of other chapters of the Florida Administrative Code.

(b) The failure to construct wastewater facilities substantially in accordance with department approved plans and specifications unless project alterations receive the written approval of the department.

(c) The deliberate introduction of stormwater in any amount into collection/transmission systems designed solely for the introduction (and conveyance) of domestic/industrial wastewater; or the deliberate introduction of stormwater into collection/transmission systems designed for the introduction or conveyance of combinations of storm and domestic/industrial wastewater in amounts which may reduce the efficiency of pollutant removal by the treatment plant.

(d) The acceptance, by the operating authority of a collection/transmission system or by the permittee of a treatment plant, of connections of wastewater discharges which have not received necessary pretreatment or which contain

materials or pollutants (other than normal domestic wastewater constituents):

1. which may cause fire or explosion hazards; or

2. which may cause excessive corrosion or other deterioration of wastewater facilities due to chemical action or pH levels; or

3. which are solid or viscous and obstruct flow or otherwise interfere with wastewater facility operations or treatment; or

4. which result in treatment plant discharges having temperatures above 40°C.

(e) The failure to maintain equipment in a condition which will enable the intended function.

(f) The planned (as opposed to emergency) bypassing of components critical to functioning of the treatment plant as designed, or any other critical part of a wastewater facility, without notification to the department. (The department may not require notification where design redundancy and reliability characteristics provide reasonable assurance that disposal of excreta, sewage, other wastewaters, or sludge, without having received proper treatment approved by the department, will not occur.)

(g) The submission, by the owner, manager, or operator of a domestic wastewater facility, or agent or employee thereof, of misleading, false, or inaccurate information or operational reports to the department, either knowingly or through neglect.

(h) Land application of effluent which results in direct effluent contact with crops intended directly for human consumption unless preapplication treatment levels meet, at a minimum, the requirements for slow-rate land application in public access areas (i.e., Section 17-6.040 (4)(q) and unless the permittee affirmatively demonstrated to the department that processing of the crops will inactivate (or remove) pathogens and that all precautions necessary to protect public health will be taken. Any operating permit which may be issued shall identify the crop and stipulate the conditions under which land application may be practiced.

(i) The operation of land application effluent discharge equipment when authorized persons (other than operators who have taken precautionary measures to minimize contact with the effluent) are known to be within the wetted area (when there is a reasonable possibility of direct contact with the effluent) unless preapplication treatment levels meet the requirements for slow-rate land application in public access areas (i.e., Section 17-6.040(4)(q)).

(j) The operation of land application projects such that wastewater effluents, including effluent from spray irrigation and aerosol drift, reach within 100 feet of outdoor public eating, drinking, or bathing facilities.

(k) The grazing of dairy cattle whose milk is intended for human consumption on pastures onto which effluent has been applied until 15 days after application.

Specific Authority: 403.061, 403.087, F.S. Law Implemented: 403.021, 403.061, 403.062, 403.085, 403.086, 403.087, 403.088, 403.121, 403.131, 403.161, F.S. History: New 1-1-82, Amended 5-31-82, 1-29-84.

PART II
INDUSTRIAL WASTE TREATMENT REQUIREMENTS

17-6.20 is renumbered as 17-6.500.
Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.086, 403.087, 403.088, 403.091, 403.121, 403.141, 403.161, 403.182, 403.502, 403.704, 403.708, F.S. History: New 3-1-79, Renumbered 1-1-82.

17-6.30 is renumbered as 17-6.040.
Specific Authority: 403.061(7), F.S. Law Implemented: 403.061, 403.085, 403.086, 403.087, F.S. History: New 6-23-80, Renumbered 1-1-82.

17-6.300 Effluent Limitations.
The following effluent limitations apply to plants and installations which discharge industrial wastes into waters of the state.

(1) Effluent Limitations Based on the Availability of Technology.

(a)1. Section 301 of Public Law 92-500, the Federal Water Pollution Control Act Amendments of 1972, (FWPCA) requires all existing point source discharges of pollutants to meet uniform technology-based effluent limitations as a minimum. Two levels of effluent limitations are established.

2. The first level is defined as "best practical control technology currently available" (BPT). FWPCA Section 301(b)(1)(A), 33 U.S.C.A. Section 1311(b)(1)(A). By no later than July 1, 1977, dischargers are required to apply BPT as defined by specific effluent limitations issued by the Administrator of the United States Environmental Protection Agency (EPA) pursuant to Section 304(b)(1).

3. The second level is defined as "best available technology economically achievable" (BAT). FWPCA Section 301(b)(2)(A), 33 U.S.C.A. Section 1311(b)(2)(A). By July 1, 1983, dischargers are required to apply BAT, as defined by effluent limitations issued by the Administrator pursuant to Section 304(b)(2).

4. Section 306 requires the Administrator to establish effluent limitations containing performance standards for new sources. For this purpose, "new sources" are defined as any source the construction of which commenced after the publication of proposed regulations prescribing standards for these sources. FWPCA Section 306(a)(2), 33 U.S.C.A. Section 1316(a)(2). After the effective date of new sources performance standards, it is a violation of the Federal Water Pollution Control Act to operate any new source in violation of such standards. FWPCA Section 306(e).

5. Section 307(a) requires and authorizes the Administrator to establish and promulgate effluent limitations for toxic pollutants, which may include a prohibition of the discharge of such pollutants or combination of such pollutants. After the effective date of such effluent standards, it is a violation of the FWPCA to operate any source in violation of such standard or prohibition.

6. Section 307(b) requires and authorizes the Administrator to establish and promulgate pretreatment standards for introduction of pollutants into publicly owned sewage treatment facilities which are not susceptible to treatment by such

facilities or which would interfere with the operation of such treatment works.

(b) The objective of the FWPCA is to restore and maintain the chemical, physical and biological integrity of the nation's waters, and the Act established, as a national goal, that the discharge of pollutants into the navigable waters be eliminated by 1985, Section 101(a), FWPCA.

(c) The FWPCA preserves to each state the power to adopt or enforce any effluent standard or limitation respecting discharge of pollution or control or abatement of pollution which is stricter or more stringent than the comparable federal effluent limitation or standard, Section 510, FWPCA.

(d) Pursuant to the above sections of the FWPCA, the EPA has promulgated and prescribed effluent guidelines and standards (limitations) for new and existing point sources which discharge pollutants. Dischargers are required to comply with these regulations and NPDES permits issued pursuant to Section 402 of the Act must be conditioned upon requirements of Section 301 and 306 (as well as certain other requirements).

(e) The department has reviewed and evaluated the EPA effluent guidelines and standards which have been published as final regulations in the United States Code of Federal Regulations, and are in full force and effect on the date of adoption of this section. With respect to each particular class or category of sources as hereinafter listed, the following EPA Effluent Guidelines and Standards, as they are contained in the United States Code of Federal Regulations and are in effect on the date indicated, are incorporated herein, and adopted by the department, except where expressly supplemented or modified by the Environmental Regulation Commission, and are incorporated by reference as though fully set forth herein:

	EFFLUENT LIMITATIONS; GUIDELINES AND STANDARDS	U.S. CODE OF FEDERAL REGULATIONS
1.	Environmental Protection Agency General Provisions for Effluent Guidelines and Standards	40 CFR 401 (Effective 6-16-76)
2.	Effluent Guidelines and Standards for Dairy Products	40 CFR 405 (Effective 6-16-76)
3.	Effluent Guidelines and Standards for Canned and Preserved Fruits and Vegetables	40 CFR 407 (Effective 6-16-76)
4.	Effluent Guidelines and Standards for Canned and Preserved Seafood	40 CFR 408 (Effective 6-16-76)

5.	Effluent Guidelines and Standards for Sugar Processing	40 CFR 409 (Effective 6-16-76)
6.	Effluent Guidelines and Standards for Textiles	40 CFR 410 (Effective 6-16-76)
7.	Cement Manufacturing Effluent Guidelines and Standards	40 CFR 411 (Effective 6-16-76)
8.	Effluent Guidelines and Standards for Feedlots	40 CFR 412 (Effective 6-16-76)
9.	Effluent Guidelines and Standards for Electroplating	40 CFR 413 (Effective 6-16-76)
10.	Effluent Guidelines and Standards for Soaps and Detergents	40 CFR 417 (Effective 6-16-76)
11.	Effluent Guidelines and Standards for Fertilizer Manaufacturing (Including Sections 418.11, 418.12, 418.13, and 418.15 as amended by EPA on May 19, 1976, in Federal Register, Vol. 41, No. 98, Pages 20.582-20.585	40 CFR 418 (Effective 6-18-76)
12.	Effluent Guidelines and Standards for Petroleum Refining	40 CFR 419 (Effective 6-16-76)
13.	Effluent Guidelines and Standards for NonFerrous Metals	40 CFR 421 (Effective 6-16-76)
14.	Phosphate Manufacturing Effluent Guidelines and Standards	40 CFR 422 (Effective 6-16-76)
15.	Effluent Guidelines and Standards for Steam Electric Power Generating	40 CFR 423 (Effective 6-16-76)
16.	Effluent Guidelines for Ferroalloy Manufacturing	40 CFR 424 (Effective 6-16-76)
17.	Effluent Guidelines and Standards for Glass Manufacturing	40 CFR 426 (Effective 6-16-76)
18.	Effluent Guidelines and Standards for Asbestos Manufacturing	40 CFR 427 (Effective 6-16-76)

17-6.300(1)(e)5. -- 17-6.300(1)(e)18.

19.	Effluent Guidelines for Rubber Processing	40 CFR 428 (Effective 6-16-76)
20.	Effluent Guidelines and Standards for Timber Products	40 CFR 429 (Effective 6-16-76)
21.	Effluent Guidelines and Standards for Pulp, Paper and Paper Board	40 CFR 430 (Effective 6-16-76)
22.	Effluent Guidelines and Standards for Builders Paper and Board Mills	40 CFR 431 (Effective 6-16-76)
23.	Effluent Guidelines and Standards for Coal Mining	40 CFR 434 (Effective 6-16-76)
24.	Effluent Guidelines and Standards for Offshore Oil and Gas Extraction	40 CFR 435 (Effective 6-16-76)
25.	Effluent Guidelines and Standards for Mineral Mining and Processing	40 CFR 436 (Effective 6-16-76)
26.	Effluent Guidelines and Standards for Ore Mining and Dressing	40 CFR 440 (Effective 6-16-76)
27.	Effluent Guidelines and Standards for Paving and Roofing Materials	40 CFR 443 (Effective 6-16-76)
28.	Effluent Guidelines and Standards for Paint Formulating	40 CFR 446 (Effective 6-16-76)
29.	Effluent Guidelines and Standards for Ink Formulating	40 CFR 447 (Effective 6-16-76)
30.	Effluent Guidelines and Standards for Explosives Manufacturing	40 CFR 457 (Effective 6-16-76)

(f) Copies of the above effluent limitations as published in the United States Code of Federal Regulations may be obtained by writing the United States Environmental Protection Agency, Washington, D.C.

(g) In addition, the following regulations which are substantially similar to regulations contained in 40 CFR 124.82 in effect 11/1/78, shall apply to concentrated animal feeding operations:

1. Definitions:

a. The term "animal feeding operation" means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

(i) Animals have been, are or will be stabled or confined and fed

or maintained for a total of 45 days or more in any 12 month period, and

(ii) Crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(iii) Two or more animal feeding operations under common ownership are deemed to be a single animal feeding operation if they are adjacent to each other or if they utilize a common area or system for the disposal of wastes.

b. The term "concentrated animal feeding operation" means an animal feeding operation where more animals are confined than are specified in the following categories:

(i) 1,000 slaughter and feeder cattle,

(ii) 700 mature dairy cattle (whether milked or dry cows),

(iii) 2,500 swine weighing over 55 pounds each,

(iv) 500 horses,

(v) 10,000 sheep or lambs,

(vi) 55,000 turkeys,

(vii) 100,000 laying hens or broilers (if the facility has continuous overflow watering),

(viii) 30,000 laying hens or broilers (if the facility has a liquid manure handling system),

(ix) 5,000 ducks, or

(x) 1,000 animals units.

Provided, however, that no animal feeding operation is a concentrated animal feeding operation as defined above, and thereby subject to the requirement to obtain a discharge permit pursuant to Chapter 403, Florida Statutes, if such animal feeding operation discharges only in the event of a 25 year, 24 hour storm event.

c. The term "animal unit" means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

d. The term "man-made" means constructed by man and used for the purpose of transporting wastes.

2. Application for Permit.

a. Any person discharging or proposing to discharge pollutants from a concentrated animal feeding operation, who has not already done so, shall file an application with the department by December 20, 1978.

b. Each application must be filed on a PERM 14-13 and completed in accordance with the instructions provided in such form.

3. Case-by-case Designation of Concentrated Animal Feeding Operations. Notwithstanding any other provision of this section, the Secretary or authorized designee may designate as a concentrated animal feeding operation any animal feeding operation not otherwise falling within the definition provided in sub-subparagraph (g)1.b. above. In making such designation, the Secretary or authorized designee shall consider the following factors:

a. The size of the animal feeding operation and the amount of wastes reaching waters of the State;

b. The location of the animal feeding operation relative to waters of the State;

c. The means of conveyance of animal wastes and process waste waters into waters of the State;

d. The slope, vegetation, rainfall, and other factors relative to

the likelihood or frequency of discharge of animal wastes and process waste waters into waters of the State; and

e. Other such factors relative to the significance of the pollution problem sought to be regulated.

f. Provided, however, that no animal feeding operation with less than the number of animals set forth in (a)(2)A. above shall be designated as a concentrated animal feeding operation unless such animal feeding operation meets either of the following conditions:

(i) Pollutants are discharged into waters of the state through a man-made ditch, flushing system or other similar man-made device; or

(ii) Pollutants are discharged directly into waters of the state which originate outside of and pass over, across, through the feeding operation or come into direct contact with the animals confined in the operation.

4. In no case shall a permit application be required from a concentrated animal feeding operation designated pursuant to this section until there has been an onsite inspection of the operation and a determination that the operation should and could be regulated under the permit program. In addition, no application shall be required from an owner or operator of a concentrated animal feeding operation designated pursuant to this section unless such owner or operator is notified in writing of the requirement to apply for a permit, and the basis for imposing such requirement.

(h) All department permits issued pursuant to Sections 403.087 and 403.088, Florida Statutes, shall, as a minimum, require compliance with the above referenced effluent limitations. In establishing the effluent limitations contained in paragraph (1)(e), which define best practical control technology currently available (BPT) and best available technology economically achievable (BAT), the United States EPA relied on the industry-wide information with respect to specific factors.

(i) In determining BPT, the following factors were considered:

a. Total costs of application of technology in relation to the effluent reduction benefits to be achieved from such application.

b. The age of equipment and facilities involved.

c. The process involved.

d. The engineering aspects of the application of various types of control techniques.

e. Process changes.

f. Non-water quality environmental impact (including energy requirements).

g. Such other factors as the Administrator deemed appropriate.

(j) The following factors were considered in determining BAT:

a. Age of equipment and facilities involved.

b. Process employed.

c. The engineering aspects of the application of various types of control techniques.

d. Process changes.

e. The cost of achieving such effluent reduction.

f. Non-water quality environmental impact (including energy requirements).

g. Such other factors as the Administrator of the EPA deemed appropriate.

(k) It is possible that the above factors pertaining to a particular source or category of

sources located within the state are fundamentally different from the industrywide factors considered by the EPA in establishing the limitations. If, based on a preponderance of competent substantial evidence, the department determines that such fundamentally different factors exist in relation to a particular source, it may establish for such source, by order or permit condition, and after notice and public hearing, an effluent limitation which is more or less stringent than the EPA effluent limitation, to the extent dictated by such fundamentally different factors. In no case shall a department permit contain an effluent limitation less stringent than one contained in an NPDES permit issued to a source by the EPA.

(l) All industrial sources which are included in those classes or categories of industry listed in paragraph (1)(e) shall comply with the applicable guidelines, standards and limitations in accordance with the time schedules contained therein. However, no source shall be relieved from complying with any pollution abatement plan or schedule, including a plant or process modification which is contained in any currently valid department permit, or order or judicial judgment. However, this does not preclude modification of a department permit, order, or judicial judgment in accordance with applicable rules and regulations.

(m) The effluent guidelines, standards, and limitations contained in paragraph (1)(e) represent minimum levels of treatment based upon available technology, and are not based on the quality of the waters which receive the industrial waste discharges. In accordance with Section 301(b)(1)(c) of the FWPCA, Section 403.088, Florida Statutes and subsection (2) of this section, more stringent effluent limitations may be required and applied by department permits issued pursuant to Section 403.087 and 403.088, Florida Statutes, in order to meet any applicable water quality standards.

(n)1. All sources of industrial waste reasonably expected to be sources of water pollution which are not contained in the classes or categories of sources contained in paragraph (1)(e) above, shall, as a minimum level of treatment, provide secondary waste treatment as required by Section 403.085, Florida Statutes. Such secondary treatment shall be applied against the total untreated waste produced by a given plant. For the purposes of this subsection, "secondary treatment" shall be equivalent to "secondary treatment", as defined in Part I Section 17-6.060(1)(a), F.A.C., and applicable to domestic waste (sewage) plants. A comparable degree of treatment for industrial waste not amenable to biological treatment will be determined and applied through the issuance of department permits.

2. The minimum treatment requirement is unrelated to the quality of the water in the receiving water body. Under Section 17-6.300 (1)(b), F.A.C., more stringent limitations may be required and applied in order to meet and comply with any applicable water quality standards.

(o) Notwithstanding technology based effluent limitations contained in this Section, industrial wastes discharged into ground waters shall receive secondary treatment or such other treatment as deemed necessary by the department.

(p) All sources of industrial waste reasonably expected to be

sources of pollution to Class G-II or G-IV waters, which are not contained in the classes or categories of sources contained in paragraph (1)(e) above, shall provide a minimum level of treatment such that the waste to be discharged does not affect the mechanical integrity of the well, does not jeopardize the integrity of the confining zone, and does not alter the hydrologic characteristics of the injection zone to the point of endangering underground sources of drinking water. The department may determine on a case-by-case basis the level of pre-treatment required.

(2) Effluent Limitations Based on Water Quality Considerations.

(a) Pursuant to Section 403.061 (11), Florida Statutes, and as required by the Federal Water Quality Act of 1965, Public Law 89-234, 79 Stat. 903, and Section 303 of the FWPCA, the department has adopted water quality standards contained in Chapter 17-3, F.A.C., which have subsequently been approved by the EPA. The standards contain water quality criteria which are applicable to each classification of receiving waters. Section 403.088 (3)(b), Florida Statutes, requires the department to deny an application for a permit if it finds that the proposed discharge will reduce the quality of the receiving waters below the classification established for them.

(b) Section 301(b)(1)(c) and Section 302 of the FWPCA provide that all discharges of industrial wastes may be required to meet, in addition to technology based effluent limitations, more stringent limitations required to implement applicable state water quality standards established pursuant to the Act. This requirement is enforced and implemented through Section 309 and the National Pollutant Discharge Elimination System established by Section 402 of the Act.

(c) Pursuant to Section 403.087 and Section 403.088, Florida Statutes, no wastes shall be discharged into waters of the state which will violate applicable state water quality standards or reduce the quality of the receiving waters below the criteria established for its respective classification contained in Chapter 17-3, F.A.C.

(d) The effluent limitations based on water quality standards shall be determined by application of accepted scientific methods based upon, but not limited to, a consideration of the following:

1. The condition of the receiving body of water including present and future flow conditions and present and future sources of pollutants.

2. The nature, volume and frequency of the proposed discharge of waste including any possible synergistic effects with other pollutants which may be present in the receiving body of water.

(3) For the purposes of this section, the term "Treatment" means the use of any device, system, process or method for preventing, abating, reducing, treating, separating, recycling, reclaiming, reusing, recovering, or eliminating pollutants in industrial waste.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.086, 403.087, 403.088, 403.091, 403.101, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708, F.S.
History: Formerly 28-5.04, 17-3.04, Amended and Renumbered 3-1-79, Amended 1-1-82, 5-31-82, 1-29-84.

17-6.310 Phosphate Mining Waste Treatment Requirements.

The Effluent Guidelines and Standards for Mineral Mining and Processing, 40 United States Code of Federal Regulations, as incorporated in subparagraph 17-6.300(1)(e)25. apply, except as to the following:

(1) Purpose.

(a) The purpose of this rule is to establish effluent guidelines and standards for mining and processing phosphate bearing rock, ore, earth, or any material for phosphate content.

(b) 40 United States Code of Federal Regulation Sections 436.180, 436.181, and 436.182 apply herein, except where the provisions of this rule are more specific.

(2) Definitions.

The definitions set forth in Title 40, United States Code of Federal Regulations, Part 401 and Section 436.181, are adopted by reference, except where in conflict with the definitions in this rule. In addition, the definitions in Section 403.031, Florida Statutes, and the following definitions shall apply to this rule:

(a) "Mine" is any area of land, surface or underground, used for or resulting from the extraction of phosphate content from phosphate bearing materials.

(b) "Points of Discharge" mean any outfall structure or location where the effluent from the mining or beneficiation process leaves the treatment system and enters waters of the State. The point of discharge shall be specified in department permits for all discharges from a mining or benefication process.

(c) "Sample" means a representative sample of the discharge.

(d) The "1-Day Maximum" means the highest values obtained by the methods specified in this rule of total non-volatile, non-filterable residue (fixed solids) and total non-filterable residue (suspended solids) or total phosphorus (P) of any sample collected as defined in (c) during a 24-hour period.

(e) The "30-Day Average" means the flow-weighted arithmetic mean of all the measured pollutant values obtained during any calendar month and analyzed in accordance with this rule. However, if during any calendar month there are three or less measured pollutant values, then the average shall be computed using the most recent four values.

(f) A "New Pollution Source" means any mine and beneficiation process for which the construction or operation of the industrial wastewater treatment facilities was not permitted before July 20, 1981. Any mine or beneficiation process for which a complete application to construct the industrial waste treatment facilities was filed with the department on or before December 31, 1981, shall be deemed as existing. New pollution sources do not include expansions or modifications of existing sources.

(g) "Total Non-filterable Residue (Total Suspended Solids)" means those solids which are retained by an approved filter and dried to a constant weight at 103° to 105° C as described at page 94 of the 14th edition of Standard Methods for the Examination of Water and Wastewater.

(h) "Non-filterable, Non-volatile Residue (Fixed Solids)" means those solids which represent the difference between the total non-filterable residue and the total volatile residue determined in accordance with the test methods specified at page 95 of the 14th edition of Standard Methods for the

Examination of Water and Wastewater.

(i) "Total Phosphorus" means the total phosphorus in an unfiltered sample measured in milligrams per liter using the manual or automated ascorbic acid method following persulfate digestion as referenced at pages 476, 481, and 624 of the 14th edition of Standard Methods for the Examination of Water and Wastewater or measured in accordance with a comparable analytical method approved by the United States EPA or the department.

(j) "Normal Working Level" of an impoundment means that level resulting from the normal height or number of damming boards maintained at the outfall(s) under normal operating conditions.

(3) To correct for losses during the testing and analysis, the analytic results from the above specified tests for non-filterable, non-volatile residue (fixed solids) shall be multiplied by a factor of 1.1 to be reported as total non-volatile, non-filterable residue.

(4) Monitoring requirements for effluent limitations shall be, as a minimum, the collection and analysis of one sample per week for each point of discharge when there is a discharge. When there is no discharge, the sample shall be taken the day of the next discharge.

(5) The following effluent limitations apply to effluent discharges by a pollution source after application of the best practicable control technology currently available (BPT) and the best available technology economically achievable (BAT) or which may be discharged by a new pollution source, unless a more stringent standard is specified in accordance with paragraph (7), measured at the point(s) of discharge as specified in a department permit:

	1 Day Max.	30 Day
Total non-volatile, non-filterable residue (mg/1)	25	12
Total non-filterable residue (mg/1)	60	30
Total P* mg/1	5	3
pH	6.0 - 9.0	6.0 - 9.0

*Total Phosphorus shall be for monitoring and reporting only, except: if monitoring data shows total phosphorus levels exceed 3 mg/1 monthly average for more than one 30-day period per calendar year, the discharges, upon written notification by the department, shall prepare and file within 120 days (unless the time is extended by the department) a study consisting of the following: (1) a chronology of at least one year's discharge data; (2) an assessment of the cause and origin of the phosphorus constituent of the discharge, (3) description of the discharger's current maintenance, operation and management practices directly related to the control of phosphorus, (4) an evaluation of the environmental significance of the phosphorus levels; and (5) an identity of reasonable methods to abate, to the extent practicable, the

influx of phosphorus into the discharge. Upon receipt of the report the department shall require the applicant to publish a public notice in a newpaper of general circulation in the affected area which states that the report was received and where it is available for public inspection. The department shall evaluate the report and may amend the discharger's permit to reflect additional requirements (subject to administrative and judicial review), including the implementation of cost-effective management practices or technological advances which reduce or eliminate the phosphorus in the discharge to the maximum extent practicable.

(6) Any overflow caused by precipitation exceeding a 10-year 24-hour precipitation event from facilities designed, constructed, and operated to contain or treat to the applicable limitations the precipitation and runoff resulting from a 10-year 24-hour precipitation event shall not be subject to the effluent limitations of this section. No such overflow shall lower the level of any impoundment below the normal working level of that impoundment or any other impoundment, or below those levels that existed immediately prior to the 10-year 24-hour precipitation event. Provided, however, no source shall be relieved from compliance with Chapter 17-9, Florida Administrative Code.

(7) New pollution sources shall comply with the effluent limitations determined by the department in accordance with this paragraph.

(a) The applicant shall provide the department with the following information in addition to the information required by Chapters 17-1, 17-3, 17-4, and 17-6, Florida Administrative Code:

1. A review of the treatment technologies being applied by similar domestic mining industries, listing the effluent concentration of pollutants, as well as a review of current literature relating to the subject of treating wastes from similar domestic mining industries.

2. A determination of the lowest effluent limitations achievable for the facility by the application of the latest economically feasible technology.

3. The basis for determining the effluent limitations specified in 2. above, and the basis for the determination of the economic feasibility of the technology.

(b) The department shall make the determination of the lowest effluent limitation levels achievable for the facility by the application of the latest economically feasible technology. The limitations determined by the department shall be for the parameters listed in paragraph (5) and any other pollutant reasonably expected to be in the discharge and shall not be less stringent than the concentrations contained in paragraph (5) except as provided in paragraph (7)(d). In making the determination, the department shall give consideration to:

1. All material submitted by the applicant.

2. All scientific, engineering, and technical material, and other material available to the department, including the effluent pollutant levels achieved by similar domestic mining industry or analogous treatment technologies.

3. The social, environmental, and economic impact of the application and implementation of the

achievement of the concentrations and discharge levels specified. The consequences of water conservation practices shall be considered.

(c) The effluent limitations determined in accordance with this paragraph shall be specifed in terms of 1-day maximum and 30-day average in the department permit for the facility and shall be the effluent standards for the facility except as provided in paragraph (7)(d).

(d) If, pursuant to this paragraph, the department imposes more stringent effluent limitations than those in paragraph (5) after determining that such more stringent effluent limitations can be attained by the application of innovative technology that has not been demonstrated on an operational plant-scale basis at a phosphate mine, the actual measured concentration of pollutant levels in discharged waste waters shall constitute compliance with the provisions of this chapter and with the effluent limitations contained in the department permit for the source; provided that the permittee installs, operates, and maintains the required innovative technology in accordance with good engineering practices, public health and safety are not jeopardized, and the beneficial uses of the receiving waters are not substantially impaired.

(e) Within 15 days after receipt of the application for a construction permit for a facility which requires a determination in accordance with this paragraph, the department, at the expense of the applicant, shall give notice of the application in the Florida Administrative Weekly and in a newspaper of general circulation in the affected area concerning the determination required by this paragraph. The notice shall contain, as a minimum, the following information: the name of the applicant, the location of the proposed facility, the proposed receiving water, that an application has been received, the date received, the place where the application can be reviewed, and of the determination required by this paragraph.
General Authority: 403.061, F.S.
Law Implemented: 403.021, 403.061, 403.087, 403.088, 403.101, 403.111, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702, F.S. History: New 7-21-81, Amended 1-29-84.

PART III
WATER QUALITY-BASED EFFLUENT LIMITATIONS

17-6.400 Surface Waters.

(1) In addition to any technology-based surface water effluent limitations required under the provisions of this chapter all activities and discharges, other than dredge and fill activities, shall also meet water quality-based effluent limitations where necessary to meet water quality standards.

(a) A water quality-based effluent limit shall be determined by the department based upon the characteristics of discharge, the receiving water characteristics, and the criteria and standards of Chapters 17-3, 17-4, FAC, and this chapter. The department shall supply the information regarding ambient water quality which is necessary for this determination. No zone of mixing shall be provided for any parameters for which the applicant fails or declines to provide the necessary characteristics of the discharge.

(b) The department may decline

to specify effluent limitations in permits required for:

1. Stationary installations created by dredging and/or filling; or,

2. Stationary installations for the discharge of drainage.

(c) For the stationary installations described in paragraph (b), an applicant shall provide the department with reasonable assurance that the proposed discharge will comply with water quality standards. Reasonable assurance may be based upon:

1. Scientific studies which may include mathematical water quality modeling and biological studies; or

2. Proposed use of any pollution control technique which assures compliance with water quality standards.

(d) Except in instances where irreparable injury may occur the department shall not institute enforcement action for a violation of water quality standards for a component or characteristic of a discharge for which the department has declined to provide an effluent limit or for which an effluent limitation has been specified in a permit and with which effluent limitation the permittee is in compliance. However, the department shall not be precluded from:

1. Instituting an enforcement action for a violation of water quality standards based upon a component for which an effluent limitation has been specified in a permit, but with which effluent limitation the permittee is not in compliance; or

2. Instituting an enforcement action for a violation of water quality standards based upon a component or characteristic of a discharge for which an effluent limit or the determination that no such limit was needed was derived from erroneous, false, or misleading information submitted by or on behalf of the permit applicant; or

3. Instituting an enforcement action for a violation of water quality standards based upon a component or characteristic of a discharge for which no effluent limit has been specified in a permit because the applicant failed or declined to provide, in the application for such permit, information which adequately describes such component or characteristic so as to establish the relationship necessary to establish a water quality-based effluent limit; or

4. Instituting an enforcement action for a violation of the limitations imposed via Part I, Section 17-6.18.

(e) In the case of drainage discharges permitted under paragraph (c) and for which no effluent limitations have been specified in a permit, the department shall not institute enforcement action during the term of the permit, except:

1. Where irreparable harm may occur; or

2. For violations of conditions of a permit.

(2) Effluent limitations based upon water quality standards and the provisions of Section 17-4.244, FAC, shall be determined by application of accepted scientific methods. It is recognized that models and other scientific methods of predicting the concentrations of pollutants result in estimated values of concentrations. Such estimates shall be acceptable for the purpose of determining effluent limitations provided that the most reliable and complete

data reasonably available to the department have been applied. Accepted scientific methods shall be based upon, but not limited to, a consideration of the following:

(a) The condition of the receiving body of water including present and future flow conditions and present and future sources of pollutants; and

(b) The nature, volume, and frequency of the proposed discharge of waste, including any possible synergistic effects with other pollutants or substances which may be present in the receiving body of water.

(3) Except in instances where irreparable injury may occur, the department shall not institute enforcement action for a violation of water quality standards against the holder of a permit in force upon the effective date of this rule as long as the permittee complies with effluent limitations contained therein. Upon renewal or modification of an existing permit, the other provisions and requirements of this section shall apply.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.086, 403.087, 403.088, 403.091, 403.101, 403.121, 403.141, 403.161, 403.182, 403.502, 403.704, 403.708, F.S. History: Formerly 17-6.10, Amended and Renumbered 1-1-82.

17-6.500 Groundwaters.

(1) In addition to any technology-based groundwater effluent limitations required by department rule, all sources shall also meet water quality-based effluent limitations where necessary to meet groundwater quality standards.

(2) Effluent limitations based on water quality standards and the provisions of Section 17-4.245, FAC, shall be determined by application of accepted scientific methods based upon, but not limited to, a consideration of the following:

(a) The condition and direction of flow of the receiving body of groundwater; and

(b) Other present and known future sources of pollutants; and

(c) Proximity of present and known future water supply facilities; and

(d) The nature, volume, and frequency of the proposed discharge of waste including any possible synergistic effects with other pollutants or substances which may be present in the receiving body of groundwater; and

(e) Geologic conditions; and

(f) A zone of discharge wherein natural treatment, dilution, or mixture of wastes with receiving groundwaters may occur.

Specific Authority: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805, F.S. Law Implemented: 403.021, 403.061, 403.086, 403.087, 403.088, 403.091, 403.121, 403.141, 403.161, 403.182, 403.502, 403.704, 403.708, F.S. History: Formerly 17-6.20, Renumbered. 1-1-82.

CHAPTER 17-17

ELECTRICAL POWER PLANT SITING

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PART I

17-17.01 General.
Specific Authority: 403.502, 403.509(1), F.S. Law Implemented: 403.502, F.S. History: New 5-7-74, Amended 12-27-77, Transferred to 17-17.011, 5-9-83.

17-17.011 General.

(1) The purpose of this chapter is to implement the provisions of the Florida Electrical Power Plant Siting Act, as amended.

(2) The department promulgates this chapter pursuant to the charge of the legislature to provide efficient, centralized review of the needs for increased electrical power generation and the effects of generation-related activities on human health and the environment and ecology of the lands and waters within the state.

(3) Upon application, the Board is authorized to certify a site for maximum predicted steam or solar generation pursuant to Chapter 17-17, Part I, FAC. The applicant shall submit a supplemental application for certification of the construction and operation of additional electrical power plants to be located at sites which have been previously certified for an ultimate site capacity. The supplemental application shall show that the additional unit or units conform to the environmental standards being enforced by federal or state governments having jurisdiction at the time of the supplemental application and shall be subject to this chapter.

Specific Authority: 403.502, 403.504(1), 403.509(1), F.S. Law Implemented: 403.502, 403.504(2)(3)(5), F.S. History: New 5-7-74, Amended 12-27-77, Formerly 17-17.01, Amended 5-9-83.

(d) The reasons why abandonment is desired.

(2) A petition alleging failure of an applicant to commence construction of an electrical power plant which has been certified, either within 15 years of the date of the issuance of such certification or within 15 years of the date construction was scheduled to commence on such plant, as shown in the application, whichever is the later date. For good cause shown, which shall include but not be limited to permitting delays, the time of abandonment under this subsection may be waived by the Board.

Specific Authority: 403.504(1)(8), F.S. Law Implemented: 403.509, F.S. History: New 5-7-74, Amended 12-27-77, Formerly 17-17.14(2), Amended 5-9-83.

PART II

17-17.51 General.

(1) The department adopts Part II of this chapter pursuant to the charge of the legislature to provide an efficient, centralized, and coordinated permitting process for evaluating the location of the transmission line corridors, the construction, electric and magnetic field effects, and maintenance of transmission lines, and their effects on human health, safety and welfare, the environment, and electric power system reliability and integrity.

The purpose of Part II of this chapter is to implement the provisions of the Transmission Line Siting Act, an act relating to environmental permitting, and electric system reliability and integrity.

(2) The certification of a transmission line corridor shall incorporate the determination of need issued by the Public Service Commission and shall constitute the sole license of the state and any agency as to the approval of the location of the transmission line corridors, the construction, electric and magnetic field effects, and maintenence of transmission lines, subject to the terms of the conditions of certification.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.521, 403.531, F.S. History: New 11-20-80, Amended 6-26-84.

17-17.52 Definitions.

Words, terms, and phrases used in this chapter, unless otherwise indicated, shall have the meaning set forth in Section 403.522, Florida Statutes. In addition, the following words when used in this Part shall have the indicated meanings:

(1) "Act" means the Transmission Line Siting Act, Sections 403.52 through 403.539, F.S.

(2) "Access road" shall mean a road within the corridor as recorded pursuant to s. 403.5312, F.S., and which is used to gain access to the rights-of-way, transmission towers, or other utility property or facilities, including those roads used for maintenance purposes. The term includes access roads within the certified corridor outside of the transmission line rights-of-way.

(3) "Alternate corridors" shall mean corridors proposed by parties other than the applicant pursuant to the provisions of s. 403.527(5), F.S.

(4) "Construction" means any clearing of land, excavation or other action by the applicant which would alter the physical environment or ecology of a corridor, but does not include those activities essential for surveying, preliminary corridor evaluation, environmental studies, or trimming of vegetation.

(5) "Maintenance" means the act of physically maintaining the transmission line including the right-of-way.

(6) "Primary corridor" shall mean the preferred original corridor which the applicant seeks to have certified.

(7) "Secondary corridors" shall mean corridors proposed for certification by the applicant which are not the primary corridor for which certification is sought.

(8) "Secretary" means the Secretary of the Department of Environmental Regulation, or the duly authorized designee.

(9) "Working days" shall mean

the days of the week during which the state conducts business. Unless otherwise indicated, "days" shall mean calendar days.
Specific Authority: 403.523(1), F.S. Law Implemented: 403.522, F.S. History: New 11-20-80, Amended 6-26-84.

17-17.53 Prohibitions.

Unless exempted by the Act, no person shall construct any transmission line requiring certification under this act without a valid certification issued by the Board pursuant to the requirements of this act. Any applicant may at any time perform construction activities otherwise authorized by law in rights-of-way owned or controlled by the applicant.
Specific Authority: 403.523(1), F.S. Law Implemented: 403.524, F.S. History: New 11-20-80, Amended 6-26-84.

17-17.54 Application for Corridor Certification, Amendments, Modifications.

(1) Applications for certification shall follow the format and shall be supported by information and technical studies, as prescribed by DER form 17-1.212(1), FAC, unless otherwise agreed to by the Department and affected agencies. Prior to application filing, the applicant may request and the department shall grant a meeting between the applicant, the department and all potential statutory parties which are known to determine what informational requirements required by the application form may be waived, modified, or reduced in scope for a particular application. Subsequent to this meeting, the applicant may submit a written agreement to the department and all potential statutory parties which are known as to the appropriate changes in scope, quantity, and specificity of information to be provided in the application. The department shall publish notice of receipt of the proposed written agreement as provided in FAC Rule 17-17.75(2). After publication of notice, such written agreement shall be deemed binding except to the extent an affected agency specifically disagrees within 25 days of receipt of the proposed written agreement and indicates all changes necessary to render the written agreement acceptable to the agency. All such changes with which the applicant agrees in writing shall be incorporated into the agreement. If an agency and the applicant are unable to agree on a proposed change of application information requirements, the applicant must fully complete the portion of the application with which there is disagreement. Any affected agencies' disagreements shall be in writing and include the reasons for such disagreements.

(2) 40 copies of the certification application shall be submitted by the applicant to the department. The department may provide in the application form, or by written agreement with the applicant, that less than 40 copies be submitted of parts of the certification application. The department shall distribute a copy of the application to:

(a) The water management district as defined in Chapter 373, F.S., in whose jurisdiction the proposed transmission line corridor is to be located, the Department of Community Affairs, Public Service Commission, the Department of Natural Resources, Game and Fresh Water

Fish Commission, regional planning councils, and local governments in whose jurisdiction the proposed transmission line corridor is to be located, within 7 days of its receipt by the department.

(b) Any other agencies who in its judgment the department feels will be affected such as the Department of State, Division of Archives, History and Records Management, and Department of Transportation, or who have indicated interest in the proceedings, within 15 days of receipt of the application by the department.

(c) All other parties to the certification proceeding within 15 days of its receipt or within 7 days of their appearance, whichever is later.

(d) Within five days of distribution, the department shall provide a list to the applicant of the names and addresses of all the persons to whom the application was distributed.

(3)(a) Any amendments made to the application shall be sent by the applicant to the hearing officer and to all parties to the proceeding as well as to all persons who received a copy of the application.

(b) Amendments to an application shall follow the format and shall be supported by information as prescribed by DER form 17-1.212(1), FAC. Appropriate revisions to the application text, figures, and photographs must be made to reflect the changes. Amendments may be submitted initially as correspondence, but formal revisions to the application, either in the form of amended application pages or an errata sheet listing all necessary changes to application pages, must be distributed within 15 days of correspondence submittal.

(c) Any correspondence from the applicant, including responses to agency completeness or sufficiency findings, which materially alters information contained in the application, shall be deemed an amendment.

(4)(a) Except as otherwise provided in the conditions of certification, requests or petitions to modify certification shall be filed for all changes in transmission line corridor alignment.

(b) Except as otherwise provided in the conditions of certification, expansions in right-of-way width will be considered modifications pursuant to Section 403.5315, Florida Statutes.

Specific Authority: 403.523(1), F.S.
Law Implemented: 403.523(1)(2)(3)(5)(6), 403.525(2)(3), 403.5275, F.S. History: New 11-20-80, Amended 6-26-84; 17-17.54(4) Transferred to 17-17.545(1) and Amended 6-26-84.

17-17.543 Alternate or Multiple Corridor Information.

(1) Information submittals for Alternate Corridor proposals must address all portions of the application form (DER form 17-1.212(1) FAC). The level of detail therein shall be commensurate with the scale of change in comparison to the applicant's original proposal. The information shall be filed with the Division of Administrative Hearings and served on the department and all other parties to the proceeding within 45 days of the filing of the alternate corridor proposal. Failure to file and serve the information as provided in this subsection shall constitute a voluntary withdrawal of the proposed alternate corridor and the alternate corridor shall not be

a corridor proper for certification at the certification hearing.

(2) An applicant may choose at its option to propose more than one corridor as being proper for certification in the original application. If information on more than one corridor is included in the application, the applicant must clearly indicate which is the primary corridor versus secondary corridors.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.523(1)(2)(3)(5)(6), 403.527(5), F.S. History: New 6-26-84.

17-17.545 Fees, Disbursement of Funds, Contracts.

(1) The appropriate application fee shall accompany the application, or request or petition for modification, as applicable, and shall be a condition precedent to consideration or action on the application, request, or petition by the department.

(a) The application fee is $750 per mile as measured along the centerline of the corridor with a $20,000 minimum. Portions of a mile shall be computed on a decimal basis, e.g. the fee for 74.33 miles would be $55,747.50. When an applicant proposes secondary corridors as well as a primary one for consideration for certification, the application fee shall be computed on the basis of the longest corridor.

(b) An additional fee of $2,000 plus $750 per mile of the total realigned portion(s) of the corridor shall be submitted whenever an amendment is proposed by the applicant which includes one or more corridor alignment changes. Portions of a mile shall be computed on a decimal basis. No additional fee is required from an applicant for corridor changes initiated by other parties even if the applicant either does not object to or supports such a change.

(c) A $2,000 modification fee shall be submitted to the department, with each request for modification filed with the department pursuant to s. 403.5315(2), F.S., and each petition for modification filed with the department pursuant to s. 403.5315(3), F.S. In the case where such modifications include a proposal by the applicant for a corridor alignment change, the fee shall be $2,000 plus $750 per mile of corridor realignment as measured along the centerline of the realigned portion of the corridor. Portions of a mile shall be computed on a decimal basis. Any sums remaining after payment of authorized costs shall be refunded to the party requesting the modification within 90 days of approval or denial of the modification by the Board, or withdrawal of the modification request or petition.

(d) The applicant shall pay for all notices required pursuant to s. 403.527(1), F.S., which have been arranged for publication by the department pursuant to the act within 45 days of receipt of an invoice for reimbursement from the department. The department shall coordinate with the applicant prior to making arrangements for such notices with each newspaper.

(2)(a) All fees required of the applicant under this Chapter are to be paid into the department's Industrial Siting Trust Fund and thereafter drawn upon by the department and other authorized agencies upon submittal of an invoice for costs incurred in processing the

applicaton. All such funds so deposited shall be subject to state auditing procedures. Any sums remaining after payment of authorized costs shall be refunded to the applicant within 90 days after the issuance or denial of certification or withdrawal of the application. The applicant shall be provided with an itemized accounting of the expenditures.

(b)1. The department and other authorized state agencies may seek reimbursement from the fee for the following authorized expenses:

a. Travel.

b. Per diem.

c. Studies for the Report.

d. Contracts for studies pursuant to subsection (d) below.

e. Site-inspections.

f. Copying costs.

g. Telephone expenses.

h. Materials (e.g. maps, aerial-photographs).

i. Hearing costs.

j. Other Personal Service expenses.

k. Notices required by the hearing officer pursuant to Florida Administrative Code Rule 17-17.76(3).

l. Reserved.

m. Indirect expenses such as overhead.

2. Salary monies for full-time state agency employees are not authorized expenses.

3. Authorized local governments and regional planning councils may charge for the items listed in 1. above, as well as:

a. Salary monies.

b. The cost of public notice directly related to informational public meetings held pursuant to s. 403.5272, F.S.

4. Expenses of the agencies shall be reimbursed only at the conclusion of the certification proceedings. Invoices for reimbursement must be submitted within 30 days of final action by the Siting Board and must be accompanied by an itemization of the time and expenses incurred. Reimbursement shall occur no sooner than 45 days after final action by the Siting Board. Expenses in excess of the agency's pro-rata share of the fee shall be the responsibility of the agency incurring them.

(c) It shall be the responsibility of the department to notify agencies in writing at the time of application distribution of the amount of the fee and an approximate figure of the portion of the fee which may be available for use by the individual agency; this estimate shall be made on the following basis: 35% of the fee shall be set aside for use by the department to cover hearing room, transcription, and report publication costs, and to cover post-certification review costs identified in conditions of certification. The remainder of the fee will be equally divided among the department and the other agencies for the authorized expenses set forth in (b)1. This estimate is in no way binding on the department during the disbursement of funds but is intended to provide guidance to the agencies in their budgeting.

(d)1. Any agency intending to incur an expense for a contract for studies under the Act shall first obtain prior written approval from the department. All such studies shall be related to the jurisdiction of the agencies and shall be directly related to the evaluation of the certification application. The applicant shall be furnished with a

copy of any request for approval of a contract for studies within 10 days of receipt by the department.

2. The department shall review the amount and purpose for the contract for studies and indicate its approval or disapproval within 15 days. The applicant shall be furnished with a copy of any approved or disapproved contract for studies no later than 10 days after such approval or disapproval by the department.

3. Any such contract must specify that:

a. Receipt of the preliminary results will be available in time for agency report submittals with final results available at least 30 days prior to the certification hearing.

b. The studies shall be finalized in writing.

c. Final reimbursement to the agency and thus to the contractor shall not occur unless complete results are submitted such that the schedule of paragraph a. above can be met.

d. The contractor will be available to act as a witness in certification proceedings.

(3) The breach of any provision of a contract for studies shall not be grounds for the alteration of any time limitation in the Act pursuant to s. 403.528, F.S.

(4) Pursuant to the provisions of subsection 403.523(13), F.S., the department may withhold from the application fee a reasonable sum sufficient to cover costs associated with post certification monitoring of the activities required by any condition of certification. Such sums shall be specified by the Board as part of each condition. Upon completion of any such reviews, any sums remaining shall be refunded to the applicant.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.523(3)(5)(7)(11)(13), 403.5275, F.S. History: New 11-20-80; Formerly 17-17.54(4), Transferred from and Amended 6-26-84.

17-17.55 Hearing Officer Appointment, Duties and Powers.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.523(5), 403.527(5), 403.525, 403.528, F.S. History: New 11-20-80, Repealed 6-26-84.

17-17.56 Completeness of Application, Resolution Procedures.

(1) The department shall file, within 20 working days of receipt of an application, a statement with the Division of Administrative Hearings, the applicant, and any parties declaring its position with regard to the completeness as defined by section 403.522(8), F.S., of the application. Amendments shall be reviewed for completeness on a 10 working day schedule.

(2) In such filing, the department shall identify the sections of the application or amendment considered to be incomplete and shall provide information explaining the incompleteness.

(3) If the department finds the application or amendment to be incomplete, the applicant shall file one of the following within 15 days after the filing of the statement by the department, with the Division of Administrative Hearings and the department:

(a) Supplemental information which renders the application or amendment complete.

(b) A statement agreeing with

the statement of the department but indicating that the information cannot be supplied within the 15 days specified by s. 403.525(2), F.S., which shall toll the time for certification schedule, or the application or amendment may be withdrawn.

1. If the certification schedule is tolled, upon the filing of a complete amendment which renders the application complete, the times provided in the Act and this Chapter shall recommence as of the date of the filing of the department's statement that the application or amendment is complete.

2. If an application is withdrawn then later resubmitted, the certification schedule shall commence anew as for an original application. However, when reviewing a resubmitted application for completeness and sufficiency, the agencies shall take into account previous determinations of completeness and sufficiency and attempt to shorten the time period necessary to make such determinations for the resubmitted application.

(c) A statement contesting the statement of the department and providing information explaining its position. The hearing officer shall schedule a hearing on the contested statement of completeness as expeditiously as possible, but no later than 14 days from the filing of the applicant's statement contesting the department's determination. The designated hearing officer shall make a decision within 10 days of the hearing.

1. If the hearing officer finds that the application or amendment is not complete, the applicant shall withdraw the application or amendment, or supplement the application or amendment in a timely manner established by the hearing officer in accordance with (3)(b)1. or 2. so as to render it complete.

2. If the applicant supplements the application or amendment so as to render it complete, then the times provided in this Chapter shall run from the date of the filing of the department's statement that the application or amendment is complete.

3. If the hearing officer finds the application or amendment was complete at the time it was filed, then the times provided in this Chapter shall run from the date of the filing of said application or amendment.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.523(3)(5), 403.525(2), F.S. History: New 11-20-80, Amended 6-26-84.

17-17.57 Insufficiency of Application, Resolution Procedures.

(1) Should the department determine that an application is insufficient, a detailed statement explaining the insufficiency of the application may be served on the applicant and the parties concurrent with the completeness determination or may be served at a later time but no later than 20 working days after receipt of a complete application. Amendments shall be reviewed for sufficiency on a 10 working day schedule. The department's sufficiency finding shall be based on the recommendations of agencies required to submit reports pursuant to s. 403.526, F.S.; therefore, the sufficiency concerns of all reporting agencies shall be filed with the department and served on all parties no later than 10 working days after the agency's receipt of

the application or 7 working days after receipt of an amendment. Failure to file sufficiency remarks with the department in a timely fashion shall be a waiver of the individual agency's sufficiency concerns.

(2) Within 15 days after the filing of the department's statement that the application or amendment is insufficient, the applicant shall file one of the following with the Division of Administrative Hearings, the department, and the parties:

(a) Supplemental information which renders the application or amendment sufficient.

(b) A statement agreeing with the statement of the department but indicating that the information cannot be supplied within 15 days which shall toll the time for the certification schedule, or the application or amendment may be withdrawn.

1. If the certification schedule is tolled, upon the filing of sufficient information to render the application or amendment sufficient, the times provided in the Act and this Chapter shall recommence as of the date of the filing of the Department's determination that the application or amendment is sufficient.

2. If an application is withdrawn then later resubmitted, the certification schedule shall commence anew as for an original application. However, when reviewing a resubmitted application for completeness and sufficiency, the agencies shall take into account previous determinations of completeness and sufficiency and attempt to shorten the time period necessary to make such determinations for the resubmitted application.

(c) A statement contesting the sufficiency statement of the department and providing information explaining its position. The applicant's responses and hearings on sufficiency shall follow the same procedures and time schedules as for completeness set forth in 17-17.56(3)(c), FAC, and both sufficiency and completeness issues may be addressed in the same responses and hearings.

(3) If, after an amendment has been filed to address agency sufficiency concerns, an agency or the department determines that the amendment is incomplete or insufficient to such a degree that the filing of a preliminary report would result in no meaningful information produced for use in the voluntary public meetings held by the local governments, the agency shall advise the department and the department may so inform the hearing officer and request that the certification schedule be revised such that the filing date of the preliminary reports, and thus the final reports, the Compiled Agency Report, and date of the certification hearing is postponed in order to afford the preparation of meaningful reports.

(4) If an amendment is filed after the submission of agency reports to the department, or after the filing of the Compiled Agencies' Report, an agency may request the hearing officer to adjust the certification schedule if the agency determines that the amendment alters the findings of the report or variance information or suggested conditions of certification.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.523(3)(5), 403.525(3), F.S. History: New 11-20-80, Amended 6-26-84.

17-17.58 Conduct of Studies.

(1) As needed to verify or supplement the studies made by the applicant in support of the application, the department within 15 days of the filing of a complete application shall commence or contract for joint or independent studies to aid in the evaluation of the certification application. For studies in areas outside of the department's jurisdiction and in the jurisdiction of another agency, the department may initiate such studies, but only with the consent of such agency. The department shall give written notice of all such studies to the applicant before they are commenced. Such studies may include the consideration of the following criteria in regards to corridor location impacts, transmission line construction impacts, electric and magnetic field effects, right-of-way and access road maintenance impacts, and mitigation measures, as applicable:

(a) Potential impacts of transmission line crossings on navigable waters, and submerged lands or wetlands.

(b) Potential impact on water quality and quantity, including hydrology and surface drainage resulting from construction, clearing, and maintenance.

(c) Potential impact on terrestrial and aquatic plant and animal life, including endangered or threatened species within the department's jurisdiction.

(d) Commensurate with the level of detail of information provided in the application, a final or preliminary identification of those areas where the Department has dredge/fill jurisdiction; specific identification and the location of the landward extent of jurisdiction may not occur until after the right-of-way has been defined.

(e) Potential transmission line electric and magnetic field effects on health, safety, and welfare, if any.

(f) Site specific environmental studies due to the particular nature of the corridor.

(2) At the time of distribution of the application, the department shall inform the local governments and regional planning councils of the general process of transmission line siting and that they would have the right to conduct studies on matters within their jurisdiction relating to the presence of or impacts to:

a. Special requirements for county/city permitting activities, such as for road crossings, stormwater control, etc., which will be included under certification;

b. Compliance with adopted local government comprehensive plans and areas where a corridor location is unauthorized by such a plan;

c. Compliance with zoning restrictions, including noise ordinances as compared with the estimated noise levels produced by the transmission line, and airport flight overlay zoning restrictions;

d. City/county owned lands and easements necessary thereto;

e. Potential impacts to socioeconomic factors addressed in zoning ordinances;

f. Potential conflicts with support services, such as radio interference with emergency vehicles or broadcast towers;

g. Environmental or special use factors with which the county/city has a particular concern, such as proximity to landfills or aircraft flight approach paths;

h. Compliance with adopted Regional Comprehensive Plans;

i. Potential impacts from regionally significant projects such as pending Developments of Regional Impact.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.523(2)(4)(14), 403.526(2)(7)(8), 403.527(5), F.S. History: New 11-20-80, Amended 6-26-84.

17-17.59 Agency Reports, Compiled Agencies' Report with Summaries.

(1) The preliminary agency reports shall be submitted to the department no later than 60 days after the department's receipt of a complete application, and shall be made available to each local government for use as information at public meetings held pursuant to s. 403.5272, F.S.

(2) The final agency reports shall be submitted to the department no later than 90 days after each agency's receipt of a complete application.

(3) The agency reports shall contain:

(a) An assessment of the impacts of the project as determined by the studies required by s. 403.526, F.S.;

(b) Expected compliance with agency standards and an identification of any nonprocedural requirements not specifically listed in the application from which a variance or exemption is needed in order for the board to certify the corridor;

(c) Conclusions and recommendations regarding certification including reasons for recommendations of denial, if the agency recommends denial of certification;

(d) Proposed Conditions of Certification, if the agency intends to recommend certification, on matters within the agency's jurisdiction, listing the specific statute, rule, or ordinance, as applicable, which authorizes the proposed condition;

(e) An identification of what matters are within their jurisdiction which will be materially affected by the transmission line or corridor.

(4) The department shall file the Compiled Agencies' Report required by 403.523(8), F.S., with the hearing officer and serve it on all parties no later than four months after the complete application has been filed with the department or 30 days prior to the certification hearing, whichever is earliest.

(5) The Compiled Agencies' Report shall contain:

1. The department's recommendations relating to the disposition of the application;

2. Reports by governmental agencies as specified by section 403.523(8) and 403.526, F.S.;

3. A summary by the department of the significant comments made in all the reports; and

4. A compilation of the various recommended conditions of certification.

Specific Authority: 403.523(2)(3)(4)(5)(6)(7)(8)(9)(10), 403.527(5), F.S. Law Implemented: 403.523(8), 403.526, F.S. History: New 11-20-80, Amended 6-26-84.

17-17.60 Conditions of Certification, Delegated Modifications.

(1) The applicant can construct the transmission line in compliance with the terms of certification. If appropriate, the agencies' proposed conditions of certification shall recognize that the construction of

the proposed transmission line may take place over a substantial period of time. Therefore, compliance with the terms of certification may be monitored by the agencies.

(2) The department shall request that the Board delegate authority to the Secretary to review and modify specific conditions in the certification pursuant to section 403.5315(1), F.S. The specific conditions to be requested for delegation shall include, but not be limited to, the following:

(a) Except for modification of the location of the certified corridor, the Secretary of the department is delegated the authority pursuant to section 403.5315(1), F.S., to modify Conditions of Certification relating to:

1. A modification of the transmission line that would not cause any significant additional adverse environmental impact.

2. Modifications necessary to meet licensing conditions or requirements imposed on the applicant by any federal regulatory agency. The permittee shall notify the department at least 30 days prior to the issuance of the federal license that would require such a modification, if known, or in any event, as soon as the federal agency notifies the permittee.

(b) The department shall give written notice to the parties to the original certification of any requests for modification received pursuant to this section.

(3) Reserved.

(4) Reserved.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.531(2), 403.5315(1), F.S. History: New 11-20-80, Amended 6-26-84.

17-17.61 Public Notice.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.523(a), 403.527, 403.535, 403.525, F.S. History: New 11-20-80, Transferred to 17-17.75, 6-26-84.

17-17.62 Evidence of Notice, Additional Notice.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.523(6)(9), 403.527, F.S. History: New 11-20-80, Transferred to 17-17.76, 6-26-84.

17-17.625 Criteria for Rejection of an Alternate Corridor.

(1) Pursuant to 403.527(5)(b), F.S., within five days of receipt of a proposed alternate corridor filing, the department and the applicant shall each file with the Division of Administrative Hearings a notice of acceptance or rejection of the alternate corridor proposed for consideration. The criteria of the department for this rejection shall be:

(a) The alternate does not have appropriate end points which connect to the remainder of the transmission line.

(b) The quality of the filing is so poor as to make it difficult for the department to evaluate the proposal.

(c) Failure to submit the information required by s. 403.527 (5)(a), F.S.; however, this shall be without prejudice to refile within the timeframes set forth in s. 403.527(5), F.S.

(2) Acceptance by the department of an alternate corridor proposed for consideration pursuant to (1) above shall not require the department to support or oppose certification of such alternate corridor.

(3) Acceptance by the applicant of an alternate corridor proposed for certification shall not require the applicant to support or oppose certification of such alternate corridor.
Specific Authority: 403.523(1), F.S. Law Implemented: 403.527(5), F.S. History: New 6-26-84.

17-17.63 Hearings Generally - Conduct, Public Service Commission's Determination of Need.

(1) The certification hearing held pursuant to the Act and this Chapter shall be conducted according to the provisions of Chapter 120, Florida Statutes. The public hearings held at the request of local governments pursuant to section 403.527(2), F.S., shall give members of the public not parties to the certification hearing an adequate opportunity to present testimony and evidence.

(2) Pursuant to section 403.537, F.S., the Public Service Commission has been directed to conduct a public hearing to determine the need for a transmission line regulated under the Act. The commission's determination of need is binding on all parties to the certification proceeding and is a condition precedent to the conduct of a certification hearing.
Specific Authority: 403.523(1)(2), F.S. Law Implemented: 403.527(1), 403.537, F.S. History: New 11-20-80, Amended 6-26-84.

17-17.64 Certification Hearings - Subject Matter, Procedure, Participants.

(1) Except when the certification schedule is altered pursuant to the Act or this chapter, the department shall arrange with the hearing officer for a certification hearing to be held no later than 150 days after the filing of a complete application with the department, at a central public location in proximity to the as proposed transmission line corridor.

(2) At the certification hearing the hearing officer shall consider whether the application should be approved in whole, approved with modifications or conditions, or denied. In making this determination, the hearing officer shall consider the criteria in s. 403.529, F.S.

(3) The applicant for certification shall make formal presentation of its proposal at the hearing and shall address each of the topics listed in s. 403.529(3), F.S. All parties may present their respective cases in accordance with the rules of evidence under Chapter 120 at the hearing. These presentations may include the application and all studies, reports and analyses prepared in accordance with the Act and this Chapter. The parties, including the applicant, are encouraged to design their presentations to inform the public of the details of the proposed transmission line, but the question of compliance with this paragraph shall not be the basis for review.

(4) Any person not a party may present testimony and evidence to the hearing officer at the hearing. If the hearing officer proposes to consider such testimony or evidence, the parties shall be given an opportunity to cross-examine or challenge or rebut it.
Specific Authority: 403.523(1), F.S. Law Implemented: 403.527(2)(4)(5)(6), 403.529(3), F.S. History: New 11-20-80, Amended 6-26-84.

17-17.65 Retention and Availability of Certification and Application, Copying Fees.

(1) Until all construction of the transmission line is complete, the applicant shall retain complete copies of the application and certification at it central business office. The applicant's copies of the application and certification shall be available for public inspection and copying during normal business hours.

(2) The department shall retain complete copies of the application and certification at its main office. The department's file shall be open for public inspection and copying during normal business hours.

(3) A reasonable fee may be charged by any party for providing copies pursuant to this chapter.
Specific Authority: 403.523(1), F.S. Law Implemented: 403.527, F.S. History: New 11-20-80, Amended 6-26-84.

17-17.66 Post-Certification Monitoring and Reporting.

The applicant shall conduct at its expense such post-certification monitoring and reporting as is deemed reasonable by the Board, of the effects arising from the location of the transmission line corridor, the construction of the transmission line or lines and the maintenance of the transmission line right-of-way pursuant to the conditions to assure continued compliance with the terms of certification. The monitoring and reporting shall be carried out in the manner prescribed in the conditions of certification.
Specific Authority: 403.532(1), F.S. Law Implemented: 403.523(10), F.S. History: New 11-20-80, Amended 6-26-84.

17-17.665 Dredging and Filling, Post-Certification Review, Water Quality.

Reserved.
Specific Authority: 403.523(1), F.S. Law Implemented: 403.531(2), F.S. History: New 6-26-84.

17-17.67 Review and Evaluation.

The department may at any time, review the certification and evaluate the compliance of the applicant with the conditions of certification and act upon such review and evaluation as it deems appropriate in accordance with the provisions of the Act and this Part.
Specific Authority: 403.523(1), F.S. Law Implemented: 403.532, 403.533, F.S. History: New 11-20-80, Amended 6-26-84.

17-17.68 Modification of Certification.

(1) Certification, including conditions of certification, may be modified pursuant to the provisions of section 403.5315, F.S., and the appropriate one of the following procedures:

(a) Delegated Modifications pursuant to s. 403.5315(1), F.S., and FAC Rule 17-17.68(3)(a).

(b) Modifications without objections pursuant to s. 403.5315(2), F.S., and FAC Rule 17-17.68(3)(b).

(c) Modification by petition pursuant to s. 403.5315(3), F.S., and FAC Rule 17-17.68(3)(c).

(2) Modification of certification shall be initiated by filing a request or petition for modification, along with the applicable fee with the department, with service of a copy of the request on all other parties to the original certification proceeding. All requests or petitions for modification shall contain:

(a) The proposed modification;

(b) A description of the portion of the transmission line as certified or previously modified which is the subject of the proposed modification;

(c) A concise statement of the facts, including changes in circumstance which justify the modification, as well as the rules and statutes which entitle the applicant to the modification;

(d) A discussion of the anticipated effects of the proposed modification, including any additional environmental effects;

(e) A statement of whether and how a proposed modification if granted would affect the conditions of certification, Findings of Fact or Conclusions of Law, and studies conducted pursuant to FAC Rule 17-17.58 upon which the certification or conditions of certification were based;

(f) A copy of the appropriate alterations of the application as modified by the final order of certification, or subsequent modifications;

(g) The legal authority that entitles the person to seek the modification.

(3) The request for modification shall be processed by the department in accordance with the following:

(a) If the proposed modification is one for which the department has been delegated approval authority by the Board pursuant to s. 403.5315(1), F.S, the procedures set forth below shall apply.

1. Within 60 days of receipt of a request for modification, the department shall provide notice of receipt of the request and the department's proposed action on the request as set forth in FAC Rule 17-17.75(8).

2. If no person whose substantial interests would be determined by the department's decision on the request files a petition within fourteen calendar days from receipt or publication of notice, whichever is earlier, the department shall issue an order adopting its proposed agency action as set forth in the notice published pursuant to subsection 1. above.

3. Petitions for an administrative proceeding on the request for modification, if any, shall be filed with the department with a copy served on all parties to the original certification proceeding. The department may request the Division of Administrative Hearings to conduct a proceeding on the petition. The Hearing Officer shall submit the recommended order to the Secretary of the department who shall take final agency action.

4. The department shall issue its final order within 20 days after receipt of any exceptions to the recommended order.

5. Failure to submit a complete or sufficient request for modification shall be grounds for the department to deny a modification.

(b) If the proposed modification is one for which the department can approve if no objections are received pursuant to s. 403.5315(2), F.S., the procedures set forth below shall apply.

1. Within 15 days of receipt of such a request for modification the department shall provide notice of receipt of the request as set forth in FAC Rule 17-17.75(9).

2. If no party or other person whose substantial interests would be affected by the department's decision on the request files an objection within the time period allotted

in s. 403.5315(2), F.S., the modification shall be approved and the department shall issue an order modifying the certification.

3.a. Objections to the request for modification, if any, shall be filed with the department with a copy served on all other parties to the original certification proceeding.

b. Upon the filing of an objection, the department shall conduct an informal conference after at least five days written notice to all parties and to all persons whose substantial interests would be determined who filed a timely objection, to determine if the objecting parties are able to reach mutual written agreement on modification of the terms and conditions of certification, or whether changes can be made to the proposed modification so as to have the objections withdrawn. However, if the changes significantly alter the proposed modification, the modification as changed shall be noticed in accordance with this subsection, 17-17.68(3)(b), with persons whose substantial interests are affected given another right to object.

c. If no agreement can be reached, the department shall deny the request for modification without prejudice to the applicant to file a petition pursuant to s. 403.5315(3), F.S., and FAC Rule 17-17.68(3)(c).

d. If a mutual written agreement can be reached by all parties or if the objections are withdrawn, the department shall issue an order modifying the terms and conditions of certification as set forth in the agreement.

4. Failure to submit a complete or sufficient request for modification may be grounds for any party to object to the modification.

(c) If the proposed modification is one for which approval authority has not been delegated to the department, and if the department is unable to approve the proposed modification pursuant to s. 403.5315(2), F.S., and FAC Rule 17-17.68(3)(b), or at the applicant's option, the applicant may file a petition for modification pursuant to s. 403.5315(3), F.S., and the procedures below shall apply.

1. Within 5 days of receipt of a petition for modification, the department shall forward the petition to the DOAH for assignment of a hearing officer and shall request the hearing officer to establish a schedule for the processing of the petition, including a schedule for appropriate notices.

2. Within 15 days of receipt of a petition for modification the department shall arrange for notice as set forth in FAC Rule 17-17.75(10).

3. The provisions of Florida Administrative Code Rules 17-17.56 and 17-17.57 relating to completeness and sufficiency shall apply to review of petitions for modification filed pursuant to this subsection, but with a shorter time period commensurate with the significance of the modification.

4. Petitions filed pursuant to this subsection shall be disposed of in the same manner as an application but with shortened time periods commensurate with the significance of the modification requested.

5. The Hearing Officer shall submit the Recommended Order to the Board for final agency action.

6. The department shall request the Board to take final agency action within 30 days days from issuance of the recommended order by the hearing officer or at the next

available regularly scheduled Board meeting.

(4) Except to the extent that the Act or this Chapter sets forth a specific procedural requirement, the Model Rules of Procedures, Florida Administrative Code Chapter 28-5, shall govern.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.523(11), 403.535, F.S. History: New 11-20-80, Amended 6-26-84.

17-17.682 Exceptions.

Within ten days after submittal of a Recommended Order to the deparment or the Board by the hearing officer, in accordance with s. 120.57(1), F.S., parties to a proceeding conducted pursuant to the Act and this chapter may file with the department or the Board, as applicable, written Exceptions to the Recommended Order, with service of copies on all parties. Exceptions shall state, with particularity, the basis for asserting that the hearing officer erred in entering or omitting specific findings of fact, conclusions of law, or a recommendation. Any exception disputing a finding of fact must be accompanied by a complete transcript, unless all parties agree that a partial transcript would suffice for the agency to review the exception.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.527(3), F.S. History: New 6-26-84.

17-17.69 Processing of Modification Petition Pursuant to Section 403.535(3), F.S.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.523(3)(6)(8)(9), 403.526, 403.527, 403.535, F.S. History: New 11-20-80, Repealed 6-26-84.

17-17.695 Emergency Replacement.

Emergency replacement of transmission lines certified under the Act requiring deviation from any condition of certification shall not be considered a modification pursuant to section 403.5315 F.S. A verbal report of the emergency shall be made to the department as soon as possible. Within 30 days after correction of the emergency a report to the department shall be made outlining the details of the emergency and the steps taken for its relief. The report shall be a written description of all of the work performed and shall set forth any pollution control measures or mitigative measures which were utilized or are being utilized to prevent pollution of waters, harm to sensitive areas or alteration of archaeological or historical resources.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.531(2), 403.5315, F.S. History: New 6-26-84.

17-17.70 Revocation or Suspension of Certification.

(1) Any certification may be revoked or suspended by the Board in accordance with s. 403.532, F.S.

(2) Any affected agency, as authorized by law, may at its discretion cause to be conducted any investigations, monitoring or studies related to certification, deemed appropriate in contemplation or in pursuance of suspension or revocation proceedings.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.532, F.S. History: New 11-20-80, Amended 6-26-84.

17-17.71 Termination of Certification.

The applicant shall commence construction on or condemnation or

aquisition of the right-of-way of a transmission line which has been certified within 5 years of the date of certification or such later date as may be authorized by the Board, or certification shall be terminated.
Specific Authority: 403.523(1)(8), F.S. Law Implemented: 403.529, F.S. History: New 11-20-80, Amended 6-26-84.

17-17.75 Public Notice.

(1)(a) The department shall prepare the text for the public notices required under this chapter and send the notices to the appropriate newspapers when required. The department shall notify the newspaper that the invoice for publication is to be sent to the department. If the application for certification proposes one or more secondary corridors, the notices provided by this chapter shall be amended by the department to reflect that such secondary corridors are proper for certification.

(b) Many of the notice requirements of this section are beyond the notice content requirements of the Act and are solely provided as a voluntary public service by the department. The content of any notice may be different than that provided in this section so long as the deviation does not materially and substantially alter the substance of such notice. A person challenging any such notice content deviation must show that but for the particular notice content deviation such person would have had notice of the certification proceedings. Upon such showing, the hearing officer may correct such deficiency as provided in FAC Rule 17-17.76.

(2) Notice of Binding Agreement.

Within 15 days of receipt of a proposed written agreement, as provided for in FAC Rule 17-17.54(1), on the scope, quantity, and specificity of the information to be provided in the application, notice shall be provided:

(a) To the agencies in whose jurisdiction the corridor may pass, informing the agencies that any disagreements must be in writing and served on the department by the agency within 25 days of receipt of the notice.

(b) In the Florida Administrative Weekly, containing the following information:

1. The name, size, and a brief description of the transmission line.

2. A list of places where the proposed agreements are available for inspection.

3. Text which substantially states "The department and other affected agencies are authorized by FAC Rule 17-17.54(1) to enter into binding written agreements with _____ regarding the scope, quantity, and level of information to be provided in the application for certification which will subsequently be filed. The public may provide comments regarding the substance of such an agreement to its local government or the Transmission Line Siting Coordinator, Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida, 32301, within 25 days of the publication of this notice".

4. A statement informing persons whose substantial interests may be affected by the agreement of their rights under Chapters 120 and 403 regarding any decision on the agreement.

(c) At the discretion of the department, in newspapers of general

circulation, as defined in (3)(a) below, consisting of the same information described in (b) above.

(3) Notice of Receipt of Application.

No later than 15 days after the receipt of an application, the department shall arrange for publication of a public notice consisting of the following:

(a) Publication in a newspaper of general circulation within each county crossed by a transmission line corridor. A newspaper of general circulation is the newspaper which has the largest daily circulation within that county and whose principal office is in that county; if such newspaper has its principal office outside the county, then the notice shall appear in both that newspaper and in a newspaper authorized to publish legal notices within the county. The public notice shall be no less than one-half page in size (one-full page in a tabloid size newspaper), bearing the heading "Notice of Receipt of Transmission Line Certification Application" in bold letters not less than 3/8 inch high. The notice shall contain the following:

1. A map of the corridors proper for certification. The map shall be supplied by the applicant and shall be a camera-ready copy. The applicant shall consult with the department as to how many copies will be necessary. The map shall clearly show the corridors proper for certification. Selected Townships and Ranges, and where possible, Sections, shall be shown on the map. All patterns or other graphics used to indicate special features shall be bold enough to register legibly on newsprint. The map shall occupy at least one quarter of the display advertisement.

2. Text which substantially states the following:

a. "Application number _____ for certification to authorize location of a transmission line corridor, construction, operation and maintenence of a(n) _____ kilovolt electrical transmission line(s) commonly referred to as _____ - _____ and maintenance of the transmission line right-of-way from _____, Florida to _____, Florida was received by the Department of Environmental Regulation on _____, 19__. The case is pending before the Division of Administrative Hearings, Case No. _____, prior to action by the Governor and Cabinet, pursuant to the Florida Transmission Line Siting Act, Chapter 403, Part II, F.S. The corridor will pass through the following local government jurisdictions _____, _____.

b. "A certification hearing will be held regarding this application in approximately 4 months and a notice stating the date, time and location of the hearing will be published in this newspaper at least 80 days before the date set for the hearing. The Hearing Officer will receive testimony and evidence from the parties and the public at the certification hearing. If timely requested by a local government pursuant to s. 403.527(2), F.S., a public hearing where members of the public not parties to the certification proceedings may testify under oath as to relevant facts and subject to cross examination by all parties shall be held in each county through which the corridor passes; however, the public should be aware that the majority of the testimony and evidence in the case will be heard at the centrally located certification hearing.

c. "State agencies and local

governments will be studying the application and preparing testimony and evidence for the certification hearing. It is recommended that interested individuals review the application and bring matters of concern to the appropriate agency's attention as soon as possible (see below for listing of participating agencies). The application for certification which more specifically depicts the corridor is available for public inspection at the following locations:"
(Here list the addresses of the main and appropriate district offices of the department serving the area of the corridor; the general business office of the applicant and the local business office of the applicant, if any, in every county through which the proposed corridor passes; and a public library in each county through which the corridor passes.)

d. "Consideration may be given in this proceeding to corridors alternate to the route preferred by _____ (the applicant). The applicant may propose corridors secondary to the primary corridor in order to preserve its options, and persons other than the applicant may also propose alternate routes for portions or all of the corridor. To propose an alternate corridor, persons must request to become a party to the proceedings (see below), and then must file a notice of proposed alternate corridor with the hearing officer pursuant to s. 403.527(5), F.S., all parties, and any local governments in the jurisdiction of which the alternate is proposed, by no later than 50 days prior to the certification hearing. The filing must include the most recent United States Geological Survey 1:24000 quadrangle maps specifically delineating the corridor boundaries, a description of the proposed alternate corridor, and a statement of the reasons the proposed alternate should be certified. Each party proposing an alternate corridor shall have the burden to provide the data necessary for the agencies listed in s. 403.526, F.S., to prepare a supplementary report, and the burden of proof on the certifiability of the alternate corridor at the certification hearing. See s. 403.527(5), F.S., and Florida Administrative Code Rule 17-17.543 for further information and requirements."

e. "Anyone wishing to become a party to the proceedings should file an appropriate petition pursuant to Florida Admin. Code Rule 28-5.207 with _____, Hearing Officer, Division of Administrative Hearings, _____, Tallahassee, Florida, _____. Copies of the petition should be sent by mail to all parties. Those wishing to intervene in these proceedings, unless appearing on their own behalf, must be represented by an attorney or other person who can be determined to be qualified to appear in administrative proceedings pursuant to Chapter 120, F.S., or Florida Admin. Code Rule 17-1.21.

f. The text shall also include section 403.527(4), F.S., in its entirety.

(b) The department shall mail the same text and map used in the public notice to any person who has requested to be placed on the department's mailing list for notification of transmission line certification hearings.

(c) Publication of an appropriate notice of the application in

the Florida Administrative Weekly.

(4) Notice of Certification Hearing.

At least 80 days prior to the certification hearing, public notice shall be provided and shall consist of the following:

(a) Publication in the same newspapers identified pursuant to subsection (3) above. The notice shall also be of the same size, and have the same heading height, as set forth in subsection (3) above. Such public notice shall bear the heading, "Notice of Certification Hearing on Proposed Electrical Transmission Line Corridor". The public notice shall contain the following information:

1. Same as (3)(a)1. above.

2. Text which substantially states the following.

a. Same as (3)(a)2.a.

b. "Pursuant to Section 403.527, F.S., the certification hearing will be held by the Division of Administrative Hearings on _____, 19__, at _____, in _____, Florida, at _____m. to determine whether the application should be approved in whole, approved with modifications and conditions, or denied. In making this determination, the hearing officer, and ultimately the Governor and Cabinet, shall consider whether, and the extent to which, the location of the transmission line corridor, and the construction and maintenance of the transmission line will:

"(a) Ensure electric power system reliability and integrity;

"(b) Meet the electric energy needs of the state in an orderly and timely fashion;

"(c) Comply with nonprocedural requirements of agencies;

"(d) Be consistent with applicable local government comprehensive plans; and

"(e) Effect a reasonable balance between the need for the transmission line as a means of providing abundant low-cost electrical energy and the impact to the public and the environment resulting from the location of the transmission line corridor, and construction, maintenance, and electric and magnetic field effects of the transmission line.

"Consideration of individual private property rights, equitable compensation for condemnation proceedings which may be necessary to obtain access and use of the right-of-way, and the electrical need for the transmission line will not be heard at this hearing. Need for the transmission line is considered by the Public Service Commission at a separate hearing."

c. Where individual local government hearings have been requested, the public notice for the particular county shall state: "As requested by _____" (local governments' names) "a local public hearing where members of the public not a party to the certification hearing may testify under oath as to relevant facts and subject to cross-examination by all parties shall be held on _____, 19__, at _____, in _____, Florida".

d. Same as (3)(a)2.c.

e. Same as (3)(a)2.d., except that the date by which an alternate corridor must be filed shall be specifically listed.

f. Same as (3)(a)2.e. - f.

g. A statement that "This notice is in lieu of other notices, including those relating to variances, changes to zoning ordinances and local governments' plans, or any

other non-federal government license or permit".

h. A statement that "A term or condition of the certification, if granted, may provide for the subsequent submittal of information necessary for agencies to monitor the effects arising from the location of the transmission line corridor and the construction and maintenance of the transmission line to assure continued compliance with state water quality requirements or compliance with other agency nonprocedural rules and standards, particularly with regards to dredging and filling activities, without any further government action. A person whose substantial interest may be affected by such submittals or monitoring must petition to become a party to this proceeding if they desire an administrative determination relative to the postcertification monitoring process in that this certification proceeding provides such a person with the opportunity for a hearing as required by Chapter 120, F.S., and the Act. Failure to petition to become a party within the time frames set forth in this notice constitutes a waiver to an administrative determination (or hearing) pursuant to Chapter 120 and the Act on the postcertification review and monitoring unless otherwise specified by a term or condition of certification".

(b) Publication of an appropriate notice of the hearing in the Florida Administrative Weekly.

(5) Reminder Notice.

No more than two weeks prior to the centrally located certification hearing, the department shall publish a brief notice in the Legal Advertisements section of the same newspapers in which the notice of certification hearing was published, reminding the public of the time and place of the hearing.

(6) Notice on Rescheduled Certification Hearing Due to Filing of Alternate Corridors.

At least 80 days prior to the rescheduled certification hearing, public notice shall be provided and shall consist of the following:

(a) Publication in the same newspapers used in (3) above. The notice shall also be of the same size or larger if necessary to accomodate maps, have the same heading height, and shall be subject to the same specifications for the map. The notice shall bear the heading, "Notice of Rescheduled Transmission Line Certification Hearing". The public notice shall contain the following:

1. A copy of a map or maps showing the location of all corridors proper for certification. Alternates located in only certain counties need only be published in the newspapers for those counties.

2. Text which substantially states the following:

a. "Pursuant to the provisions of s. 403.527(5), F.S., corridors alternate to the one sought by ____ (applicant's name) in the _____ to _____ (project name) Transmission Line Certification proceedings, application number _____, Division of Administrative Hearings Case No. ____, have been submitted. In order to allow citizens and agencies to study the proposal, the certification hearing originally scheduled for _____, 19__ and noticed in this paper on _____, 19__ has been rescheduled to _____, 19__, at _____, Florida, commencing at __:__ _.m."

b. Where individual local government hearings had been requested,

the public notice for the particular county shall state: "The local public hearing where members of the public not a party to the proceeding could testify has also been rescheduled to _____, 19__, at _____, Florida, commencing at __:__ __.m.; citizens should be aware that the majority of the testimony and evidence of the case will be heard at the centrally located certification hearing identified above".

c. "State agencies and local governments have been studying the application as was originally proposed and shall do the same for the alternate corridor locations proposed. It is recommended that interested individuals review the information available on the alternate proposal and bring matters of concern to the appropriate agency's or the alternate proponent's attention as soon as possible (see below for listing of participating agencies). The information on alternates is available at the following locations:"
(Here list the addresses of the main and appropriate district offices of the department, the applicable local governments, the applicant, the alternate proponent, and any other appropriate locations.)

d. "Persons substantially affected by any corridor proper for certification may become a party to the proceedings as described below. Persons becoming parties are entitled to propose corridors alternate to the alternate previously proposed. To propose an alternate, persons must request to become a party to the proceedings (see below), and then must file a notice of proposed alternate corridor with the hearing officer, all parties, and any local governments in the jurisdiction of which the alternate is proposed, by _____ (here list a date at least 50 days prior to the certification hearing). The filing must include the most recent United States Geological Service 1:24000 quadrangle maps specifically delineating the corridor boundaries, a description of the proposed alternate corridor, and a statement of the reasons the proposed alternate should be certified. Each party proposing an alternate corridor shall have the burden to provide the data necessary for the agencies listed in s. 403.526, F.S., to prepare a supplementary report, and the burden of proof on the certifiability of the alternate corridor at the certification hearing. See s. 403.527(5), F.S., and FAC Rule 17-17.543 for further information and requirements."

e. Same as in (3)(a)2.e. - f.

(b) Same as (3)(b).

(c) Publication of an appropriate notice of rescheduled certification hearing in the Florida Administrative Weekly.

(7) Notice on Completeness or Sufficiency Hearings.

Written notice of a hearing on the completeness or sufficiency of an application shall be given to all parties.

(8) Notice of a Modification Request pursuant to s. 403.5315(1), F.S.

The notice of receipt of, and of proposed agency action, (one notice for both) on a request for modification filed pursuant to FAC Rule 17-17.68(3)(a) shall be in substantial conformance with the following:

(a) Florida Administrative Weekly Notice.

"Notice of Proposed Modification

of Transmission Line Corridor Certification"

"Please take notice that the Department of Environmental Regulation has received a request for modification of a Transmission Line Corridor Certification issued under the Florida Transmission Line Siting Act pursuant to section 403.5315(1), F.S., and Florida Administrative Code Rule 17-17.68(3)(a), concerning: _____ (name and file number of certification). The proposed modification involves _____ (description and location of modification).

"The department proposes to _____ (issue/issue with changes or conditions/deny) the request.

"A copy of the request and proposed agency action is available for inspection at _____ (name and address).

"RIGHT TO PETITION

"Any person whose substantial interest may be determined by the proposed agency action may petition pursuant to Chapter 120, F.S., for an administrative proceeding (hearing) within 14 days from receipt of this notice. The petition must conform to the requirements of Model Rule section 28-5.201, FAC, and FAC Rule 17-17.68, and must be filed during business hours with (received by) the Office of General Counsel, Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida, 32301. Failure to file a petition within the aforementioned time period constitutes a waiver of Chapter 120, F.S., right to such administrative proceeding."

(b) A similar notice shall be sent to all parties and to all persons on the department mailing list.

(c) The department in its discretion may also require the person requesting the modification to publish notice in a newspaper of general circulation (as defined in (3)(a) above) in the affected area.

(9) Notice of Modification Request pursuant to s. 403.5315(2), F.S.

Within 15 days of receipt of a request for modification pursuant to s. 403.5315(2), F.S., the department shall provide notice of receipt of such modification request by:

(a) Publication in a newspaper of general circulation, as defined in (3)(a), in each county affected by the modification. The text of the notice shall contain substantially the following information:

1. The name of the utility and a brief description of the requested modification;

2. If corridor alignment changes are proposed, a map of the same quality required by (3)(a)1. showing the location of the modification;

3. A list of readily accessible places where copies of the modification information are available;

4. A statement that: "Request number _____ to authorize a modification to the previously certified electrical transmission line _____ to _____ has been received by the Department of Environmental Regulation, pursuant to the Transmission Line Siting Act, Ch. 403, Part II. The modification will pass through or affect the following local governmental jurisdictions _____, _____, _____. Persons who are not already parties to the certification proceeding and whose substantial interests are affected by the proposed modification and who object to it must file their objections in writing with the Department of Environmental Regulation, Office of

General Counsel, 2600 Blair Stone Road, Tallahassee, Florida, 32301, during normal business hours within 30 days of publication of this notice. A copy of such objection must be served on all parties. Persons who fail to have the objection filed with (received by) the department within the prescribed time period will have waived their right to object.

(b) Publication of notice in the Florida Administrative Weekly; and

(c) Mailing notice to the last address of record for each party to the original certification proceedings. Such notice shall contain statements that advise that parties have the right, pursuant to s. 403.5315(2), F.S., to object to the proposed modification by filing an objection with the department during normal business hours within 45 days of the mailing of the notice, and that a party who fails to have the objection filed with (received by) the department within the prescribed time period will have waived their right to object.

(10) Notice of Receipt of a Modification Petition Filed Pursuant to subsection 403.5315(3), F.S.

The department shall provide notice of a modification petition filed pursuant to subsection 403.5315(3), F.S., by:

(a) Publication in a newspaper of general circulation as defined in (3)(a), in each county affected by the modification. The public notice shall be no less than 1/2 page in size (one full page in tabloid size newspaper), bearing the heading, "_____ to _____ Transmission Line; Notice of Receipt of Modification Petition" in bold letters. The text of the public notice shall contain substantially the following information:

1. The same as in (9)(a)1 - 2.

2. A statement that: "A petition to authorize a modification to the previously certified electrical transmission line from _____ Florida to _____, Florida, is now pending before the Division of Administrative Hearings, Case Number _____, prior to action by the Governor and Cabinet, pursuant to the Transmission Line Siting Act, Chapter 403, Part II, F.S. The modification will pass through the following local governmental jurisdictions: _____." (Here list the Cities and Counties as appropriate).

3. A statement that: "Pursuant to sections 403.527 and 403.5315(4), F.S., a hearing regarding any disputed issues over the modification of the previously issued certification will be held at a later date, to be announced in this paper. The Hearing Officer has (or will) established a schedule for processing the Petition which may be shorter than the schedule allowed for the original application. A copy of the schedule is available from _____. The Hearing Officer will receive testimony and evidence from the parties and the public at the modification hearing. If requested by a local government pursuant to s. 403.527(2), F.S., within the time period set by the hearing officer, a public hearing where members of the public not parties to the modification proceedings may testify under oath as to relevant facts and subject to cross examination by all parties shall be held in each county through which the modification would occur; however, the public should be aware that the majority of the testimony and evidence in the case

will be heard at the centrally located modification hearing.

4. "State agencies and local governments will be studying the proposed modification and preparing testimony and evidence for the modification hearing. It is recommended that interested individuals review the proposal and bring matters of concern to the appropriate agency's attention as soon as possible (see below for listing of participating agencies). The petition for modification which more specifically describes the matters of issue is available for public inspection at the following locations:" (Here list the addresses of the main and appropriate district offices of the department serving the area of the proposed modification; the general business office of the applicant and the local business office of the applicant, if any, in every county through which the proposed modification would occur; and a public library in each county through which the proposed modification would occur.)

5. Where a corridor location change has been proposed, the following: "Consideration may be given in this proceeding to corridors alternate to the route for which the modification is proposed. Persons who become parties to the modification proceeding (see below) may also propose alternate routes for the portion of the corridor at issue. A notice of proposed alternate corridor must be filed with the hearing officer pursuant to s. 403.527(5), F.S., all parties, and any local governments in the jurisdiction of which the alternate is proposed, by no later than _____ (50 days/a time period established by the hearing officer) prior to the modification hearing. The filing must include the most recent United States Geological Survey 1:24000 quadrangle maps specifically delineating the corridor boundaries, a description of the proposed alternate corridor, and a statement of the reasons the proposed alternate should be certified. Each party proposing an alternate corridor shall have the burden to provide the data necessary for the agencies listed in s. 403.526, F.S., to prepare a supplementary report, and the burden of proof on the certifiability of the alternate corridor at the modification hearing. See s. 403.527(5), F.S., and Florida Administrative Code Rule 17-17.543 for further information and requirements."

6. "Anyone whose substantial interests are affected by the proposed modification and who wishes to become a party to the proceedings should file an appropriate petition pursuant to Florida Admin. Code Rule 28-5.207 with _____, Hearing Officer, Division of Administrative Hearings, _____, Tallahassee, Florida, _____. Copies of the petition should be sent by mail to all parties."

7. The text shall also include section 403.527(4), Florida Statutes, in its entirety.

(b) By publication of appropriate notice in the Florida Administrative Weekly.

(c) The department shall mail the same text and map used in the public notice to any person who has requested to be placed on the department's mailing list for notification of transmission line certification hearings.

(11) Notice of Hearing on Modification Petition Filed Pursuant to 403.5315(3), F.S.

At least 80 days prior to the modification hearing, or as otherwise ordered by the Hearing Officer, public notice shall be provided and shall consist of the following:

(a) Publication in the same newspapers identified pursuant to subsection (10) above. The notice shall also be of the same size, and have the same heading height, as set forth in subsection (10) above. Such public notice shall bear the heading, "_____ to _____ Transmission Line; Notice of Certification Modification Hearing". The public notice shall contain the following information:

1. Same as (9)(a)2. above.

2. Text which substantially states the following.

a. The name of the utility and a brief description of the requested modification.

b. "Pursuant to sections 403.527 and 403.5315(4), F.S., the modification hearing will be held by the Division of Administrative Hearings on _____, 19__, at _____, in _____, Florida, at _____m. to determine whether the proposal for modification should be approved in whole, approved with other modifications and conditions, or denied. In making this determination, the hearing officer, and ultimately the Governor and Cabinet, shall consider whether, and the extent to which, the location of the transmission line corridor, and the construction and maintenance of the transmission line will:

"(a) Ensure electric power system reliability and integrity;

"(b) Meet the electric energy needs of the state in an orderly and timely fashion;

"(c) Comply with nonprocedural requirements of agencies;

"(d) Be consistent with applicable local government comprehensive plans; and

"(e) Effect a reasonable balance between the need for the transmission line as a means of providing abundant low-cost electrical energy and the impact to the public and the environment resulting from the location of the transmission line corridor, and construction, maintenance, and electric and magnetic field effects of the transmission line.

"Consideration of individual private property rights, equitable compensation for condemnation proceedings which may be necessary to obtain access and use of the right-of-way, and the electrical need for the transmission line will not be heard at this hearing. Need for the transmission line is considered by the Public Service Commission at a separate hearing."

c. Where individual local government hearings have been requested, the public notice for the particular county shall state: "As requested by _____" (local governments' names) "a local public hearing where members of the public not a party to the modification hearing may testify under oath as to relevant facts and subject to cross-examination by all parties shall be held on _____, 19__, at _____, in _____, Florida.

d. Same as (10)(a)4.

e. Same as (10)(a)5., except that the date by which an alternate corridor must be filed shall be specifically listed.

f. Same as (10)(a)6. - 7.

g. Same as (4)(a)2.g. - h.

(b) Publication of an appropriate notice of the hearing in the Florida Administrative Weekly.

(c) Same as (10)(c).

(12) Reminder Notice for Modification Hearing Conducted on Petition Filed Pursuant to s. 403.5315 (3), F.S.

No more than two weeks prior to the modification hearing, the department shall publish a brief notice in the Legal Advertisements section of the newspapers in which the notice of modification hearing was published, reminding the public of the time and the place of the hearing.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.523(9), 403.527(1)(5), 403.535, F.S.
History: New 11-20-80, Transferred from 17-17.61 and Amended 6-26-84.

17-17.76 Evidence of Notice, Additional Notice.

(1) Evidence of any notice made pursuant to this chapter, together with a copy of the notice, shall be filed with the hearing officer by the department at the commencement of the hearings held pursuant to the subject of the notice.

(2) Failure of service on, or to give notice to the public by publication or otherwise or any of the persons entitled to receive such service or notice pursuant to provisions of this chapter, may be cured by an order of the hearing officer designed to afford the public or such persons adequate notice to enable their effective participation in the proceedings.

(3) The hearing officer may, at any time for good cause shown, require the department to serve or publish additional notices of hearing and file evidence thereof.

Specific Authority: 403.523(1), F.S. Law Implemented: 403.523(6)(9), 403.527(1)(5), 403.5315, F.S.
History: New 11-20-80, Transferred from 17-17.62 and Amended 6-26-84.

CHAPTER 17-24

COASTAL MANAGEMENT PROGRAM GRANTS

17-24.01 Purpose.
17-24.02 Policy.
17-24.03 Definitions.
17-24.04 Application Procedures.
17-24.05 Preliminary Approval.
17-24.06 Federal Approval and Acceptance.
17-24.07 Review Criteria.
17-24.08 Award Conditions.

17-24.01 Purpose.

The purpose of this rule is to provide for the administration of coastal management funds allocated by the Department of Environmental Regulation and to establish procedures for the application for funds, evaluation of applications, and disbursements of the funds.
General Authority: 380.19(17), F.S.
Law Implemented: 380.19, 380.22(3), F.S. History: New.

17-24.02 Policy.

The policy of the Department pertaining to the Coastal Management Program is as follows:

(1) The Department will administer the program consistent with the intent and purposes of the Florida Coastal Zone Management Act of 1978, the Federal Coastal Zone Management Act of 1972 as amended, and applicable federal regulations.

(2) Coastal management funds will be utilized to meet both state and national coastal management objectives by funding activities and tasks which address issues or improvements in coastal areas.

(3) This rule will be utilized to administer funds appropriated under, and in accordance with, Sections 306 and 306A of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. Section 1451, et seq.

(a) Section 306 funds may be utilized by the Department to assure effective implementation of the management program, including administrative actions to carry out and enforce program policies and authorities. These funds may be used for personnel costs, supplies and overhead, equipment, feasibility studies, and preliminary engineering reports.

(b) Subject to the promulgation of federal regulations, Section 306A funds may be utilized to provide access to public beaches, public coastal areas and coastal waters; to redevelop deteriorating and underutilized urban waterfronts and ports that are designated by the State as areas of particular concern; and for preservation and restoration projects in areas designated for preservation or restoration or in areas that contain one or more coastal resources of national significance. Grant awards under this section may be utilized for land acquisition, low-cost construction projects, urban waterfront and port rehabilitation projects, detailed engineering and design studies, and educational and management costs.
General Authority: 380.19(7), F.S.
Law Implemented: 380.19(4), F.S.
History: New.

17-24.03 Definitions.

As used in this rule:

(1) "Applicant" includes state agencies, water management districts, regional planning councils, port authorities, and local governments. Only units of local

government abutting the Gulf of Mexico or the Atlantic Ocean, or which include or are contiguous to waters of the State where marine species of vegetation listed by rule pursuant to Section 403.817, Florida Statutes, constitute the dominant plant community, are eligible to receive coastal management funds. See Table 1 for a listing of eligible local governments.

(2) "Recipient" means an applicant who receives a grant award.

(3) "Department" means the Florida Department of Environmental Regulation.

(4) "Coastal Management Funds" means those funds received pursuant to Sections 306 and 306A of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. Section 1451 et seq.

(5) "Match" means non-federal funds expended and/or in-kind services provided by the recipient in conjunction with funds received through this program.

General Authority: 380.19(7), F.S.
Law Implemented: 380.19(7), 380.24, F.S. History: New.

17-24.04 Application Procedures.

(1) The Department shall issue a notice of the availability of funds in the Florida Administrative Weekly at least thirty (30) days prior to the deadline for receiving applications.

(2) Each applicant seeking to obtain coastal management funds shall obtain the most recent instructions and application forms provided by the Department.

(3) In order to be eligible for coastal management funds, an applicant must submit a completed application form and any other supportive information which may be required by the Office of Coastal Zone Management or the Department. Applications for funds must be postmarked or hand delivered to the Department before the established deadline.

(4) The Department will review applications based upon criteria established in this rule.

General Authority: 380.19(7), F.S.
Law Implemented: 380.19(4), F.S.
History: New.

17-24.05 Preliminary Approval.

(1) The Department shall make a preliminary decision to approve or disapprove each application. The Department shall issue a notice of its intended action to each applicant.

(2) Notice of the proposed action regarding an application shall be published in the Florida Administrative Weekly. Any person whose substantial interests are affected may request a hearing pursuant to Section 120.57, Florida Statutes, within fourteen (14) days of publication of the notice. Failure to request a hearing within the applicable time period shall constitute a waiver of the right to a hearing.

(3) Petitioners for hearing shall not cause the suspension of further action on other applications for which a petition for a hearing has not been filed in a timely manner. If, as a result of Chapter 120, Florida Statutes, administrative or judicial proceedings, the Department's preliminary decision to disapprove a project is reversed, the Department will take all reasonable steps to include the application in its current financial assistance application. If this inclusion is not possible, the Department shall give appropriate priority consideration to the application in its following application to the Federal Office of Coastal

Zone Management.

(4) Applications which receive preliminary approval shall be submitted as a part of the Department's financial assistance application to the Federal Office of Coastal Zone Management and to the appropriate state and regional A-95 Clearinghouse for review and comment.

General Authority: 380.19(7), F.S.
Law Implemented: 380.21, 380.22, F.S. History: New.

17-24.06 Federal Approval and Acceptance.

(1) Subsequent to A-95 review and final action by the Federal Office of Coastal Zone Management, the Department shall notify those applicants who have received preliminary approval as to the status of their applications.

(2) Recipients will have a maximum of fifteen (15) calendar days from the receipt of notification of selection for a grant award to submit a letter of acceptance.

(3) Recipients will have a maximum of forty-five (45) calendar days from receipt of notification of funding to:

(a) submit to the Department an executed contract between the Department and the recipient, and

(b) where applicable, submit to the Department for approval, any applicable subcontracts.

(4) The Department may revoke grant awards to recipients who do not comply with the requirements of Section 17-24.06(2) and (3), Florida Administrative Code.

General Authority: 380.19(7), F.S.
Law Implemented: 380.21, 230.22, F.S. History: New.

17-24.07 Review Criteria.

(1) The Department shall not include in its Coastal Management financial assistance application to the Federal Office of Coastal Zone Management any application for which current and complete application forms, including supplemental information as may be requested by the Department, has not been received.

(2) The Department, in its preliminary decision to approve or disapprove an application, shall consider:

(a) Funding priorities established by the Department subsequent to comments from the Interagency Management Committee and the State Coastal Advisory Committee.

(b) Federal and state coastal management goals and objectives.

(c) The amount of available coastal management funds.

(d) Specific comments by state and areawide A-95 Clearinghouses.

(e) Consistency of the application with the Florida Coastal Management Program and with applicable state and federal rules, regulations and statutes.

(3) In addition to these aforementioned criteria, local government applicants shall demonstrate that their application is consistent with their adopted local comprehensive plan.

General Authority: 380.19(7), F.S.
Specific Authority: 380.22(3), F.S.
Law Implemented: 380.21(2), 380.22, F.S. History: New.

17-24.08 Award Conditions.

(1) Each recipient under this program shall pledge and provide at least a twenty percent (20%) match.

(2) The recipient shall comply with OMB Circular A-102 and FMC 74-4, coastal management requirements found in 15 C.F.R. 923, and any specific award conditions.

(3) The recipient may not use other federal funds to meet the matching share requirements of the award.

(4) Each recipient shall submit progress reports in accordance with the performance schedule found in the contract.

(5) The tasks performed by the recipient pursuant to this program shall be completed on or before the end of the contract. Requests for payment must be submitted to the Department by the recipient within thirty (30) days following the end of the contract.

(6) Each recipient shall include in its annual post audit, an audit of its coastal management grant. The annual audit shall include a schedule identifying revenues, expenditures, fund balances and match funds in accordance with applicable rules, regulations and contract provisions. A copy of this schedule and any audit comments related thereto shall be provided to the Department within thirty (30) days after completion of the audit. In the event that the requirements of these rules and the contract are not met, the recipient shall be held liable for reimbursement to the Department for all funds not spent in accordance with applicable state and federal regulation and contract provisions.

(7) The inclusion of the substance of an application in the State's coastal management financial assistance application does not imply the approval of, or exemption from, any Department permit or license required to construct or operate the project. Projects included in the State coastal management financial assistance application shall comply with all applicable permitting requirements including, if necessary, obtaining State water quality certification pursuant to Section 401 of the Federal Water Pollution Control Act, 33 U.S.C. Section 1341.

General Authority: 380.19(7), F.S. Law Implemented: 380.21(2), 380.22, F.S. History: New.

TABLE 1
COUNTIES AND CITIES ELIGIBLE FOR
COASTAL MANAGEMENT FUNDS

BAY COUNTY

Bayview
Callaway
Lynn Haven
Mexico Beach
Panama City
Panama City Beach
Parker
Springfield

BREVARD COUNTY

Cape Canaveral
Cocoa
Cocoa Beach
Indialantic
Indian Harbor Beach
Malabar
Melbourne
Melbourne Beach
Palm Bay
Palm Shores
Rockledge
Satellite Beach
Titusville

BROWARD COUNTY

Dania
Deerfield Beach
Ft. Lauderdale
Hallandale
Hillsboro Beach
Hollywood
Lauderdale-by-the-Sea
Lighthouse Park
Oakland Park
Pompano Beach
Sea Ranch Lakes
Wilton Manors

CHARLOTTE COUNTY

Punta Gorda

CITRUS COUNTY

(No cities)

COLLIER COUNTY

Everglades City
Naples

DADE COUNTY

Bal Harbour Village
Bay Harbour Islands
Coral Gables
El Portal
Golden Beach
Indian Creek Village
Islandia
Miami
Miami Beach
Miami Shores
North Bay
North Miami
North Miami Beach
Surfside

DIXIE COUNTY

Horseshoe Beach

DUVAL COUNTY

Atlantic Beach
Jacksonville
Jacksonville Beach
Neptune Beach

ESCAMBIA COUNTY

Pensacola

FLAGLER COUNTY

Beverly Beach
Flagler Beach
Marineland (part)
Painters Hill

FRANKLIN COUNTY

Apalachicola
Carabelle

GULF COUNTY

Port St. Joe

HERNANDO COUNTY

(No cities)

HILLSBOROUGH COUNTY

Tampa

INDIAN RIVER COUNTY

Indian River Shores
Orchid
Sebastian
Teto Beach

JEFFERSON COUNTY

(No cities)

LEE COUNTY

Cape Coral
Ft. Myers
Sanibel

LEVY COUNTY

Cedar Key
Yankeetown

MANATEE COUNTY

Anna Maria
Bradenton
Bradenton Beach
Longboat Key (part)
Holmes Beach
Palmetto

TABLE 1 (Continued)

MARTIN COUNTY

Jupiter Island
Ocean Breeze Park
Sewall's Point
Stuart

MONROE COUNTY

Key Colony Beach
Key West
Layton

NASSAU COUNTY

Fernandina Beach

OKALOOSA COUNTY

Cinco Bayou
Fort Walton Beach
Mary Esther
Niceville
Shalimar
Valparaiso

PALM BEACH COUNTY

Boca Raton
Boynton Beach
Briny Breezes
Delray Beach
Gulfstream
Highland Beach
Hypoluxo
Juno Beach
Jupiter
Jupiter Inlet Coloney
Lake Park
Lantana
Manalapan
North Palm Beach
Ocean Ridge
Palm Beach
Palm Beach Gardens
Palm Beach Shores
Riviera Beach
South Palm Beach
Tequesta
West Palm Beach

PASCO COUNTY

New Port Richey
Port Richey

PINELLAS COUNTY

Belleair
Belleair Beach
Belleair Bluffs
Belleair Shores
Clearwater
Dunedin
Gulfport
Indian Rocks Beach
Indian Shores
Largo
Madiera Beach
North Redington Beach
Oldsmar
Redington Beach
Redington Shores
Safety Harbour
St. Petersburg
St. Petersburg Beach
Seminole
Tarpon Springs
Treasure Island

ST. JOHNS COUNTY

Marineland (part)
St. Augustine
St. Augustine Beach

ST. LUCIE COUNTY

Fort Pierce
Port St. Lucie
St. Lucie Village

SANTA ROSA COUNTY

Gulf Breeze

SARASOTA COUNTY

Longboat Key (part)
North Port
Sarasota
Venice

TAYLOR COUNTY

(No cities)

VOLUSIA COUNTY

Daytona Beach
Daytona Beach Shores
Edgewater
Holly Hill
New Smyrna Beach
Oak Hill
Ormond Beach
Ponce Inlet
Port Orange
South Daytona

WAKULLA COUNTY

St. Marks

WALTON COUNTY

(No cities)

CHAPTER 17-25
REGULATION OF STORMWATER DISCHARGE

Library References: Stormwater revisited: DER's new rule for regulation of stormwater discharges, Segundo J. Fernandez, 56 Fla. Bar J. 479 (May, 1982).

17-25.01 Scope.

(1) The discharge of untreated stormwater may reasonably be expected to be a source of pollution of waters of the state and is, therefore, subject to Department regulation. The Department shall prevent pollution of waters of the state by discharges of stormwater, to ensure that the designated most beneficial uses of waters, as prescribed by Chapter 17-3, Florida Administrative Code, are protected.

(2) A permit under this chapter will be required only for new stormwater discharge facilities as defined herein. This provision shall not affect the Department's authority to require appropriate corrective action, pursuant to Sections 403.121—403.161, Florida Statutes, whenever existing facilities cause or contribute to violations of state water quality standards.

(3) Stormwater discharges to groundwaters shall be regulated under the provisions of Rule 17-4.245, F. A. C. and other applicable rules of the Department.

(4) The Department intends that, to the greatest extent practicable, the provisions of this chapter be delegated to either local governments or water management districts seeking such delegation.

Specific Authority 403.061 FS. Law Implemented 403.021, 403.061, 403.101(1) FS. History—Formerly 17-4.248, Amended and Renumbered 2-1-82, Amended 1-26-84.

17-25.02 Definitions.

(1) "Conservation Plan" — a formal document, prepared or approved by a local Soil and Water Conservation District Board organized pursuant to Chapter 582, Florida Statutes, which outlines a system of management practices to control soil erosion, reduce sediment loss or protect the water quality on a specific parcel of property.

(2) "Construction" — any on-site activity which will result in the creation of a new stormwater discharge facility, including the building, assembling, expansion, modification, or alteration of the existing contours of the property, the erection of buildings or other structures, or any part thereof, or land clearing.

(3) "Detention" or "To Detain" — the collection and temporary storage of stormwater in such a manner as to provide for treatment through physical, chemical, or biological processes with subsequent gradual release of the stormwater.

(4) "Engineer" — a professional engineer registered in Florida, or other person exempted pursuant to the provisions of Chapter 471, Florida Statutes, who is competent in the fields of hydrology and stormwater pollution control.

(5) "Effective Grain Size" — the diameter of filter sand or other aggregate that corresponds to the 10 percentile finer by dry weight on the grain size distribution curve.

(6) "Filtration" or "To Filter" — the selective removal of suspended matter from stormwater by passing the water through at least 2 feet of suitable fine textured granular

media such as porous soil, uniformly graded sand and gravel, or other natural or artificial aggregate, which may be used in conjunction with filter fabric and/or underdrain pipe.

(7) "New Stormwater Discharge Facility" — a stormwater discharge facility which is not in existence on February 1, 1982, or for which a completed stormwater discharge, dredge or fill, or other Department permit or license application has not been received before February 1, 1982, or an existing stormwater discharge facility which is modified, as specified in Rule 17-25.04(3), F. A. C., on or after February 1, 1982. A stormwater discharge facility approved or found to be exempt by the Department before February 1, 1982, or a facility which has been determined by the Department not to be significant pursuant to Rule 17-4.248(5), F. A. C., before February 1, 1982, shall not be considered a new stormwater discharge facility.

(8) "Retention" or "To Retain" — the prevention of, or to prevent the discharge of, a given volume of stormwater runoff into surface waters of the State by complete on-site storage.

(9) "Stormwater" — the flow of water which results from, and which occurs immediately following, a rainfall event.

(10) "Stormwater Discharge Facility" — a stormwater management system which discharges stormwater into surface waters of the State.

(11) "Stormwater Management System" — the designed features of the property which collect, convey, channel, hold, inhibit, or divert the movement of stormwater.

(12) "Swale" — a manmade trench which:

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

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

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

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

(13) "Uniformity Coefficient" — the number representing the degree of homogeneity in the distribution of particle sizes of filter sand or other granular material. The coefficient is calculated by determining the D^{60}/D^{10} ratio where D^{10} and D^{60} refer to the particle diameter corresponding to the 10 and 60 percentile of the material which is finer by dry weight.

(14) "Waters" — are as defined in Section 403.031(3), Florida Statutes.

Specific Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061 FS. History—Formerly 17-4.248, Amended and Renumbered 2-1-82, Amended 3-30-82, 1-26-84.

Editorial Note: The 1-26-84 amendment entirely superseded the former rule.

17-25.025 Design and Performance Standards. The following design and performance standards are established for the purpose of determining compliance with this chapter:

(1) Detention basins shall again provide the capacity for the specified treatment volume of stormwater within 72 hours following a storm event.

(2) Filtration systems shall have pore spaces large enough to provide sufficient flow capacity so that the permeability of the filter is equal to or greater than the surrounding soil. The design shall ensure that the particles within the filter do not move. When sand or other fine textured aggregate other than natural soil is used for filtration, the filter material should be of a quality sufficient to satisfy the following requirements:

(a) Washed (less than 1 percent silt, clay and organic matter) unless filter cloth is used which is suitable to retain the silt, clay and organic matter within the filter;

(b) Uniformity coefficient 1.5 or greater; and

(c) Effective grain size of 0.20 to 0.55 millimeters in diameter. These criteria are not intended to preclude the use of multilayered filters nor the use of materials such as alum sludge to increase ion exchange or pollutant absorption capacity of the filter.

(3) Retention basins shall again provide the capacity for the given volume of stormwater within 72 hours following the storm event. The additional storage volume must be provided by a decrease of stored water caused only by percolation through soil, evaporation or evapotranspiration.

(4) Swales shall be designed to percolate 80% of the runoff from a three-year, one-hour design storm within 72 hours after a storm event, assuming average antecedent conditions.

Specific Authority 403.061 FS. Law Implemented 403.021, 403.061, 403.101(1) FS. History—New 1-26-84, Amended 3-28-84.

17-25.03 Exemptions.

(1) The following types of new stormwater discharge facilities are exempt from the notice and permit requirements of this chapter:

(a) facilities designed to accommodate only one single family dwelling unit, duplex, triplex or quadruplex, provided the single unit, duplex, triplex or quadruplex is not part of a larger common plan of development or sale;

(b) facilities which are designed to serve single family residential projects, including duplexes, triplexes and quadruplexes, of less than 10 acres total land area and which have less than 2 acres impervious surface provided that the facilities:

(i) comply with all regulations or ordinances applicable to stormwater management and adopted by a city or county; and

(ii) are not part of a larger common plan of development or sale; and

(iii) discharge into an exempt or permitted stormwater discharge facility which has sufficient capacity and is owned, maintained, or operated by a city, county, special district with drainage responsibility, or water management district; however, this exemption does not authorize hookups without the facility owner's prior written consent; or

(iv) discharge into a stormwater discharge facility which has sufficient capacity and is part of a master drainage plan adopted by a city or county; however, this exemption does not authorize hookups without the facility owner's prior written consent.

(c) stormwater discharge facilities whose functioning treatment components consist entirely of swales;

(d) facilities for agricultural lands, provided those facilities are part of an approved conservation plan; however, if the conservation plan is not implemented according to its terms, this exemption shall be void; and

(e) facilities for silvicultural lands, provided that the facilities are constructed and operated in accordance with the Silviculture Best Management Practices Manual (1979), published by the State of Florida, Department of Agriculture and Consumer Services, Division of Forestry, which is adopted and made a part of this rule by reference. A copy of this manual may be obtained by writing the Department of Agriculture, Division of Forestry, 3125 Conner Boulevard, the Collins Building, Tallahassee, Florida 32301, and may be inspected at all Department of Environmental Regulation offices.

(2) The following types of new stormwater discharge facilities are exempt from the permitting requirements of this chapter provided that the owner files notice and an engineer certifies to the Department, on forms provided by the Department, at least 14 days prior to construction that the discharge facility will meet the criteria specified below and provided that an entity responsible for operation and maintenance of the proposed facility has been determined. Furthermore, an engineer shall certify on forms provided by the Department, within 14 days after construction is completed that the new stormwater discharge facility, as constructed, qualifies for exemption under this section. If a written statement of exemption is requested by the owner or the owner's agent, the Department may require that the owner and engineer furnish appropriate design analyses, calculations, drawings, specifications and other information to describe, verify and document that the proposed stormwater discharge facility qualifies for exemption according to this section.

(a) facilities which discharge into a stormwater discharge facility which is permitted pursuant to Rule 17-25.04 or exempt pursuant to Rule 17-25.03 where the appropriate treatment criteria specified in this chapter and applied to the permitted or exempt facility are not exceeded by the discharge; however, this exemption does not authorize hookups to permitted or exempt facilities without the facility owner's prior written consent; or

(b) facilities which provide retention, or detention with filtration, of the runoff from the first one inch of rainfall; or, as an option, for projects or project subunits with drainage areas less than 100 acres, facilities which provide retention, detention with filtration, of the first one half inch of runoff; or,

(c) modification or reconstruction by a city, county, state agency, special district with drainage responsibility, or water management district of an existing stormwater management system which is not intended to serve new development, and which will not increase pollut[illegible]ding, or change points of discharge in [illegible]er that would adversely affect the designated uses of

waters of the State.
Specific Authority 403.061, 403.087, 403.088, 403.504 FS. Law Implemented 403.021, 403.061, 403.087, 403.088, 403.121, 403.141, 403.161, 403.182, 403.502, 403.702, 403.708 FS. History—Formerly 17-4.248, Amended and Renumbered 2-1-82, Amended 3-30-82, 1-26-84, 3-28-84.

Editorial Note: The 3-28-84 amendment deleted subparagraph (2)(c) and amended and relettered former (2)(d) as (2)(c).

17-25.04 Construction Permit Requirements for New Stormwater Discharge Facilities.

(1) Any person intending to construct a new stormwater discharge facility, except as exempted by Rule 17-25.03, F. A. C., or as noted in Rule 17-25.06, F. A. C., shall apply to the Department for a construction permit, using forms provided by the Department, prior to commencement of construction of the stormwater discharge facility. In a geographical area where delegation has occurred, pursuant to Rule 17-25.05, F. A. C., application shall be made pursuant to the provisions of the delegation document.

(2) Construction of a new stormwater discharge facility shall not be undertaken without a valid construction permit as required pursuant to this rule.

(3) Modifications to an existing stormwater discharge facility that will increase the design discharge of the system, increase pollution loading, or change points of discharge, except from emergency repairs, are considered new stormwater discharge facilities for purposes of this chapter.

(4) A construction permit may be issued to the applicant, upon such condition as the Department may direct, only if the applicant affirmatively provides the Department with reasonable assurance based on plans, test results and other information, that the construction, expansion, modification, operation, or activity of the stormwater discharge facility will not discharge, emit, or cause pollution in contravention of Department standards, rules or regulations.

(5) A showing by the applicant that the facility design will provide treatment equivalent to either retention, or detention with filtration, as described in this chapter, of the runoff from the first one inch of rainfall; or, as an option for projects or project subunits with drainage areas less than 100 acres, the first one half inch of runoff, shall be presumed to provide reasonable assurance pursuant to subsection (4) above, provided that adequate provisions have been made for operation and maintenance of the proposed facility.

(6) In otherwise determining whether reasonable assurance has been provided, the Department shall, where appropriate, consider:

(a) whether best management practices are proposed, such as those described in "A Manual of Reference Management Practices for Urban Activities (July, 1978)," "A Manual of Reference Management Practices for Construction Activities (December, 1977)," "A Manual of Reference Management Practices for Agricultural Activities (November 1978)," "Silviculture Best Management Practices Manual (1979)," "Stormwater Management Manual (October 1977)," or best management practices described in manuals adopted by the Environmental Regulation Commission pursuant to Rule 17-25.05, F. A. C., or other appropriate best management practices. The manuals listed above by name are adopted and made a part of this rule by reference. Copies of these documents may be obtained by writing the Department, and may be inspected at all Department offices;

(b) the public interest served by the discharge;

(c) the probable efficacy and costs of alternative controls;

(d) whether the proposed water quality benefits are reasonably related to the costs of the controls; and

(e) whether reasonable provisions have been made for the operation and maintenance of the proposed facility.
Specific Authority 403.031, 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087, 403.088 FS. History—Formerly 17-4.248, Amended and Renumbered 2-1-82, Amended 3-30-82, 1-26-84, 3-28-84.

17-25.05 Delegation.

(1) The Department may, after notice in the Florida Administrative Weekly pursuant to the provisions of Chapter 120, Florida Statutes, delegate to either local governments or water management districts seeking such delegation, as provided in Sections 403.182, 403.812, Florida Statutes, and this rule, the authority to process notices, issue or deny permits, initiate enforcement actions, and monitor for compliance as provided in Sections 403.182, 403.812, Florida Statutes, and this rule. Delegation shall not include the authority for a local government or a water management district to issue or deny permits for its own activities except replacement items or maintenance of existing facilities.

(2) A water management district which has been delegated stormwater regulation pursuant to this section may establish alternative requirements which protect the designated uses of waters of the State provided that the alternative requirements are approved by the Environmental Regulation Commission pursuant to Section 403.804, Florida Statutes. Alternative requirements so approved by the Commission shall apply in lieu of the provisions of this chapter in the area of delegation. Following delegation to a water management district, those activities within the district that meet the exemption criteria of Rule 17-25.03(1), F. A. C., shall be exempt from the requirements of Rule 17-4.242, F. A. C., regarding Outstanding Florida Waters.

(3) A local government which has been delegated stormwater regulation pursuant to this rule may also establish by rule, ordinance or local law, alternative requirements provided the Department determines such alternative requirements are compatible with, or more stringent than, those imposed by this chapter.
Specific Authority 403.061, 403.062, 403.182, 403.805, 403.812 FS. Law Implemented 403.021, 403.061, 403.062, 403.182, 403.805, 403.812 FS. History—Formerly 17-4.248, Amended and Renumbered 2-1-82, Amended 1-26-84.

17-25.06 Relationship to Other Permitting Requirements.

(1) Whenever the construction of a new stormwater discharge facility requires that a dredge or fill permit be secured pursuant to Rule 17-4.28 or 17-4.29, F. A. C., or whenever other rules of the Department require that a permit, Section 401 Federal Clean Water Act certification or other certification be secured, all applicable stormwater requirements under this chapter shall be reviewed as part of those permit applications. A separate permit application under this chapter shall not be required. If the applicant requests a separate stormwater permit, the applicant must notify the Department of any other Department permits, exemptions, or certifications which have or will be requested for the project.

(2) The permit requirements of Chapter 17-4 or other applicable rules, rather than those of this chapter, shall apply to discharges which are a combination of stormwater and industrial or domestic wastewater or which are otherwise contaminated by non-stormwater sources unless:

(a) the stormwater discharge facility is capable of providing treatment of the non-stormwater component sufficient to meet state water quality standards; and

(b) the applicant requests that the permit requirements of this Chapter apply.
Specific Authority 403.061, 403.062, 403.087 FS. Law Implemented 403.021, 403.061, 403.087, 403.088, 403.101, 403.702, 403.708 FS. History—Formerly 17-4.248, Amended and Renumbered 2-1-82, Amended 1-26-84.

17-25.07 Transferability of Other Chapters.
Specific Authority 403.061, 403.062, 403.087, 403.504 FS. Law Implemented 403.021, 403.061, 403.087, 403.088, 403.101, 403.502, 403.702, 403.708 FS. History—Formerly 17-4.248, Amended and Renumbered 1-20-82, Repealed 5-1-82.

17-25.08 General Provisions. Nothing under this chapter shall preclude:

(1) stormwater effects from being considered in the evaluation of other types of permits where such consideration is relevant to a determination of compliance with applicable Department requirements;

(2) the legal joinder in a permitting proceeding under this chapter of persons who own or control unpermitted stormwater discharge systems which comprise a significant portion of the stormwater discharge facility;

(3) the Department from taking appropriate legal action including but not limited to the requiring of a permit to prevent the impairment of a use for which a water of the state has been designated under Chapter 17-3, Florida Administrative Code;

(4) the Department from entering interagency or interlocal agreements to accomplish the provisions of this chapter.
Specific Authority 403.061, 403.062, 403.087 FS. Law Implemented 403.021, 403.061, 403.087, 403.088, 403.121, 403.141, 403.161, 403.708 FS. History—Formerly 17-4.248, Amended and Renumbered 1-20-82.

17-25.09 List of Entities to Which Permitting Pursuant to This Chapter Has Been Delegated; Addresses; Delegation Documents and Rules Adopted by Reference.

(1) South Florida Water Management District, Post Office Box V, West Palm Beach, Florida 33402.

(a) Surface Water Management Rule; Chapter 40E-4, F. A. C. (March 9, 1983);

(b) General Surface Water Management Rule; Chapter 40E-40, F. A. C. (December 1, 1982);

(c) "Basis of Review for Surface Water Management Permit Applications within the South Florida Water Management District — December 1982."

(d) Nothing in this delegation shall prevent the Department from considering the stormwater impact of dredging or filling regulated pursuant to Rule 17-4.28 or 17-4.29, F. A. C., or the district from implementing applicable provisions of Chapters 17-3 and 17-4, F. A. C. Provided, however, in those cases where the water management district has issued a surface water management permit pursuant to Chapter 373, Part IV, Florida Statutes and this delegation, the Department shall confine its review of stormwater quality impacts solely to those generated by dredging and filling regulated pursuant to Rules 17-4.28 and 17-4.29, F. A. C.

(2) Southwest Florida Water Management District, 2379 Broad Street, Brooksville, Florida 33512.

(a) Regulation of Stormwater Discharge; Chapter 17-25, F. A. C.

(b) When a proposed stormwater discharge facility is associated with activities which require a dredge and fill, industrial waste, or hazardous waste permit from the Department, stormwater permit applications and exemption notices must be submitted to the Department and the Department shall regulate such stormwater discharge facilities within the district.

Specific Authority 403.061, 403.812 FS. Law Implemented 403.021, 403.061, 403.812 FS. History—Formerly 17-4.248, Amended and Renumbered 2-1-82, Amended 3-30-82, 1-26-84, 3-28-84.

***Editorial Note:** The 1-26-84 and 3-28-84 amendments entirely superseded the former rule.*

17-25.10 Effective Date.

Specific Authority 120.54(12)(a), 403.061(7) FS. Law Implemented 120.54(12)(a), 403.051 FS. History—Formerly 17-4.248, Amended and Renumbered 2-1-82, Repealed 1-26-84.

CHAPTER 17-26

STATE PUBLIC WORKS PROGRAM - BASIS OF STATE REVIEW

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17-26.01 General Authority.

(1) Pursuant to Section 373.026 (9), Florida Statutes, the Department of Environmental Regulation is authorized to:

(a) "hold annually a conference on water resources development";

(b) "select those projects for presentation in the Florida program of public works which best represent the public welfare and interest of the people of the state as required for the proper development, use, conservation and protection of waters of the state and land resources affected thereby"; and,

(c) "present to the appropriate committees and agencies of the Federal government a program of public works for Florida, requesting authorization for funds for each project."

(2) The State Public Works Program contains those water resource studies or projects carried out by the U.S. Army Corps of Engineers.

(3) Projects included in the State Public Works Program remain subject to state permits pursuant to Chapters 373, 403 and 253, Florida Statutes, and state water quality certification pursuant to Section 401 of P.L. 92-500, as amended. Whenever possible the Department and local sponsor shall identify at the study stage, for informational purposes only, as many issues as can be determined might arise at such time as permit applications are submitted to the Department.

Specific Authority: 373.043, 373.044, F.S. Law Implemented: 373.026(9), 373.043, 373.044, F.S. History: New.

17-26.02 Definitions.

(1) "Continuing Authority Projects" are those projects, usually not exceeding $2,000,000 in cost, which the Secretary of the Army and Chief of Engineers may undertake without specific authorization from Congress.

(2) "Corps" means the United States Army Corps of Engineers.

(3) "Department" means the Department of Environmental Regulation.

(4) "Local Sponsor" means the local public body which sponsors a water resource study or project.

(5) "Project" means those implementation actions taken by the Corps based upon the recommendations contained in a study and which are specifically authorized and funded by Congress.

(6) "Public Works Program" or "Program" means Florida's annual request for federal funding for water resource studies and projects.

(7) "Study" means a water resource investigation conducted by the Corps specifically authorized and funded by Congress to determine the feasibility of a proposed project or to provide planning services to state and local governments.
Specific Authority: 373.043, 373.044, F.S. Law Implemented: 373.026(9), 373.043, 373.044, F.S.
History: New.

17-26.03 Studies or Projects to be Conducted by the Corps of Engineers.

(1) Federal funding may be requested for studies or projects.

(2) Except for Continuing Authority Projects, studies and projects must be specifically authorized by Congressional Resolution or Act and funded as a separable line item by Congress.

(3) The Corps is provided general authorization and discretionary funding by Congress for Continuing Authority Projects.
Specific Authority: 373.043, 373.044, F.S. Law Implemented: 373.026(9), 373.043, 373.044, F.S.
History: New.

17-26.031 Local Sponsors for Corps of Engineers Studies or Projects.

(1) Each study or project must have a local sponsor responsible for obtaining Congressional authorization for the study or project.

(2) A local sponsor of a project must be a public body capable of meeting the following requirements:

(a) Providing the necessary local cost-share;

(b) Furnishing necessary lands, rights-of-way and easements to implement the study or project; and,

(c) Holding and saving the United States government free from damages resulting from the implementation and operation of the study or project.

(3) Other requirements of the local sponsor of a study or project which may be specified by the Corps include:

(a) Operating and maintaining completed improvements;

(b) Preventing future encroachments on the study or project area;

(c) Providing utility relocations, disposal areas, royalty-free rock, supplemental dredging and jetty work, dikes for containing dredge material, and cash contributions toward new work; and,

(d) Contracting to repay all or a portion of the costs allocated to project facilities beneficial to local interests.

(4) Local sponsors for studies or projects may include, but are not limited to, water management districts, regional water supply authorities, counties, municipalities, special districts (e.g., inland navigation, water control improvement or inlet districts) and port authorities.

(5) Certain public bodies which do not meet requirements for sponsoring projects (e.g., regional planning councils, Florida Game and Fresh Water Fish Commission) may sponsor studies.

(6) Each local sponsor shall provide the Department with a copy of notices of public hearings and workshops, feasibility study reports, general and detailed design memoranda, and environmental impact statements.
Specific Authority: 373.043, 373.044, F.S. Law Implemented: 373.026(9), 373.043, 373.044, F.S.
History: New.

17-26.04 Water Resources Conference and Study/Project Review Procedures.

(1) A water resource conference shall normally be held in February of each year for the fiscal year beginning October 1 of the following year. This conference shall be conducted by the Department to give local sponsors the opportunity to formally present proposed studies or projects, including new Continuing Authority Projects, to appropriate state agencies and the public.

(2) Notice and application forms as approved by the Department shall be provided by mail at least 45 days prior to the conference to each county commission, water management district, regional water supply authority, port authority, all past applicants, affected state or federal agencies, and any person from whom the Department has received a prior written request for such notification or application form.

(3) Applications shall be submitted to the Department not later than seven days prior to the water resources conference. If the Department notifies the local sponsor of the need for further information to complete the application, such information shall be submitted by the local sponsor within 30 days of the date of notification. Failure to provide such information within 30 days may result in withdrawal of further consideration of the proposed study or project.

(4) Except as provided in 17-26.04(5), Florida Administrative Code, ongoing studies or projects which have been previously approved by the Department, and for which funding has been appropriated by Congress, shall not be subject to reevaluation by the Department in its formulation of the program in subsequent fiscal years. At least 7 days before the water resources conference, a local sponsor seeking continuation of a study or project shall submit to the Department information concerning any amendments or modifications to the application originally approved. If there are no amendments or modifications, the notice shall state the local sponsor's desire for continued inclusion in the public works program and the level of funding required.

(5) If the Department determines that amendments or modifications to the approved application, new information, changes in land use, or changes in applicable laws and rules provide good cause to reevaluate the study or project, the Department shall so notify the local sponsor within 30 days of the water resources conference.

(6) The Department shall publish notice of the conference in the Florida Administrative Weekly at least 30 days prior to the conference. Local sponsors attending the conference shall have the opportunity to present their study or project and to respond to questions. Members of the general public shall have the opportunity to ask questions or express an opinion relative to each study or project presented.

(7) On or before April 15, the Department shall publish in the Florida Administrative Weekly a list of those studies or projects for which state approval is sought, and shall request comments from interested persons regarding the proposed activity.

(8) The Department shall submit a copy of each application to the State A-95 Clearinghouse and shall submit copies of each application for beach erosion control studies or projects to the Department of

Natural Resources no later than May 15. Comments from the State A-95 Clearinghouse and the Department of Natural Resources shall be due to the Department within 60 days of receipt of the applications.
Specific Authority: 373.043, 373.044, F.S. Law Implemented: 373.026(9), 373.043, 373.044, F.S.
History: New.

17-26.05 Preliminary Public Works Program.

(1) By no later than September 1, the Department shall publish a notice in the Florida Administrative Weekly summarizing the preliminary public works program. The notice shall include the name, local sponsor, and location of each study or project and the Department's intent to approve, disapprove, or approve with conditions such study or project.

(2) By no later than September 1, the Department shall issue a notice of intent by certified mail to the local sponsor, stating Department intent to approve, disapprove, or approve with conditions a study or project and the reasons therefor. The local sponsor shall provide reasonable assurance within 14 days of receipt or publication of notice, that all conditions specified in the notice of intent will be met.

(3) The local sponsor or any person whose substantial interests are affected may request a hearing pursuant to Section 120.57, Florida Statutes, within 14 days of receipt or publication of notice. Failure to request a hearing within 14 days of receipt or publication of notice shall constitute a waiver of the right to a hearing.

(4) The Department shall submit a preliminary program, which shall consist of those approved or conditionally approved studies and projects published in the Florida Administrative Weekly pursuant to 17-26.05(1), Florida Administrative Code, to the federal Office of Management and Budget (OMB) by no later than October 30, or the date of submission to the Congress of the President's annual budget proposal, whichever is sooner.
Specific Authority: 373.043, 373.044, F.S. Law Implemented: 373.026(9), 373.043, 373.044, F.S.
History: New.

17-26.06 Public Works Program.

(1) By no later than February 1 of the year following the water resources conference, the Department shall publish in the Florida Administrative Weekly a list of those studies or projects to be included in the program, and of those studies or projects which may be included pending the outcome of hearings pursuant to Section 120.57, Florida Statutes. Any person whose substantial interests are affected by a material modification of a proposed study or project contained in the preliminary public works program may request a hearing pursuant to Section 120.57, Florida Statutes, concerning the effect of such modification within 14 days after publication of notice.

(2) Should final agency action be taken to approve a study or project as a result of Chapter 120 administrative or judicial proceedings pursuant to 17-26.05(3) or 17-26.06(1), Florida Administrative Code, the Department shall take all reasonable steps to include the study or project in the program. If the Department is unable to include the study or project in the program, the Department shall include the study or project as approved in the

public works program developed for the following year and without further evaluation.

(3) Should final agency action be taken to disapprove a study or project as a result of Chapter 120 administrative or judicial proceedings pursuant to 17-26.05(3), or 17-26.06(1), Florida Administrative Code, or if the local sponsor has not provided reasonable assurance to the Department purusant to 17-26.05 (2), or has violated the conditions for approval, such study or project shall not be included in the program.

(4) At the invitation of the U.S. Congress, the Department shall submit to Congress the program for the fiscal year beginning October 1 of the year following the water resources conference.

(5) A copy of the program shall be provided to the appropriate subcommittees of the Congressional Appropriations Committees, Florida's Congressional Delegation, the Office of the Governor, and all local sponsors included in the program.

(6) The Department shall make every reasonable effort to secure funding for each study or project in the program.

Specific Authority: 373.043, 373.044, F.S. Law Implemented: 373.026(9), 373.043, 373.044, F.S. History: New.

17-26.07 Criteria for Reviewing Water Resource Development and Management Studies and Projects.

(1) The Department shall not include in the program any study or project for which a current and complete application, including supplemental information requested by the Department pursuant to 17-26.04(3), has not been received.

(2) The decision to include, or include with conditions, a proposed study or project will be based upon the requirements of Section 373.026 (9), Florida Statutes. In making that decision, the Department may consider:

(a) Comments received from water management districts, regional planning councils, or local governing bodies in whose jurisdiction the study or project lies;

(b) Consistency with approved water quality management plans certified by the Governor pursuant to Section 208 of P.L. 92-500, as amended;

(c) Consistency with an approved Coastal Management Program certified by the Governor pursuant to Section 306 of P.L. 92-583;

(d) Comments received at hearings or workshops and other comments received from federal and state agencies, individuals, and private organizations;

(e) Whether the proposed study or project would conflict with state water policy or with other applicable state and federal rules, regulations, and law;

(f) In the case of a project, the feasibility study reports, draft and final environmental impact statements, and general and detailed design memoranda;

(g) Action taken by the Department to approve or disapprove the study or project in prior years; and,

(h) Whether the proposed study or project is designed to withstand or mitigate flood damage and will not exacerbate existing flood hazard conditions or harm areas where natural vegetation or land characteristics provide flood damage projection, water quality protection, or fish and wildlife habitat.

Specific Authority: 373.043, 373.044, F.S. Law Implemented: 373.026(9), 373.043, 373.044, F.S. History: New.

CHAPTER 17-50
CONSTRUCTION GRANTS PROGRAM PRIORITY SYSTEM FOR WASTEWATER TREATMENT WORKS

17-50.01 General.

(1) Florida's Water Quality Assurance Act, enacted in 1983, includes amendments to Florida's water pollution control legislation. State funds will become available after October 1984 to qualifying governmental bodies for wastewater facilities construction grants.

(2) The Federal Water Pollution Control Act, as amended, prohibits federal funding for reserve capacity, major sewer rehabilitation, combined sewer overflow correction, and collection sewer construction after September 30, 1984. However, the program is generally and otherwise unchanged.

(3) Requirements for funding from State or federal monies are intended to be consistent. However, some differences exist since the statutes are not identical. As a result, there are provisions of this chapter which are not subject to constraints imposed by the federal construction grants program regulations and policies. This chapter contains the requirements and procedures for municipalities to obtain financial assistance as described below:

(a) U. S. Environmental Protection Agency 55 percent grants for treatment works construction (Step 3) under the Federal Water Pollution Control Act, as amended.

(b) Department of Environmental Regulation 55 percent grants for treatment works construction (Step 3) under the Florida Water Pollution Control and Sewage Treatment Plant Grant Act, as amended.

(c) Department of Environmental Regulation advance allowances for planning (Step 1) and design (Step 2) of treatment works under the Federal Water Pollution Control Act, as amended.

(d) Department of Environmental Regulation 55 percent grants for design and construction (Step 2 + 3) under the Small Community Sewer Construction Assistance Act.

(e) Department of Environmental Regulation grants of less than $50,000 for design and construction (Step 2 + 3) under the Small Community Sewer Construction Assistance Act which do not require 45 percent local matching funds.

(4) The objectives of the construction grants program include abatement of water pollution and the protection of public health. This is to be achieved, in part, through assistance in the financing of publicly owned wastewater treatment, collection, transmission, and disposal facilities, as well as sewer system infiltration/inflow correction. Generally, any city or other public body (referred to as a municipality) which has as one of its principal responsibilities the treatment, collection, transmission, or disposal of domestic wastewater may qualify as a grant applicant.

(5) Federal and State requirements, including facilities planning (Step 1) and design (Step 2), shall be fulfilled to qualify for a construction (Step 3) grant. Funding of design plus construction (Step 2 + 3) grants is available under the Florida Small Community Sewer Construction Assistance Act. The requirements for Step 1 activities shall be fulfilled to qualify for a Step 2 + 3 grant.

(6) The program generally provides 55 percent funding of eligible project costs. Additional funding of as much as 20 percent of innovative and alternative technology costs may be awarded for federally funded projects. A grant recipient must provide matching funds as opposed to in-kind services. The local matching share for Step 3 grants, awarded under the Florida Water Pollution Control and Sewage Treatment Plant Grant Act, shall not include grant funds from other agencies. The local matching share for Step 2 + 3 grants

awarded under the Small Community Sewer Construction Assistance Act may include grant funds from other agencies. Since all wastewater management facilities are not eligible for funding, a grant may be less than 55 percent of the total project costs. In addition, local or State wastewater treatment requirements may be more stringent than federal requirements, in which case federal funding assistance would be limited to the costs necessary to meet federal requirements. However, State funds may be available for advanced treatment facilities which are ineligible for federal funding. Given the anticipated inadequacy of program appropriations relative to municipal needs, the maximum amount of funds that may be scheduled or awarded in any one fiscal year for a municipality is limited.

Funding approvals occur at different levels. Grant applications must be authorized at the local government level, approved by the Department of Environmental Regulation as entitled to priority use of available funds, and finally approved for grant award by the U. S. Environmental Protection Agency when federal grants are involved.

(7) Federal funding for the municipal construction grant program is authorized for fiscal year 1985 at a level which would provide approximately $82.5 million for Florida; the actual amount available for new projects may be less than the full allotment due to the existence of reserve funds. For funds to be made available, congressional action is needed each year; however, Congress is not required to appropriate funds. There is no set time during the fiscal year when appropriations are made available. The State funding for the municipal construction grants program is authorized without respect to fiscal year, but funds will be available on a nonrecurring basis subsequent to October 1984.

(8) Grants are made available according to the priority system set forth in this rule. The priority system sets forth the method of ranking cost-effective projects and the procedures for the development and management of the priority list. A project must rank high on the priority list or the Small Community Sewer Construction Trust Fund Reserve list and within the fundable portion to qualify for a grant. The lists' fundable portions shall include only those projects scheduled for award during fiscal year 1985. It is the policy and the intent of the Department to promote projects designed to be consistent with public health and water quality requirements. It is also the policy of the Department to promote financially self-sufficient wastewater management systems, encourage environmentally sound reuse and recycling, encourage water conservation, and to promote the use of innovative and alternative technologies to further encourage energy and other resource conservation.

(9) Projects are scheduled on the priority list, advance allowance list, and Small Community Sewer Construction Trust Fund Reserve list according to a score, derived from the reduction in pollution and the mitigation of public health problems which will be achieved, and readiness to proceed. In addition to priority score and project schedule, the availability of funds is considered in developing and managing funding lists. Only cost-effective projects in compliance with construction grants program requirements are eligible to be ranked for priority.

(a) Although planning and design work need not be complete for a cost-effective project to be scheduled on the initial priority list, all such work (including regulatory agencies' review) shall be complete for a Step 3 project to qualify for priority certification. All planning work shall be complete for a cost-effective Step 2 + 3 project to qualify for priority certification although all such work need not be complete to be scheduled on the initial Small Community Sewer Construction Trust Fund Reserve list.

(b) A project's potential priority certification date (readiness to receive a grant), as determined by the applicant, subject to adjustment by the bureau, is of primary importance in identifying which projects qualify for awards from available or expected funds. Documentation of completion of prerequisite Step 1 and, where appropriate, Step 2 activities shall be submitted to enable regulatory agency review in advance of the target date.

(c) Portions of projects which are not cost-effective or portions of new projects to be scheduled for funding from any of the fiscal year 1985 lists which will not contribute to the highest priority project objective (for example, alleviation of a public health hazard) shall not be used to establish certification eligibility of the entire project. As an alternative to the potential applicant's redefining the project scope to match the highest priority objective (which may be impractical), the priority score may be assigned to the entire project and only the

project costs associated with that objective may be certified by the Department for funding.

(10) The amended Federal Water Pollution Control Act provides for planning and design allowances at the time a construction grant is awarded in lieu of Step 1 and Step 2 grants. The initial costs of completing the grant application may prevent municipalities from qualifying for a Step 3 grant; therefore, a percentage of the federal allotment may be set aside to provide advance allowances to small communities which would otherwise be financially unable to complete planning and design requirements. The priority system also sets forth the method of ranking requests for advances to qualifying municipalities. Step 2 allowances shall be scheduled ahead of Step 1 allowances regardless of relative priority scores.

(11) Projects for which construction is initiated prior to grant award are ineligible for funding from the State monies. However, this restriction shall not apply to project portions or segments for which construction has not been initiated.

Specific Authority 403.061, 403.101, 403.1823, 403.1832, 403.1838, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1821—.1838 FS. History—New 7-13-82, Amended 4-26-83, 10-6-83, 2-2-84.

17-50.015 Adoption by Reference of Applicable Federal Regulations.

(1) Administration of the construction grants program is shared by EPA and the Department. Certain aspects of management of the program are delegated to the Department pursuant to Section 205(g) of the Federal Water Pollution Control Act, as amended. Other aspects of the program may be managed solely by EPA or the Department. All functions of the EPA construction grants program may be delegated with the exception of the following:

(2) Implementation of the State and federal program shall be governed by several parts of Title 40 of the Code of Federal Regulations (40 C. F. R.). Step 3 and advance allowance projects are subject to all applicable requirements listed below regardless of whether State or federal funds will be involved, except as provided in paragraphs (b), (f), and (i). Step 2 + 3 projects to be funded from the Small Community Sewer Construction Assistance Trust Fund are subject to the requirements only to the extent specifically provided in paragraphs (f), (h), and (j). Federal regulations, adopted by reference, and grants program forms adopted under Chapter 17-1, shall be interpreted, where appropriate, such that United States (or federal) shall mean State of Florida; EPA shall mean Department; and Administrator shall mean Secretary:

(a) 40 C. F. R. Part 4, Implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (March 19, 1974);

(b) 40 C. F. R. Part 6, Implementation of procedures on the National Environmental Policy Act (November 6, 1979); however, for state grant awards, preparation of an environmental assessment and a finding of no significant impact by the department may be determined equivalent to the issue of such documents by the EPA.

(c) 40 C. F. R. Part 7, Nondiscrimination in programs receiving federal assistance from the Environmental Protection Agency — effectuation of Title VI of the Civil Rights Act of 1964 (January 12, 1984);

(d) 40 C. F. R. Part 8, Equal employment opportunity under EPA contracts and EPA assisted construction contracts (January 25, 1974);

(e) 40 C. F. R. Part 25, Public participation in programs under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act (February 16, 1979);

(f) 40 C. F. R. Part 30, General regulations for assistance programs (September 30, 1983):

1. Step 3 projects involving State grants are subject to all requirements except Section 30.603(a); and

2. Step 2 + 3 projects to be funded from the Small Community Sewer Construction Assistance Trust Fund are subject only to Sections 30.200, 30.309, 30.400(a) and (b)(3), 30.405, 30.500 through 30.502, 30.505(a) and (b)(2), 30.510, 30.520, 30.530 through 30.532, 30.535 (except Subsection (c)), 30.540(a), 30.600(b), 30.601, 30.610 through 30.612, 30.700, 30.705, 30.710, 30.800, 30.802, and 30.900 through 30.904.

(g) 40 C. F. R. Part 32, Debarment and suspension under EPA assistance programs (August 17, 1982);

(h) 40 C. F. R. Part 33, Procurement under assistance agreements (March 28, 1983):

1. However, projects to be funded from the Small Community Sewer Construction Assistance Trust Fund are subject only to Sections 33.005, 33.205, 33.210 (except (f) and (g)), 33.211, 33.220 (except (a)(5) and (b)), 33.225 through 33.235, 33.245, through 33.255, 33.265, 33.270, 33.285, 33.290, 33.295 (except (a), (d), and (g)), 33.305 through 33.415, 33.420 (except (c)), 33.425 through 33.605, 33.715, 33.1005 through 33.1015, 33.1030 (except Item 12), 33.1105 through 33.1145, and Appendix A (except (a)).

2. Projects to be funded from State or federal monies are subject to the requirements of Section 33.430(c). In situations where construction is rebid following the rejection of all original bids, the eligibility of the resulting contract(s) shall be limited to the amount of the lowest viable, responsive, responsible bid (if any) which could have been awarded. Bids which are withdrawn are not considered viable.

(i) 40 C. F. R. Part 35, State and local assistance (February 17, 1984); however,

1. Step 3 projects involving State grants are subject to all requirements except:

a. Section 35.2113 whenever the department determines that its preparation of an environmental assessment and finding of no significant impact is equivalent to the issue of such documents by the EPA;

b. Section 35.2123 as it pertains to the determination of reserve capacity and the eligibility of treatment works capacity for existing needs.

2. All projects for which a grant was awarded after December 29, 1981 and prior to February 17, 1984 and for which a municipality requests a three month time extension (beyond the nine month allowable period subsequent to grant acceptance) to award subagreements and issue a notice to proceed for building the project shall be reviewed by the Environmental Regulation Commission. Denial of a request may result in grant annulment or termination.

(j) 40 C. F. R. Part 35, State and local assistance (February 17, 1984); however, projects to be funded from the Small Community Sewer Construction Assistance Trust Fund are subject only to the following:

1. Sections 35.2005, 35.2025(a), 35.2030, 35.2034, 35.2050, 35.2104 (except (d)), 35.2106 through 35.2108, 35.2110, 35.2116, 35.2120, 35.2125, 35.2127, 35.2130, 35.2140, 35.2200 through 35.2210, 35.2212 through 35.2218, 35.2250, 35.2300(a), (b) and (c);

2. Appendix A except for:

a. Subitem "1.d." under Costs Related to Subagreements;

b. Subitem "1.b." under Mitigation;

c. Subitems "1.b.", "1.c.", and "1.e." under Real Property; and

d. Subitems "1.d." and "2.e." under Miscellaneous Costs. Unallowable costs shall be limited to replacement of the remaining useful life of treatment works built with a Step 2 + 3 or Step 3 grant awarded under the Federal Water Pollution Control Act, as amended. (Disposition of property funded with state or federal grants is subject to paragraph (f), above.) Unallowable replacement costs shall be established using the actual replacement costs and the fraction of the remaining useful life based upon straight line amortization of useful life. Useful lives are

(i) Land — permanent

(ii) Conveyance structure — 50 years

(iii) Other structures — 30 years

(iv) Process equipment — 15 years

(v) Auxiliary equipment — 10 years; and

3. Appendix B.

(3) Where a federal regulation differs from a State rule or statute, the more stringent condition or requirement shall apply. This provision shall not be construed to restrict the award of State grants to only those facilities eligible for EPA grants.

Specific Authority 403.061, 403.101, 403.1823, 403.1832, 403.1838, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1821—.1838 FS. History—New 4-26-83, Amended 10-6-83, 2-2-84, 7-19-84, 10-7-84.

17-50.016 Site Acquisition.

(1) Eligible real property shall be acquired in accordance with Rule 17-50.015(2)(i) or (j).

(2) Ineligible real property or easements shall be acquired, bona fide options taken, or formal condemnation proceedings initiated prior to:

(a) grant application for Step 3 projects, or

(b) approval of plans and specifications for Step 2 + 3 projects.

Specific Authority 403.061, 403.101, 403.1823, 403.1832, 403.1838, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1821—.1838 FS. History—New 10-7-84.

17-50.017 Revenue Generation System. A revenue generation system is required for all state or EPA construction grant assistance. For a Step 3 grant, an approved revenue generation system is a grant application prerequisite. With a Step 2 + 3 grant, approval must be obtained prior to initiating construction procurement and prior to any grant payment. The revenue generation system may be updated as

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necessary to reflect changing conditions, but it shall remain in effect in conformance with this Chapter.

(1) For federal grants, the revenue generation system shall consist of the user charge system required under Rule 17-50.015(2)(i).

(2) For state grants, including state awards for project segments, the revenue generation system shall be implemented by ordinance or other legally binding enactment, before the initiation of operation of the complete grant funded treatment works or payment of more than 80 percent of grant funds is requested by the grantee, whichever occurs first. The revenue generation system shall include the user charge system required under Rule 17-50.015(2)(i) or (j) and shall be designed to produce adequate revenue for the following:

(a) Operation and maintenance (including replacement of equipment, accessories, or appurtenances during the design life of all treatment works necessary to maintain design capacity and performance) of the sewerage system, and

(b) A sewerage system capital improvement account to accumulate the equivalent future value of the grant amount as adjusted for inflationary cost increases. For the purpose of this requirement, accumulation of the equivalent future value of the grant amount shall mean total revenue collections and appreciation of such amount. Sewerage system shall mean municipal sanitary sewerage facilities, capital improvement shall not include the replacement or repair of equipment, accessories, or appurtenances necessary to maintain design capacity and performance during the design life of all treatment works. However, capital improvement may include such repair and replacement if they are part of a treatment plant or pumping station capacity expansion, or upgrade necessary to meet more stringent effluent limitations required by a regulatory agency, or are necessitated as the result of man-made or natural disasters. Deposits and withdrawals from the account shall be governed by the following provisions:

1. Revenue shall be deposited annually (or, at the municipality's election, on a more frequent basis) into the sewerage system capital improvement account not later than the end of each one-year period beginning with the date of initiation of operation of the complete grant funded treatment works. The annual deposits (plus investment income) are intended to accumulate the equivalent future value (based on the projected annual inflation rate of 7.8 percent) of the grant amount during the design life of the grant funded project. The amount of the required yearly deposit(s) shall be determined according to the following formula:

$$D = G \times \left[\frac{i(1 + i)^{DL}}{(1 + i)^{DL} - 1} \right]$$

Where:

D = The amount of the total yearly deposit(s),

G = The grant amount,

DL = The design life (in years) of the grant funded project, and

i = The projected annual inflation rate, which is set at 7.8 percent.

2. Revenue may also be deposited on other than an annual basis provided the total amount deposited is equal to, or greater than, the sum of the deposits required at that time. Prepayments to the account are allowable.

3. The municipality may terminate deposits to the account when the sum of all deposits exceeds (or is equal to) the amount determined by multiplying "DL" by "D", where "DL" and "D" are as described above.

4. The accrued funds shall be used only for sanitary sewerage system capital improvements and may be withdrawn and used anytime for this purpose. Since such withdrawn funds represent previously collected revenues (and income earned thereon), the amount of withdrawn funds need not be replaced or returned to the capital improvement account.

5. Any part of the sewerage system capital improvement account may be included within a pooled cash system for investment purposes or within a capital improvement account under a bond program, provided it is pledged solely to sewerage system capital improvements and its identity is maintained through separate accounting. The sewerage system capital improvement account shall not be pledged or used for any other purposes. This provision shall not authorize any deviation from the requirements of this chapter or bond covenants.

6. The grant recipient shall submit to the bureau, for each fiscal year, certification by a certified public account that the sewerage system capital improvement account is maintained in accordance with this chapter.

(3) Revenue required under (2)(a), above, shall be generated via a user charge system established pursuant to Rule 17-50.015(2)(i) or (j). Revenue required under (2)(b) above, may be generated from any source.

Specific Authority 403.061, 403.101, 403.1823, 403.1832, 403.1838, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1821—.1838 FS. History—New 10-7-84.

17-50.018 Project Performance Certification. For any project constructed with state or EPA grant assistance, the grantee is required to provide certification that the project is meeting the project performance standards in accordance with Rule 17-50.015(i) or (j). The department may withhold payment of up to ten percent of a state Step 2 + 3 or state Step 3 grant until the certification is provided or until all necessary corrective actions have been carried out.

Specific Authority 403.061, 403.101, 403.1823, 403.1832, 403.1838, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1821—.1838 FS. History—New 10-7-84.

17-50.02 Definitions.

(1) "Act" means the Federal Water Pollution Control Act, as amended.

(2) "Advance allowance list" means the ranked listing of the planning and design of projects for which requests for financial assistance from the reserve for small community advances are anticipated during a five year period starting at the beginning of the fiscal year for which the list is being developed.

(3) "Advanced treatment" means wastewater treatment in addition to secondary treatment, as defined by EPA, for the specific purpose of funding under the Florida Water Pollution Control and Sewage Treatment Plant Grant Act, as amended.

(4) "Allotment period" means the period allotted federal funds (the State's share of the national construction grants appropriation) are available for grant awards and is the fiscal year for which the funds are specifically authorized plus the subsequent fiscal year. The actual period during which funds are available may be less than two years whenever the appropriation is not available on October 1 of the year authorized.

(5) "Alternative technology" means proven wastewater treatment processes and techniques which provide for the reclaiming and reuse of water, productive recycling of wastewater constituents, conservation of resources, or recovery of energy.

(6) "Bureau" means the Department's Bureau of Wastewater Management and Grants.

(7) "Bypass" means the assignment of a revised target date and lower priority ranking to a project which is not proceeding on the schedule reflected in a previous target date.

(8) "Certified project" means a fundable portion project which has received the official Department affirmation of entitlement to priority funding from available funds but has not yet been awarded or denied funding.

(9) "Commission" means the Environmental Regulation Commission.

(10) "Complete application" means a Step 3 application or a Step 2 + 3 application, or a Step 1 or Step 2 advance allowance application supported by proper documentation meeting all State and federal requirements. Supporting documentation includes information required to enable determination of project costs associated with reserve capacity.

(11) "Cost-effective" means the lowest present worth or equivalent annual value to meet federal, state, and local requirements reflecting that a project is both implementable and environmentally acceptable.

(12) "Department" means the Department of Environmental Regulation.

(13) "EPA" means the U. S. Environmental Protection Agency.

(14) "Fiscal year" means the twelve month period beginning October 1 and extending through September 30 of the subsequent calendar year.

(15) "FNSI" means a finding of no significant impact, describing the project to be funded, which is based on an environmental assessment prepared pursuant to the National Environmental Policy Act.

(16) "Fundable portion" means the portion of the priority list consisting of the highest ranked projects (for which funds are expected to be available) scheduled for priority certification during the first fiscal year of the allotment period. It also means the portion of the advance allowance list consisting of the highest ranked projects (for which reserved funds are expected to be available) scheduled for financial assistance during the first fiscal year of the allotment period. It also means the portion of the trust fund reserve list consisting of the highest

ranked projects scheduled for grant award.

(17) "Grant" means financial assistance awarded to a municipality by the EPA under Title II of the Act or by the Department under the Florida Water Pollution Control and Sewage Treatment Plant Grant Act, as amended, or the Small Community Sewer Construction Assistance Act.

(18) "Grant application" means a formal request for State of federal funding and is a standard form developed by EPA for federal grants or by the Department for State grants. It includes all supporting information required by the grantor agency.

(19) "Grant increase" means an amendment to a grant resulting in the award of additional funds.

(20) "Innovative technology" means wastewater treatment processes and techniques which have not been fully proven under the circumstances of their contemplated use and which represent a significant advancement over the state of the art in terms of cost reduction, increased energy conservation or recovery, or significant reduction in life cycle cost of the treatment works when compared to an appropriate conventional technology.

(21) "Municipality" means a city, town, county, district, association, or other public body (including an intermunicipal agency of two or more of the foregoing entities) created under State law, or an Indian tribe (or an authorized Indian tribal organization) having jurisdiction over disposal of sewage, industrial wastes, or other wastes; or a designated and approved management agency under Section 208 of the Act.

(a) This definition includes a special district created under State law such as a water district, sewer district, sanitary district, utility district, drainage district or similar entity or an integrated waste management agency which has as one of its principal responsibilities the treatment, transport, or disposal of liquid wastes of the general public in a particular geographic area.

(b) This definition excludes the following:

1. Any revenue producing entity which has as its principal responsibility an activity other than providing wastewater treatment services to the general public, such as an airport, turnpike, port facility or other municipal utility.

2. Any special district (such as a school district or park district) which has the responsibility to provide wastewater treatment services in support of its principal activity at specific facilities, unless the special district has the responsibility under State law to provide wastewater treatment services to the community surrounding the special district's facility and no other municipality, with concurrent jurisdiction to serve the community, serves or intends to serve the special district's facility or the surrounding community.

3. Any agency or division of State government (excluding cities and counties) for the purpose of State grant eligibility.

(c) A municipality must be incorporated to qualify for funding under the Small Community Sewer Construction Assistance Act.

(22) "Planning portion" means the portion of the priority list or advance allowance list consisting of projects that may receive funding subsequent to the first year of the allotment period. It also means the portion of the trust fund reserve list consisting of projects that initially do not have sufficient priority to be scheduled for grant award.

(23) "Priority list" means the ranked listing of fundable portion and planning portion projects for which grant requests are anticipated during a five-year period starting at the beginning of the fiscal year for which the list is being developed.

(24) "Priority score" means the rating determined for each project which establishes its ranking among other projects for funding.

(25) "Project" means any Step 3 or any Step 2 + 3 or any segment thereof. The principal purpose of both the project and the operable treatment works must be for the treatment of domestic users' discharges of the jurisdiction, community, sewer service area, region, or the district concerned. All projects are not necessarily eligible for funding.

(a) This definition includes, as treatment works, any cost-effective devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, or domestic sewage, or necessary to recycle or reuse water at the most economical cost over the useful life of the works. These include, but are not limited to, sewage collection/transmission systems, appurtenances, and modifications thereof as well as any facilities, including land, that will be an integral part of the treatment process or are used for ultimate disposal of residues resulting from such treatment.

(b) This definition includes, as treatment works segments, any portion of a cost-effective, operable treatment works described in a facilities plan, which can be identified as a contract or discrete subitem or subcontract. Completion of construction of a treatment works segment may, but need not in and of itself, result in an operable treatment works.

(c) This definition also applies to the planning or design of treatment works, including segments thereof, described in (a) and (b) above.

(26) "Removal" means the deletion of a project from any list by the Department after the award of funding, as well as for other reasons including a determination of ineligibility, a decision by the municipality not to implement using State or EPA funds, or the determination that an applicant will be unable to obtain necessary approvals for construction or discharge as required by this chapter.

(27) "Reserve fund" means a portion of the monies available or to be made available which are set aside for a specific purpose.

(28) "Reserve capacity" means project capacity attributable to domestic or industrial waste to be generated in excess of that in existence 60 days after the target date for projects involving State grants. Reserve capacity is determined under Part 35 of the Code of Federal Regulations for projects involving federal grants.

(29) "Small community" means, for the purpose of determining eligibility for a Step 1 or Step 2 advance allowance or for grants under the Florida Small Community Sewer Construction Assistance Act, a municipality having a population of 35,000 or less as of the 1980 census.

(30) "Step 1 documents" means documents which relate to the planning of a project, and include the locally adopted facilities plan (and all supplemental site specific or other specialized studies), a financial capability assessment, environmental information document, interlocal agreements, as well as an advanced waste treatment approval and a FNSI if required. Other project-specific documents may be required in accordance with Rule 17-50.015(2)(j).

(31) "Step 2 documents" means documents which relate to the design of a project, and include biddable plans and specifications as supported by design data requested by the Department, sewer use ordinance, user charge system, , site acquisition certifications, preliminary plan of operation, innovative/alternative technology justification, and operation performance certification proposal. Other project-specific documents may be required in accordance with Rule 17-50.015(2)(i) or (j).

(32) "Step 3" means construction of a project. Satisfactory documentation of completion of Step 1 and Step 2 activities and submittal of a complete grant application are prerequisites for award of a Step 3 grant.

(33) "Step 2 + 3" means combination design and construction of a project. Satisfactory completion of Step 1 activities (including a financial capability assessment and an environmental information document), completion of agency reviews, and submittal of a complete grant application are prerequisites for award of a Step 2 + 3 grant. A FNSI is not required to be issued by EPA.

(34) "Target date" means the following:

(a) For a project on the fundable portion of the priority list, it means the anticipated Step 3 project certification date which entails prior submission of completed prerequisite Step 1 and Step 2 documents and submission of a complete grant application. All agency reviews must be complete and review comments resolved prior to project certification.

(b) For a project on the planning portion of the priority list or the trust fund reserve list, it means the potential Step 3 or Step 2 + 3 project certification date which is distinguished from (a) or (d), as appropriate, only in that submission of the grant application is not applicable.

(c) For a project on the fundable portion of the advance allowance list, it means the anticipated date of submission of a complete advance allowance application; and for Step 2 advance allowances, prior submission of completed prerequisite Step 1 documents, completion of agency reviews, and issuance of a FNSI is necessary.

(d) For a project on the fundable portion of the small communities trust fund reserve list, it means the potential Step 2 + 3 project certification date which entails prior submission of completed Step 1 documents and a complete grant application.

(35) "Trust fund" means the Small Community Sewer Construction Assistance Trust Fund established under Section 403.1838, F. S., as part of the State Water Pollution Control Trust Fund.

(36) "Unreserved funds" means that portion of all funds available to the State, not set aside for specific purposes, which is

available for certification of new projects and approval for funding of segments of large projects requiring multiple year funding.
Specific Authority 403.061, 403.101, 403.1823, 403.1832, 403.1838, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1821—.1838 FS. History—New 7-13-82, Amended 4-26-83, 2-2-84, 7-19-84, 10-7-84.

17-50.03 Public Participation.

(1) A public hearing, preceded by a 45-day public notice (at a minimum), shall be conducted prior to adopting the priority list and amendments (including those involving a bypass of fundable portion projects) and transfers to or from reserve funds, except as provided in (2) and (3) below.

(2) A public hearing is not mandatory prior to:

(a) Project removal resulting from a grant award or receipt of an advance allowance.

(b) Project data updates except those which alter project scores, costs, or target dates.

(c) Elevation of planning portion projects to the fundable portion of the priority or trust fund reserve list, in order of priority previously established at a public hearing by the Commission, for utilization of funds which may become available subsequent to April 30 of the fiscal year for which such lists are in effect.

(d) Addition of projects to the bottom of the planning portion of a list.

(3) A public hearing, preceded by a 21-day public notice (at a minimum), shall be conducted prior to:

(a) Priority list amendments involving the addition to the fundable portion of a project having a total cost less than $8 million (provided a bypass is not involved) or bypass of a planning portion project or project removal, except as provided in (2) above;

(b) Adopting the advance allowance list and trust fund reserve list and amendments (including those involving the addition of projects or bypass or removal), except as provided in (2) above;

(c) Acting on a time extension request under Rule 17-50.015(2)(i)2.; and

(d) Acting on requests for inclusion on any list which are postmarked or delivered after March 15, 1984 and on or before April 11, 1984.

(4) A public hearing preceded by a 30-day notice (at a minimum) shall be conducted by the municipality prior to adopting the Step 1 planning document(s) for a Step 2 + 3 project to be funded from the trust fund. The planning document shall be made available for public review prior to the hearing. The public shall be informed of the alternatives considered, reasons for selecting the recommended plan, the recommended plan, the associated environmental impact, project costs, and the estimated user charges. Documentation, including a summary of the public hearing, shall be submitted to the Department prior to approval of the Step 1 planning document(s).
Specific Authority 403.061, 403.101, 403.1823, 403.1832, 403.1838, 403.183, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1821—.1838 FS. History—New 7-13-82, Amended 4-26-83, 2-2-84, 7-19-84.

17-50.04 List Development. The priority list and advance allowance list are developed annually by the bureau. The trust fund reserve list is developed only for fiscal year 1985. The lists become effective upon approval by the Commission (and EPA for Step 3 federal grants), but not sooner than October 1 of the fiscal year for which they have been developed. Projects listed on the fundable portion of any list which meet prerequisites (including the submission of a complete funding application) qualify for priority certification, which authorizes the award of a grant or advance allowance. Municipalities must submit project descriptions, schedules, and other data to the bureau in order to receive consideration for project inclusion on the priority list, advance allowance list, or the trust fund reserve list. The potential project grant, or advance allowance, which may be on a list is based on submitted information which initially may not accurately reflect certifiable eligibilities. Potential project costs shall not exceed the listed amount for the purpose of establishing the amount of grant certifications, grant increase approvals, or advance allowance approvals. For fiscal year 1985, such certifications or approvals for funding may exceed the initial listed amount as a result of a possible eligibility adjustment based upon the final reserve capacity cost determination. Federal funding of innovative or alternative technology may not be limited to the listed amount. A grant increase may be requested for certain cost overruns in accordance with Rule 17-50.10(1)(b). Potential grant or advance allowance amounts may be adjusted downward whenever more accurate project cost information becomes available. The priority rank of a project which is initially on the fundable portion of a list based upon inaccurate information may be adjusted downward to reflect a lower priority based on

the receipt of more accurate information; it is possible that such projects could be removed from a list. The appropriateness of any change in priority score proposed by the bureau, subsequent to adoption of the fiscal year's priority list, shall be confirmed by the Commission at a public hearing prior to formal adjustment. Certification or approval for funding shall be restricted to the project, or segment thereof, identified in the municipalities' request for inclusion on the priority list; however, such restrictions do not apply to adjustments to individual segments of large projects which continue to qualify for multiple year funding provided such adjustments do not affect the priority score to which the total project is entitled and the adjustments do not represent an increase in concept of the project established in the original request for inclusion on the list.

(1) The bureau shall accept requests postmarked or delivered after January 1 and on or before March 15, 1984 from municipalities for inclusion of projects on the fiscal year 1985 priority list, advance allowance list, or trust fund reserve list. At its discretion, the Commission may give equivalent consideration to requests postmarked or delivered after March 15, 1984 and on or before April 11, 1984. A request for inclusion on any list shall be submitted for each project, or segment thereof, for which the municipality will request funding regardless of whether a project has been included on the current or a previous year's list. A specific project shall not be included on more than one list regardless of the source of funds. It is possible for a small community to have closely related projects on the priority list and the trust fund reserve list; however, an operable treatment works must result from any grant award. Incomplete request forms may result in a lower priority score or failure to be included on a list.

(2) Municipalities qualified to receive (exclusive of innovative and alternative technology funds), from a single fiscal year allotment, more than $16.5 million, or 25 percent of the unreserved portion of the total State and federal funds (whichever is less), shall be required to segment projects for the purposes of multiple year funding. A municipality may be limited to total grant certification (or grant increase approval) of this basic amount, as a maximum, in any one fiscal year for all projects. However, additional funding for the use of innovative or alternative technology from the reserve established by Rule 17-50.10(1)(e) may be certified or approved without restriction. A segment may be funded in fiscal year 1985 using State or federal funds. Segments to be funded after September 30, 1985 may qualify for funding via grant increases; however, the source of funds shall be the unreserved portion of the federal allotment.

(3) Incorporated municipalities which are also small communities are limited to a total of $3.0 million in funding from the trust fund reserve for all projects on the trust fund reserve list. However, this limitation shall not restrict the award of grants for other projects on the priority list in addition to the funding from the trust fund reserve.

(4) The bureau shall assign to each project a target date. The date provided by the municipality regarding anticipated submission of appropriate documentation is considered by the bureau as the earliest possible target date. Based upon the bureau's assessment of readiness to proceed and the status of regulatory agency review activities, later target date(s) may be assigned to any project(s). A target date on the priority list shall be assigned to each segment of a large project requiring multiple year funding. The submission by the municipality of a realistic schedule, giving consideration to planning and design requirements (as well as agency reviews and EPA issuance of a FNSI for Step 3 projects on the priority list or Step 2 projects on the advance allowance list) for each of its projects, will assist the bureau in assigning target dates and thereby minimize project bypass and removal during the fiscal year.

(5) Projects shall be scheduled by priority score (determined in accordance with Rules 17-50.06 and 17-50.07) for the fundable portion and for the planning portion in descending order at the time of development of the fiscal year 1985 lists such that all projects with target dates on or before April 30, 1985 shall be scheduled above projects with later target dates. Projects having target dates on or before April 30, 1985 and qualifying for listing on the fundable portion, but for which funds are not available, shall be included on the planning portion of the appropriate list and scheduled above all other planning portion projects.

(6) Requests for Step 1 advance allowances shall be scheduled behind those for Step 2 advance allowances regardless of relative priority scores. Step 1 requests may only be included on the fundable portion of the advance allowance list when the sum of the Step 2 requests, which have been assigned

target dates on or before April 30, 1985, is less than the amount available for small community advances. Priorities for Step 1 advances shall be determined in accordance with Rules 17-50.06 and 17-50.07 at the time of development of the advance allowance list. However, in computing the pollution abatement score, the allowable wasteload to be assigned to the proposed project based on design conditions shall be set equal to the wasteload currently allowed for the existing treatment plant; if no treatment plant exists, secondary treatment technology-based effluent limits shall be presumed to generate the allowable wasteload unless more appropriate limits are established by the Department. The priority score also may result from an existing or imminent public health hazard.

(7) The fundable portions of the priority list and the trust fund reserve list are determined by the amount of the funds available or to be made available. The amount of funds set aside for specific activities may also affect the extent of the fundable portion of the priority list. These reserves may be used for the activities described in Rule 17-50.10.

(8) A project may be listed on the fundable portion of the advance allowance list if the priority score is high enough that the corresponding Step 3 project may be expected to receive a grant within two years. This is established by:

(a) Hypothetically doubling the unreserved federal funds expected for the fiscal year for which the advance allowance list is being developed.

(b) Determining the score of the lowest ranked project on the fundable portion of the initial priority list (for the fiscal year for which the advance allowance list is being developed) which would receive funds if the hypothetical amount were available;

(c) Identifying the project with a priority score not less than the score established pursuant to (b) above, on the advance allowance list as being the last fundable portion project; and

(d) If necessary, adjusting the last fundable portion project score established pursuant to (c) above, such that the total amount required for advance allowances on the fundable portion is less than the amount reserved in accordance with Rule 17-50.10(1)(a).

(9) Certified projects maintaining eligibility and priority score, as established for the current fiscal year, shall be listed at the top of the succeeding fiscal year's priority list (ranked in order of priority score) when the current fiscal year's priority list expires. Segments of large projects on the fundable portion of the current priority list, requiring multiple year funding, shall be carried over onto the succeeding year's list as if they had been certified provided one segment of such projects is certified. However, in the event of legislatively required priority system changes, carried over projects may be reranked using the required priority criteria and may have insufficient priority scores to retain certification (or listing in the case of segmented projects).

(10) For the fiscal year 1985 priority list, advance allowance list, and trust fund reserve list, new projects (such projects do not include segments of large projects requiring multiple year funding carried over from the fundable portion of the previous year's priority list) which provide capacity to accomplish more than a single priority objective generally may be assigned the highest priority score justified by any aspect of the project. Municipalities shall identify that part of the total project cost associated with the high priority function. The certifiable part (or equivalent thereof) shall be established using the total project cost multiplied by the fraction of the flow to serve the need associated with the high priority function divided by the total project design flow. At the municipalities' option, and where practical, projects generally may be subdivided into two or more projects each receiving the appropriate priority score for accomplishing a single priority objective. However, a project that would be assigned a zero pollution abatement score under Rule 17-50.06(11) shall not be subdivided in order to receive a higher score for any resulting project.

(11) Reserve capacity costs are ineligible for funding. The ineligible reserve capacity costs associated with projects to be federally funded shall be determined in accordance with Rule 17-50.015(2)(i). The ineligible reserve capacity costs associated with projects to be funded by the State shall be determined using the total project cost multiplied by the fraction of the reserve capacity flow divided by the total project design flow.

Specific Authority 403.061, 403.101, 403.1823, 403.1832, 403.1838, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1821—1838 FS. History—New 7-13-82, Amended 4-26-83, 10-6-83, 2-2-84, 7-19-84, 10-7-84.

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17-50.05 Advance Allowance List Development.

Specific Authority 403.061, 403.101, 403.1832, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1832 FS. History—New 7-13-82, Amended 4-26-83, 10-6-83, Repealed 2-2-84.

17-50.06 Priority Determination. Priority is determined by the pollution abatement score, which may reflect a public health hazard, and it may be adjusted by one or more factors. Adjustment factors are assigned according to criteria set forth in Rule 17-50.07. The pollution abatement score is an index of existing pollution which will be eliminated by the proposed project. The basic score is dependent upon the discharged wasteload in the existing treatment plant(s) effluent and the allowable wasteload established by permit or wasteload allocation for the existing treatment plant(s). Allowable (permittable) wasteloads, based upon effluent limitations, generally will have been established by the Department for projects qualifying for the fundable portion; these wasteloads may not have been established yet for projects qualifying for the planning portion. When allowable wasteloads have not been established, secondary treatment technology-based effluent limits shall be assumed as permittable until more appropriate limits are established by the Department. The discharged wasteload is computed using the 30 day average wastewater flow and the pollutant concentrations which indicate the greatest mass pollution load discharged (and for which data are available) since April, 1981, or since the most recent upgrading (excluding construction of an interim facility pursuant to (8) below) of the existing treatment facilities, whichever is more current. Any month during which the discharged wasteload was atypical (for example, that resulting from industrial shock loads) of the normal operations of the treatment facilities shall not be used for computation. The allowable wasteload is computed using the flow and the most stringent (usually average daily limits established on an annual basis) pollutant concentrations established by current permit or wasteload allocation for the existing treatment/disposal facilities. Allowable wasteloads used in the computation shall not reflect limitations imposed for any alternative to the existing treatment/disposal situation. (For example, existing secondary treatment/deep well injection facilities previously constructed as a result of a no discharge to surface water limitation have an allowable wasteload reflecting secondary treatment and not zero discharge.)

The pollutant overload is the difference between the discharged wasteload and the allowable wasteload, both established for existing conditions. The existing pollutant overload is divided by the allowable wasteload for design year conditions, pursuant to (1) below, to facilitate comparison of projects involving flows of various magnitudes and receiving waters' assimilative capacities. However, with an allowable design year wasteload of zero, an extremely high score would result. To accommodate facilities with a zero discharge requirement, a modified formula is established in (2) below.

(1) The computation of pollution abatement scores (using units of pounds per day) for projects with a design year allowable wasteload greater than zero, except for projects described in (3) and (5) below, is as follows.

$$PAS = \left[\frac{\text{Existing Pollutant Overload}}{\text{Allowable Wasteload for Design Year Conditions}}\right] \times 100$$

or,

$$PAS' = \left[\frac{\text{Existing Treatment Plant } (DBOD - ABOD) + (DN - AN) + (DP - AP)}{(ABOD + AN + AP) \text{ for Design Year Conditions}}\right] \times 100$$

Where:

PAS = pollution abatement score.

DBOD = discharged wasteload for five-day biochemical oxygen demand (BOD), expressed in pounds per day (lbs/day) for the existing facilities.

DN = discharged wasteload for total nitrogen, expressed as elemental nitrogen in lbs/day for the existing facilities.

DP = discharged wasteload for total phosphorus, expressed as elemental phosphorus in lbs/day for the existing facilities.

The allowable wasteload is computed for the facilities at both the existing (numerator) and design conditions (denominator). Design

year conditions shall reflect the allowable wasteload at the existing facilities regardless of whether they are replaced as a result of the proposed project.

ABOD = allowable wasteload for BOD, expressed in lbs/day.

AN = allowable wasteload for total nitrogen, expressed as elemental nitrogen in lbs/day. If no limits are set for total nitrogen, the allowable wasteload shall be computed using 28 milligrams per liter (mg/l) in the effluent.

AP = allowable wasteload for total phosphorus, expressed as elemental phosphorus in lbs/day. If no limits are set for total phosphorus, the allowable wasteload shall be computed using 7 mg/l in the effluent.

A parameter shall be included in the computation of a discharged wasteload only if it is addressed in the discharge effluent limitations. If the discharged wasteload minus the allowable wasteload of a parameter is less than zero, that difference (negative value) shall be set at zero in the numerator of the PAS computation.

(2) The computation (using units of pounds per day) of pollution abatement scores for projects required as a result of a design year zero allowable wasteload for any of the pollutant parameters listed below, except for sludge related projects described in (3) below, is as follows.

$$\text{PAS} = \text{Base PAS} \times \left[1.0 + \frac{0.1 \times (\text{DBOD} + \text{DN} + \text{DP})}{\text{Highest (DBOD + DN + DP)}}\right]$$

Where:

PAS = pollution abatement score.

Base PAS = the highest PAS computed for a project pursuant to (1) above, for which a request for inclusion on the priority list was received by the deadline pursuant to Rule 17-50.04(1).

DBOD, DN, and DP = the discharged wasteload in lbs/day for the parameters in (1) above. Pollutant parameters shall be included in the computation when there is a monitoring requirement for such parameters.

Highest (DBOD + DN + DP) = the highest total discharged wasteload computed under this paragraph.

(3) The computation (using units of lbs/day) of pollution abatement scores for sludge related facilities, not included with basic treatment plant upgrades or expansions, is as follows.

$$\text{PAS} = \text{Base PAS} \times \left[1.0 + \frac{0.1 \times (\text{SECBOD} + \text{AWTBOD} + \text{AWTN} + \text{AWTP})}{\text{Highest (DBOD + DN + DP)}}\right]$$

Where:

PAS, Base PAS, and Highest (DBOD + DN + DP) are as detailed in (2) above.

SECBOD = the five-day BOD set at the wasteload resulting from an effluent containing 30 mg/l. This value is 250 lbs per million gallons (MG) of wastewater.

AWTBOD = the BOD removed over and above that resulting from secondary treatment and which is attributable to advanced treatment where required by effluent limitations and is set at 8 lbs per MG of wastewater for each mg/l of BOD at which the effluent limitation is set below 30 mg/l on a monthly basis.

AWTN = the total nitrogen (expressed as elemental nitrogen) removed over and above that resulting from secondary treatment and which is attributable to advanced treatment where required by effluent limitations and is set at 2 lbs per MG of wastewater for each mg/l of total nitrogen at which the effluent limitation is set below 28 mg/l on a monthly basis. No AWTN will be computed for components (e.g., Kjeldahl) of total nitrogen.

AWTP = the total phosphorus (expressed as elemental phosphorus) removed over and above that resulting from secondary treatment and which is attributable to advanced treatment where required by effluent limitations and is set at 8 lbs per MG of wastewater for each mg/l of total phosphorus at which the effluent limitation is set below 7 mg/l on a monthly basis.

The formula for pollution abatement scores for sludge facilities projects (as distinct from general treatment plant upgrades and expansions) also may be expressed:

$$\text{PAS} = \text{Base PAS} \times \left[1.0 + \frac{0.1 \times (250 + 8 \times \Delta\,\text{BOD} + 2 \times \Delta\,\text{N} + 8 \times \Delta\,\text{P}) \times \text{Flow}}{\text{Highest (DBOD + DN + DP)}}\right]$$

Where:

Δ BOD = the number of mg/l that the advanced treatment must reduce the treatment plant effluent BOD below 30 mg/l on a monthly basis.

Δ N = the number of mg/l that the advanced treatment must reduce the treatment plant effluent total nitrogen (expressed as elemental nitrogen) below 28 mg/l on a monthly basis.

Δ P = the number of mg/l that the advanced treatment must reduce the treatment plant effluent total phosphorus (expressed as elemental phosphorus) below 7 mg/l on a monthly basis.

Flow = that part of the total plant flow for which the sludge facilities are inadequate. The total plant flow used shall be that which results in the greatest mass pollution load discharged (and for which data are available) since April, 1981, or since the most recent upgrading (excluding construction of an interim facility pursuant to (8) below) of the treatment facilities, whichever is more current. Any month during which the discharged wasteload was atypical of the normal operations of the treatment facilities shall not be used for computation. Where this flow varies for individual sludge facilities project components, a weighted-average flow based on the estimated cost of the components shall be used.

For secondary treatment sludge facilities, this reduces to:

$$\text{PAS} = \text{Base PAS} \times \left[1.0 + \frac{25\ \text{lbs/MG} \times \text{Flow}}{\text{Highest (DBOD + DN + DP)}}\right]$$

(4) The pollution abatement score of a project, or portion of a project, essential to wastewater treatment and effluent disposal (such as flow equalization, influent intercepting sewer(s), or infiltration/inflow correction) shall be that of the corresponding treatment plant/effluent disposal facilities.

(5) The pollution abatement score for a project, or portion of a project, which is required to meet different design year wasteload allocations (for example, on a seasonal basis), shall be computed using a time based weighted-average. (This provision does not apply to projects involving sludge related facilities addressed in (3) above.) The value shall be computed using the expected length of time the system operates in each mode, effluent pollutant concentrations, and the associated treatment plant's flow. (For example, a land application project allowed four months, annually, of seasonal underdrainage discharging to surface waters would have a score computed as the sum of one-third the score that would be derived for a project discharging solely to that surface water plus two-thirds the score that would be derived for a land application project with no underdrains.)

(6) A single pollution abatement score for two or more treatment plants may be established only where all such treatment plants are being replaced by a single treatment plant or where all such treatment plant discharges are being combined for common effluent disposal. The score shall be computed using a pollutant overload based weighted-average. (For example, a project involving one treatment plant with 100 lbs/day of pollutant overload and a second with 200 lbs/day of pollutant overload would have a pollution abatement score computed as one-third that of the first plus two-thirds that of the second.)

(7) The pollution abatement score of intercepting sewer projects generally will be based upon the score of the corresponding treatment plant(s) which will be abandoned. Intercepting sewer scores may also be established pursuant to a determination by the bureau that the project is required to alleviate an existing or imminent public health hazard pursuant to (9) or (10) below. Other intercepting sewer projects which would neither result in reduced pollution or eliminate a public health hazard situation shall receive a pollution abatement score of zero.

(8) The pollution abatement score for a project required to replace or upgrade an interim facility constructed after December 29, 1981 to alleviate a pollution or public health problem shall be based on conditions preceding construction of the interim facility.

(9) The pollution abatement score of a project required to alleviate an existing or imminent public health hazard of exceptional magnitude or severity shall be established as equal to that of the highest pollution abatement score computed pursuant to (2) or (3) above. As a prerequisite, the municipality shall demonstrate that it has implemented a capital financing plan adequate to ensure the

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financing of all of its other projects on any list without further grant awards. The municipality shall provide documentation, including an unequivocal determination by a public agency responsible for protection of public health, that such a hazard exists or is imminent and that the project will alleviate the hazard. The documentation also shall address the nature, extent, and frequency of occurrence of the hazard. An example of such a project is the construction of collection system sewers required to eliminate failed septic tanks which have contaminated drinking water supplies resulting in disease outbreaks. Another example is the reconstruction of a sewage treatment plant which discharges inadequately treated (and inadequately disinfected) wastewater to shellfishing areas and is clearly responsible for the closing of the area to shellfishing. Public health nuisances, such as sewer surcharge and overflow, generally would not warrant this exceptional priority rating.

(10) The pollution abatement score of a project required to alleviate a public health hazard situation, which is not of a magnitude or severity to warrant the exceptional priority rating provided in (9) above, shall be established as equal to that of the highest pollution abatement score computed pursuant to (1) above. As a prerequisite, the municipality shall demonstrate that it has implemented a capital financing plan adequate to ensure the financing of all its other projects on any list without further grant awards. The municipality shall provide documentation, including a determination by a public agency responsible for protection of public health, that such a hazard exists or is imminent and that the project will alleviate the hazard. The documentation shall include an assessment of the potential for the situation to result in an actual health hazard. The documentation shall also address the nature, extent, and frequency of occurrence of the hazardous situation. An example of such a project is the rehabilitation of a sewer system subject to excessive infiltration/inflow which results in frequent raw sewage overflows in residential areas. Another example is reconstruction of a sewage treatment plant which discharges inadequately treated (and inadequately disinfected) wastewater to surface water resulting in frequent closing of areas for public recreational use.

(11) The pollution abatement score of a project which will expand service capacity to a barrier island shall be zero, unless the municipality affirmatively demonstrates that the barrier island can accommodate the growth contemplated in the project planning without unreasonable adverse impacts to the island's ecology and such expansion will create only minimal potential danger to human life and property from natural disasters.

Specific Authority 403.061, 403.101, 403.1823, 403.1832, 403.1838, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1821—.1838 FS. History—New 7-13-82, Amended 4-26-83, 2-2-84.

17-50.07 Priority Score Factors. The total priority score of a project will be the sum of the pollution abatement (or public health related) score and all individual adjustments. For any project individual adjustments shall be computed by multiplying the appropriate adjustment factor times the pollution abatement score for that project or the highest pollution abatement score (whichever is greater) computed pursuant to Rule 17-50.06(1).

(1) The priority score of a project required as a condition of a permit, administrative action, or judicial action may be adjusted upward by a factor of 0.05 when there is total compliance with all scheduled requirements.

(2) The priority score of a project utilizing innovative technology may be adjusted upward by a factor of 0.10.

(3) The priority score of a project for a municipality that has achieved, or will achieve, substantial water or other resource conservation (for example, by achieving less than 80 gallons per day per capita of water consumption) may be adjusted upward by a factor of 0.10. The municipality must provide documentation, including certification by a responsible governmental official, that the resource conservation program has been initiated and that the program has been announced at a public hearing. The documentation shall also address the nature, extent, and benefits of the resource conservation, implementation milestone dates, and the extent of public participation.

(4) The priority score of a project may be adjusted upward based upon the financial planning criteria established below. To qualify for any adjustment under this provision, the municipality must provide certification by the responsible official (e.g., finance or budget director) that sewer user rates, connection fees, and other wastewater service related charges are sufficient to cover the sewerage system operation and maintenance costs, including capital debt retirement, and that a capital financing plan has been implemented to cover project replacement costs. A financial planning index (FPI) and corresponding adjustment factor shall be determined for each applicant according to the following present worth formula which utilizes a 10% interest rate (i = 0.1) to convert annual payments over 20 years (n = 20) to an equivalent lump sum payment today:

$$FPI = U + C + I + O$$

or,

$$FPI = \text{Total Lump Sum Payments} + \text{Total Annual Payments} \times \left[\frac{(1+i)^{n-1}}{i \times (1+i)^{n}}\right]$$

or,

$$FPI = \text{Total Lump Sum Payments} + 8.514 \times \text{Total Annual Payments}$$

Where:

U = The present worth of the current average annual (12 times the monthly arithmetic mean charge) single-family sanitary sewer user charge (excluding potable water supply charges).

C = Current lump sum single-family connection fee assessed on new connections to the sanitary sewer system.

I = Current lump sum single-family sewer impact fee, if any, assessed on new sanitary sewer connections in addition to the new connection fee.

O = Current lump sum or present worth of the annual single-family amount of special assessments collected for and dedicated entirely to the wastewater management program or a combination of lump sum and present value amounts.

FPI	Factor
up to 1500	0.0
1501 to 3000	0.05
3001 to 4500	0.10
over 4500	0.15

The amount of 0.10 may be added to the above factor if a municipality provides documentation that a bond issue has been validated for, or funds have been dedicated to, the local share of the project cost prior to submittal of the request for inclusion form.

(5) Projects with identical priority scores computed pursuant to Rules 17-50.06 and 17-50.07 shall be subranked in chronological order of target date such that projects with earlier target dates are ranked more favorably. Projects with identical priority scores and target dates shall be further subranked in chronological order of date of receipt of the requests for inclusion pursuant to Rule 17-50.04(1) such that projects with earlier dates are scheduled more favorably. In the event project scores remain identical after the preceding adjustments, the Commission may adjust ranking as appropriate.

Specific Authority 403.061, 403.101, 403.1823, 403.1832, 403.1838, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1821—.1838 FS. History—New 7-13-82, Amended 4-26-83, 2-2-84.

17-50.08 List Management.

(1) The priority list, advance allowance list, or trust fund reserve list may be amended throughout the fiscal year as deemed necessary.

(2) Any qualifying project for which a request for inclusion on the fundable portion is received by the bureau after the deadline established in Rule 17-50.04(1) may be added, by amendment, to the bottom of the fundable portion provided funds are available. When funds are unavailable, a project may be added to the bottom of the planning portion.

(3) A project may achieve a listing on the fundable portion of the priority list or the trust fund reserve list as a result of the bypass of higher ranked projects.

(4) For projects on the priority list, sufficient documentation of completion of all prerequisite Step 1 (including the preparation of a FNSI if required) and Step 2 activities (as well as a complete grant application for fundable portion projects) shall be received by the bureau at least 45 days prior to the target date. Sufficient documentation shall mean that the required submittals are sufficient in comprehensiveness of data or in the quality of information provided for the bureau to complete its review. In lieu of submission of documentation of completion of all prerequisite Step 2 activities, a municipality may submit a schedule for completion of these activities at least 45 days prior to the target date. The schedule must be acceptable to the bureau; compliance with the schedule

would be a requirement. When these requirements are not met, bypass, removal, or time extension action may be scheduled for the first Commission meeting to be held after the target date. A time extension may be recommended to the Commission whenever sufficient documentation has been received by the department as of the above-referenced Commission meeting. Bypass or removal may be recommended to the Commission whenever sufficient documentation has not been received by the bureau as of the above-referenced Commission meeting, or when all required documentation has not been formally approved by all regulatory agencies prior to the first Commission meeting scheduled after June first of the fiscal year during which the documentation is required.

(5) For projects on the trust fund reserve list, sufficient documentation of completion of all prerequisite Step 1 activities (as well as a complete grant application for fundable portion projects) shall be received by the bureau at least 45 days prior to the target date. Sufficient documentation shall be defined as in (4), above. Step 2 projects on the fundable portion of the advance allowance list are subject to the same requirements (as well as the issuance of a FNSI). When this requirement is not met, bypass, removal, or time extension action may be scheduled for the first Commission meeting to be held after the target date. A time extension may be recommended to the Commission whenever sufficient documentation has been received by the department as of the above-referenced Commission meeting. Bypass or removal may be recommended to the Commission whenever sufficient documentation has not been received by the bureau as of the above-referenced Commission meeting, or when all required documentation has not been formally approved by all regulatory agencies prior to the first Commission meeting scheduled after June first of the fiscal year during which the documentation is required.

(6) A fundable portion project which cannot be certified due to an incomplete application within 60 days after the target date shall be subject to bypass or removal. Bypass or removal may be scheduled for the first Commission meeting to be held not sooner than 60 days after the target date; bypass or removal shall be recommended to the Commission if an application cannot be approved by the Department as of the public hearing date.

(7) A complete grant application for a project which is elevated to the fundable portion of any list shall be received by the bureau according to the date required by (4) or (5) above, as appropriate, or within 60 days after the original target date or the date upon which the project is elevated to the fundable portion, whichever is later. Failure to submit the complete application as specified shall subject the project to bypass or removal at the next Commission meeting. Bypass or removal shall be recommended to the Commission if an application cannot be approved by the Department as of the public hearing date.

(8) If EPA notifies the department in writing that a Step 3 grant application is unacceptable, the project may be subject to bypass, removal, or a time extension. Action on the project may be scheduled for the first Commission meeting to be held after receipt by the department of the EPA notification, whenever the bureau determines that the EPA concerns cannot be resolved within 60 days of the receipt of the EPA notification. Bypass or removal may be recommended to the Commission whenever the grantee has failed to resolve the EPA concerns as of the above-referenced Commission meeting. A deadline for rectifying all deficiencies may be recommended to the Commission whenever the bureau determines the concerns can be resolved in a timely manner so as to make the grant application acceptable to EPA.

(9) Project removal at a public hearing may be initiated at times other than those described in (4) through (8) above, for situations in which a municipality will not implement a project using federal or State funds in the current fiscal year or where a project is determined to be ineligible for inclusion on a list or where such action may be otherwise justifiable to the Commission.
Specific Authority 403.061, 403.101, 403.1823, 403.1832, 403.1838, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1821—.1838 FS. History—New 7-13-82, Amended 4-26-83, 2-2-84, 10-7-84.

17-50.085 Grant Application.

(1) Projects (for example, collection system sewers) which are ineligible for federal funding shall be identified on the priority list. State grant funds shall be committed to such projects which are listed on the fundable portion, unless they are bypassed or removed.

(2) Applicants shall designate whether funding (for projects with dual State and EPA eligibility) is requested from federal or State monies. Grant applications for projects on the fundable portion of the priority list shall be approved according to the date upon which all prerequisites are met. In the event all State or federal funds are committed or awarded to other projects on the fundable portion of the list, funding may be from the remaining monies. Grant awards are subject to all limitations associated with the remaining monies.

(3) Potential grant applicants shall attend a preapplication conference, if requested by the Department, to ensure awareness of program requirements (e.g., revenue generation system) associated with applying for and accepting a grant offer.
Specific Authority 403.061, 403.101, 403.1823, 403.1832, 403.1838, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1821—.1838 FS. History—New 2-2-84, Amended 7-19-84.

17-50.09 Advance Allowance List Management.
Specific Authority 403.061, 403.101, 403.1832, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1832 FS. History—New 7-13-82, Amended 4-26-83, Repealed 2-2-84.

17-50.092 Allowance for Administrative Costs. Step 2 + 3 grants from the trust fund reserve may include, if requested by a grant applicant, an allowance for administrative costs. The allowance shall not exceed one-half of one percent of the eligible building cost. The building cost shall be the allowable cost of the initial award amount of all construction contracts for building the project, the purchase price of eligible real property, demolition of existing structures, and the purchase price of equipment to be provided as part of the project. The allowance may be adjusted to reflect any difference between estimated and actual building costs at the time all construction contracts are signed whenever actual building costs are lower than those originally estimated. Payment of the allowance may be requested after the grantee has completed all procurement actions associated with building the project. The municipality's total trust fund reserve list grant(s), including allowances, shall not exceed the $3.0 million limit set forth in Rule 17-50.04(3).
Specific Authority 403.061, 403.101, 403.1823, 403.1832, 403.1838, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1821—.1838 FS. History—New 7-19-84.

17-50.095 Project Contingencies. Project contingencies for Step 3 projects shall be limited to not more than ten percent of the estimated construction cost prior to bidding. Project contingencies for Step 2 + 3 projects shall be limited to not more than fifteen percent of the estimated construction cost prior to bidding. After bidding, all contingencies shall be reduced to not more than five percent of the construction contract(s) amount. Grant decreases shall be made to adjust project funding where appropriate. Upon final close out of projects, all contingencies shall be eliminated. However, grant increases from the State trust funds shall not be made to adjust any project funding.
Specific Authority 403.061, 403.101, 403.1823, 403.1832, 403.1838, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1821—.1838 FS. History—New 2-2-84.

17-50.10 Reserve Funds.

(1) The amounts of reserve funds shall be established by the Commission. Reserve of federal funds requires EPA concurrence. Transfers between unreserved funds and reserve funds may be executed by the Commission; however, mandatory reserve funds are not transferable. The reserve funds are:

(a) Small Community Advance

As much as ten percent of the State allotment shall be initially reserved for advances of allowance for Step 1 and Step 2 work to small communities which are unable to finance the planning and design work required to qualify for a Step 3 grant. Advances shall not be made to finance the completion of projects for which a municipality has previously received a Step 1 or Step 2 grant. The amount of the actual allowances shall depend upon that allowed by EPA and the applicable grant percentage.

(b) Grant Increase

A portion of the federal funds may be initially reserved for grant increases to ongoing EPA funded projects necessary as a result of construction bid cost overruns occurring within twelve months of grant awards, differing site conditions, unforeseeable land acquisition and site development cost overruns which are beyond the control of the municipality or its agents, modification or replacement of that part of innovative and alternative technology projects which was funded using the reserve identified in paragraph (e) below, or written commitments from the bureau issued prior to the effective date of this Chapter.

Reinstatement of funds to grants erroneously or inappropriately reduced may also be made from the grant increase reserve. Requests for grant increases may be approved for funding in chronological order of receipt by the bureau as soon as sufficient funds become available. Grant increase approvals shall be further restricted:

1. Any certification or approval for funding from the grant increase reserve for segments of large projects requiring multiple year funding shall be subject to the limitations of Rule 17-50.04(2).

2. Grant increases shall not be made to extend the scope of any project or to provide funding for project omissions or project cost overruns not specifically referenced above.

3. Grant increases shall not be made for any project funded from the Florida Water Pollution Control Trust Fund or from the Small Community Sewer Construction Assistance Trust Fund.

(c) State Management Assistance

Four percent of the State allotment shall be initially set aside for State management assistance, pursuant to the agreement between the department and EPA, for the reasonable costs of administering program activities delegated to the State by EPA pursuant to Section 205(g) of the Act.

(d) Water Quality Management Planning

Up to one percent of the State allotment, but not less than $100,000, shall be reserved for a grant to the State for the purpose of water quality management planning pursuant to Section 205(j) of the Act.

(e) Innovative and Alternative Technology

Not less than four percent, but not more than seven and one-half percent, of the federal allotment shall be set aside for increasing the federal share of grants for projects utilizing innovative or alternative technology. The resulting grant increase shall be not more than twenty percent of the qualifying technology cost provided reserve funds are available. At least one-half of one percent of the annual allotment shall be used for increasing the federal share of grants utilizing innovative technology. Funding from this reserve shall be in chronological order of the date of the Department's determination that the project utilizes innovative or alternative technology. Funding from this reserve is not subject to the limitations of Rule 17-50.04(2) for segments of large projects requiring multiple year funding.

(f) Trust Fund

1. Not less than 45 percent of the State Water Pollution Control Trust Fund shall be set aside for the Small Community Sewer Construction Assistance Trust Fund for Step 2 + 3 projects sponsored by incorporated municipalities qualifying as small communities. The total grant award(s) from this reserve to any small community shall not exceed $3.0 million. Grant awards from this reserve shall be for projects on the fundable portion of the trust fund reserve list. The matching 45 percent local share may include grant funds from other agencies; however, grants awarded from the trust fund shall not result in greater than 100 percent funding from all grant sources.

2. The Commission may waive any part of the matching local share for projects involving grants of less than $50,000. Waiver of the 45 percent local matching contribution may be given if:

a. Water quality standards have been exceeded by an amount that constitutes an immediate health hazard, or

b. Gross per capita income for the community is below the State average, as determined by the U. S. Department of Commerce, and where sewerage facilities fail to meet Department standards.

(g) Advanced Treatment

Not more than five percent of the State Water Pollution Control Trust Fund or $5.0 million, whichever is less, shall be set aside for supplemental (to EPA grants) 55 percent grants for projects involving cost-effective advanced treatment facilities which are determined to be ineligible for EPA grant funds. Requests for supplemental grants are not dependent upon priority score and may be approved in chronological order of receipt by the bureau. Advanced treatment facilities are eligible only if construction is initiated after a grant award from this reserve.

(h) Administration

Two percent of the State Water Pollution Control Trust Fund shall be set aside to cover the costs of reviewing and acting upon grant applications and project submittals, and the cost of surveillance and other field services associated with the application.

Specific Authority 403.061, 403.101, 403.1823, 403.1832, 403.1838, 403.804 FS. Law Implemented 403.021, 403.061, 403.086, 403.101, 403.1821—.1838 FS. History—New 7-13-82, Amended 4-26-83, 10-6-83, 2-2-84, 7-19-84.

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CHAPTER 17-100

ADMINISTRATIVE PROCEDURES

17-100.010 Administrative Procedures.
17-100.020 Citation of Department Rules.

17-100.010 Administrative Procedures.

On June 1, 1984, the Department of Environmental Regulation revised and renumbered rules relating to administrative procedures, except for forms. Previously the rules were set forth in Chapter 17-1, Florida Administrative Code. Forms remain in Chapter 17-1. Now the rules are set forth in the following chapters of the Florida Administrative Code. See Rule 17-1.002 for a table cross-referencing Chapter 17-1 as numbered prior to June 1, 1984, with these rules.

17-100 ADMINISTRATIVE PROCEDURES
17-101 DESCRIPTION OF ORGANIZATION
17-102 RULES OF ADMINISTRATIVE PROCEDURE - RULEMAKING
17-103 RULES OF ADMINISTRATIVE PROCEDURE - FINAL AGENCY ACTION (NON-RULEMAKING) AND APPEAL
17-104 ADMINISTRATIVE PROCEDURES FOR THE WATER RESOURCES RESTORATION AND PRESERVATION PROGRAM
17-105 SMOKING POLICY
17-106 LEASES FOR REAL PROPERTY

Specific Authority: 120.53(1), F.S.
Law Implemented: 120.53(1), F.S.
History: New 6-1-84.

17-100.020 Citation of Department Rules.

Department rules may be cited as Rule 17-X.XX, Florida Administrative Code, or Florida Administrative Code Rule 17-X.XX. Abbreviation may be used where appropriate, such as, Rule 17-X.XX, FAC, or Fla. Admin. Code Rule 17-X.XX. A rule may also be cited using the appropriate subdivision label, i.e., title, chapter, section, subsection, paragraph, subparagraph, and sub-subparagraph (such as Section 17-X.XX, FAC) in accordance with Department of State Rule 1S-1.001, FAC.
Specific Authority: 120.53(1), F.S.
Law Implemented: 120.53(1), F.S.
History: New 6-1-84.

CHAPTER 17-101

DESCRIPTION OF ORGANIZATION

17-101.010 Agency Description.
17-101.020 Address, Office Hours and Copies of Documents.
17-101.030 Statutes Affecting Agency Operations.
17-101.040 Delegation of Authority by Secretary.
17-101.050 General Description of Agency Organization and Operations.
17-101.060 Designation of Agency Clerk; Duties.

17-101.010 Agency Description.

(1) The Department of Environmental Regulation is a component of the executive branch of the State of Florida authorized by Section 20.261, Florida Statutes. It was created by the Florida Environmental Reorganization Act of 1975 (Chapter 75-22, Laws of Florida).

(2) The Secretary, pursuant to Subsection 20.261(1), Florida Statutes, is the head of the Department of Environmental Regulation, and is appointed by the Governor and confirmed by the Senate. In addition to the powers and duties delegated to the Secretary by Chapter 75-22, Laws of Florida (1975), Section 403.805, F.S., the Secretary may exercise those powers delegated to heads of state departments by Section 20.05, Florida Statutes. The Secretary has authority to adopt, by rule, all procedures followed, and forms used, by the Department, in addition to the exercise of the Department's rulemaking powers under Chapters 253, 373, 376 and 380, Florida Statutes.

(3) The Environmental Regulation Commission was created by the Florida Environmental Reorganization Act as part of the Department. It is composed of seven citizens, appointed by the Governor and confirmed by the Senate, who represent various geographical regions and interest groups of the state. The Commission adopts all Department standards relating to air, water quality, noise and solid and hazardous waste management, and gives final state approval on applications for and disbursements of federal and state grants for wastewater treatment works.

Specific Authority: 120.53(1)(a), F.S. Law Implemented: 120.53(1)(a), F.S. History: New 2-6-78, Transferred from 17-1.01 and Amended 6-1-84.

17-101.020 Address, Office Hours and Copies of Documents.

(1) The address of the Department is:

2600 Blair Stone Road
Twin Towers Office Building
Tallahassee, Florida 32301
(904) 488-4805

(2) Office Hours are:

Office hours are 8:00 a.m. until 5:00 p.m. each weekday except holidays.

(3) Copies of Documents:

Information or requests for copies of rules, orders, publications or documents issued by the Department may be obtained at the above address.

The Department also has district and branch offices throughout the state, and copies of documents they have may be obtained there. The following map gives the address

and telephone number of the Department's headquarters and field offices. (Figure 1)
Specific Authority: 120.53(1)(a), F.S. Law Implemented: 120.53(1)(a), F.S. History: New 2-6-78, Amended 4-28-81, Transferred from 17-1.02 and Amended 6-1-84.

17-101.030 Statutes Affecting Agency Operations. The Department of Environmental Regulation has responsibility for regulating certain activities or carrying out statutory duties which affect the quality of Florida's environment, including: dredging and filling in navigable waters under Chapter 253, Florida Statutes, administration of the Water Resources Act of 1972, Chapter 373, Florida Statutes, which includes general supervision of the water management districts; review and approval of formation of water control districts under Chapter 298, Florida Statutes; administration of Chapter 403, Florida Statutes, which includes regulation of air, water, and noise pollution, solid and hazardous waste management, power plant siting, public drinking water supplies, licensing of water and sewage treatment plant operators, and state pollution control bonds; the prevention or cleanup of pollutant spills or discharges in or on inland waters or land of the state, pursuant to Chapter 376, F.S., Coastal Zone Management, pursuant to Chapter 380, Part II, F.S.; and Industrial Siting, pursuant to Sections 288.501-288.518, F.S.

Pursuant to Section 380.19 and Section 23.0114(4), Florida Statutes, the Department is also responsible for the development of and submittal to the Legislature of a coastal zone management program which complies with the requirements of the federal Coastal Zone Management Act of 1972. In addition, the Department is responsible for performing the State's obligations under several federal statutes, including the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500), the Clean Air Act (Public Law 91-604, Public Law 92-157, Public Law 93-15, Public Law 93-319, Public Law 95-95), the Safe Drinking Water Act (Public Law 93-523), the Noise Control Act of 1972 (Public Law 92-574), the Water Resources Planning Act (Public Law 89-80, Public Law 91-512), and the Coastal Zone Management Act of 1972 (Public Law 92-583), The Resource Conservation and Recovery Act of 1976 (Public Law 94-580), as they are amended from time to time.
Specific Authority: 120.53(1)(a), F.S. Law Implemented: 120.53(1)(a), F.S. History: New 2-6-78, Transferred from 17-1.03 and Amended 6-1-84.

17-101.040 Delegation of Authority by Secretary. The Secretary, as head of the Department, has delegated authority as follows:

(1) To the Assistant Secretary of the Department to act on behalf of the Secretary in all matters during the absence of the Secretary, including the signing of contracts, and in the absence of both the Secretary and Assistant Secretary to a designated Division Director to act in the Secretary's behalf on all matters.

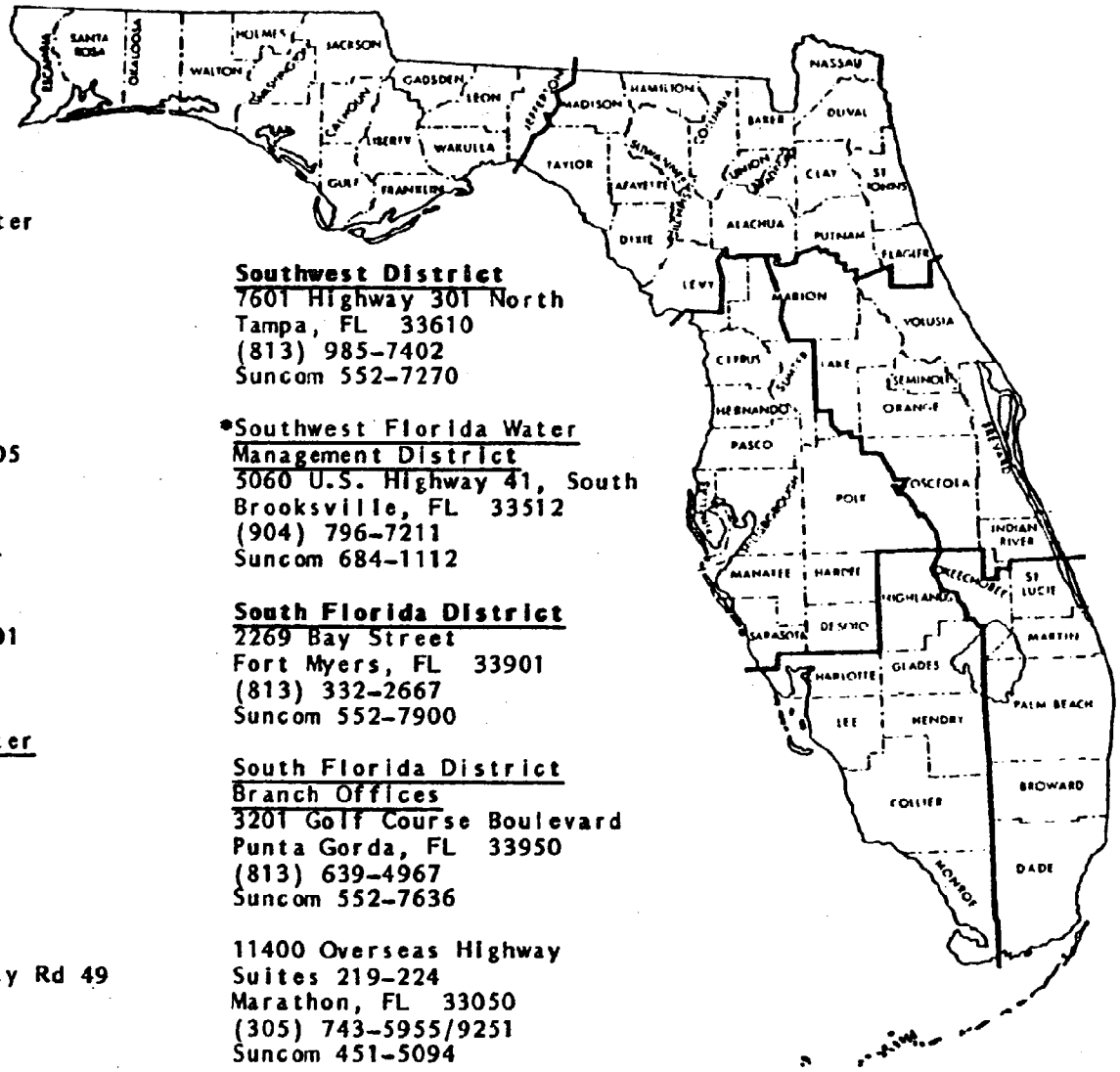
(2) To the Director, Division of Administrative Services, to act on behalf of the Secretary on all purchasing, office space leasing, personnel and budget matters.

(3) To the General Counsel, to

DISTRICT BRANCH OFFICES

*Co-location with Water Management District

State of Florida
Department of Environmental Regulation
2600 Blair Stone Road
Tallahassee, Florida 32301
(904) 488-4805



Northwest District
160 Governmental Center
Pensacola, FL 32501
(904) 436-8300
Suncom 695-8300

Northwest District
Branch Offices
217 East 23rd Street
Suite B
Panama City, FL 32405
(904) 769-3576
Suncom 221-3350

2670 Executive Center
Circle West
Sutton Building
Tallahassee, FL 32301
(904) 488-3704
Suncom 278-3704

*Northwest Florida Water
Management District
Route 1, Box 3100
Havana, FL 32333
(904) 487-1770
Suncom 277-1770

*Suwannee River Water
Management District
Highway 90 E. & County Rd 49
Route 3, Box 64
Live Oak, FL 32060
(904) 362-1001
Suncom 660-1001

Southwest District
7601 Highway 301 North
Tampa, FL 33610
(813) 985-7402
Suncom 552-7270

*Southwest Florida Water
Management District
5060 U.S. Highway 41, South
Brooksville, FL 33512
(904) 796-7211
Suncom 684-1112

South Florida District
2269 Bay Street
Fort Myers, FL 33901
(813) 332-2667
Suncom 552-7900

South Florida District
Branch Offices
3201 Golf Course Boulevard
Punta Gorda, FL 33950
(813) 639-4967
Suncom 552-7636

11400 Overseas Highway
Suites 219-224
Marathon, FL 33050
(305) 743-5955/9251
Suncom 451-5094

Effective June 1, 1984

Northeast District
3426 Bill[illegible] Road
Jacksonville, [illegible] 32207
(904) 396-695[illegible]
Suncom 620-5295

Northeast District
Branch Office
825 N.W. 23rd Avenue
Suite G
Gainesville, FL 32601
(904) 377-7528
Suncom 620-5150

*St. Johns River Water
Management District
Highway 100 West
1/4 Mile past Kay Larkin
P.O. Box 1429
Palatka, FL 32078-1429
(904) 328-8321
Suncom 687-1100

St. Johns River District
3319 Maguire Boulevard
Suite 232
Orlando, FL 32803
(305) 894-7555
Suncom 393-1011

Southeast Florida Distri
3301 Gun Club Road
P.O. Box 3858
West Palm Beach, FL 334
(305) 689-5800
Suncom 451-5005

Southeast Florida Distri
Branch Office
2745 S.E. Morningside Bl
Port St. Lucie, FL 3345
(305) 878-3890/335-4310
Suncom 451-5053

*South Florida Water
Management District
3301 Gun Club Road
P.O. Box V
West Palm Beach, FL 334
(305) 686-8800
Suncom 429-1011

FIGURE 4-16

accept service of process in lawsuits filed against the agency.

(4) To the Director, Division of Environmental Permitting, and District Managers, authority to act on the following types of permit applications.

(a) To complete, sign and submit to the appropriate authority applications and all other necessary documents relating to the laboratory use of alcohol by the District Offices pursuant to Section 6 of Chapter 75-22, Laws of Florida, and Section 20.05, Florida Statutes. This authority is also delegated to the Chief of the biological section, relating to the use of alcohol by the biological laboratory.

(b) To approve or deny engineering plans and related documents covering proposed public water supply improvement projects, e.g., new water treatment plants or modifications, distribution system extensions, and water well installations. Sections 403.850 through 403.864, Florida Statutes.

(c) To approve or deny permits, including execution of notices of intent to approve or deny such permits, to construct public water supply wells. Sections 403.850 through 403.864, Florida Statutes.

(d) To approve or deny short form permits for those types of projects in Section 403.813(1), Florida Statutes, and Rules 17-4.28 and 17-4.29, FAC, including execution of notices of intent to issue or deny such permits.

(e) With regard to domestic wastewater treatment and industrial wastewater treatment facilities, air pollution sources, sanitary landfills, hazardous waste facilities, sources of groundwater contamination, and underground injection control, the following authority is delegated:

1. To approve and deny construction, operation and temporary operation permits under Chapter 403, Florida Statutes, including execution of notices of intent to approve or deny such permits;

2. To approve and deny requests for extensions of expiration dates of construction permits, including execution of notices of intent to take such action;

3. To approve and deny requests for the issuance or renewal of operation permits where the subject facility or operation is meeting Department standards and requirements, including execution of notices of intent to take such action;

4. To approve, deny and order modifications of operation permits, including execution of notices of intent to take such actions;

5. To approve and deny requests for the extension or revision of compliance dates and conditions in temporary operation permits after public notice, where a good faith effort has been made by the applicant to meet the deadlines and requirements in the temporary operation permit, including execution of notices of intent to take such action; and

6. To issue the appropriate public notice for all of the types of permits delegated to the districts.

(f) To issue Notices of Intent to Deny, or Approve and to issue Final Orders of Denial when no administrative hearing has been requested for short form dredge and fill applications, and other applications described in Rule 101.040(4).

(g) In addition to the authority

to act on permit applications described herein, the authority to execute consent orders and notices of violation which have been approved by the Office of the General Counsel, and to act on authorizations for restoration pursuant to DER Form 17-1.203(3).

(5) To the Director of Permitting, or, at his discretion, the Chief of the Bureau of Permitting, to issue letters of intent to approve and intent to deny standard applications for dredge and fill projects pursuant to Chapters 403 and 253, Florida Statutes, and Rules 17-4.28 and 17-4.29, FAC.

(6) To the Chief of the Bureau of Permitting, certification of NPDES permits pursuant to Public Law 92-500, Section 401.

(7) To the following for their respective organizational unit, the authority to take final agency action, pursuant to Chapters 17-10 and 22A-10, FAC, for disciplinary actions and for personnel actions against employees in their unit whose performance is less than satisfactory, including actions to reduce the employee's pay, suspension, demotion, transfer, and dismissal, or who have violated the Department's Personnel Rules, Chapter 17-10, FAC:

(a) the Director of Administrative Services or, at his discretion, the Deputy Director of Administrative Services;

(b) the Director of Environmental Permitting or, at his discretion, the appropriate Deputy Director within Environmental Permitting;

(c) the Director of Environmental Programs or, at his discretion, the Deputy Director of Environmental Programs; and

(d) the Assistant Secretary of the Department for the Office of the Secretary and the Office of General Counsel.

(8) To the District Managers, Bureau Chiefs, or their organizational equivalent, the authority to dismiss, suspend, demote, transfer, or reassign any employee who does not have permanent status in the career service in their respective organizational unit.

(9) To the approved Local Programs, the Water Management Districts, and other state agencies according to specific agreements, to function as agents for the Department in those activities designated by the Department which, in the judgment of the Department, may be performed individually by each program, district or agency at a level required by applicable statutes or rules relating to these activities. These specific operating agreements are on file with the Department and available for public inspection.

(10)(a) To the South Florida Water Management District, the Southwest Florida Water Management District, the St. Johns River Water Management District, the Suwannee River Water Management District, and the Northwest Florida Water Management District the authority to administer and enforce those provisions of Chapter 373, Florida Statutes, water quality and other functions of the Department, and the rules of the Department as have been delegated from time to time to the Districts by order of the Secretary, after fourteen (14) days notice to the Governing Board and publication in the Florida Administrative Weekly. Authority delegated shall be listed in this section subsequent to delegation. The following Districts

are authorized to administer and enforce the following laws and rules, including Section 373.103(1), F.S., to the extent necessary to fully implement authority specifically delegated.

1. South Florida Water Management District: 373.026(1) through (5), and 373.026(6) to the extent necessary to conduct or participate in laboratory research; 373.033; 373.042; 373.046; 373.103(2) through (7); 373.191; Part II, Chapter 373; 373.309; 373.313; 373.316; 373.319; 373.323(6); 373.326; 373.333; Chapter 403, to the extent necessary to adopt, implement, and enforce Rule 16K-4.035, FAC; Part IV, Chapter 373; Chapter 17-21, FAC; and Chapter 17-25 in accordance with Rule 17-25.09(1), FAC.

2. Southwest Florida Water Management District: 373.026(1) through (5), and 373.026(6) to the extent necessary to conduct or participate in laboratory research; 373.033; 373.042; 373.046; 373.103(2) through (7); 373.191; Part II, Chapter 373; 373.309; 373.313; 373.316; 373.319; 373.323(6); 373.326; 373.333; Part IV, Chapter 373; Chapter 17-21, FAC; and Chapter 17-25 in accordance with Rule 17-25.09(2), FAC.

3. St. Johns River Water Management District: 373.026(1) through (5), and 373.026(6) to the extent necessary to conduct or participate in laboratory research; 373.033; 373.042; 373.046; 373.103(2) through (7); 373.191; Part II, Chapter 373; 373.309; 373.313; 373.316; 373.319; 373.323(6); 373.326; 373.333; Part IV, Chapter 373; Chapter 17-21, FAC.

4. Suwannee River Water Management District: 373.026(1) through (5), and 373.026(6) to the extent necessary to conduct or participate in laboratory research; 373.033; 373.042; 343.046; 373.103(2) through (7); 373.191; Part II, Chapter 373; 373.309; 373.313; 373.316; 373.319; 373.323(6); 373.326; 373.333; Part IV, Chapter 373; Chapter 17-21, FAC.

5. Northwest Florida Water Management District: 373.026(1) through (5), and 373.026(6) to the extent necessary to conduct or participate in laboratory research; 373.033; 373.042; 373.046; 373.103(2) through (7); 373.191; Part II, Chapter 373; 373.309; 373.313; 373.316; 373.319; 373.323(6); 373.326; 373.333; Part IV, Chapter 373; Chapter 17-21, FAC.

(b) In making the foregoing delegations of authority, the Department continues to retain and exercise general supervisory authority over the water management districts, and no delegation is intended to divest the Department or the Districts of the authority to take action pursuant to those provisions of Chapter 373 which provide independent authority to the Districts or the Department. Applications for permits to construct and operate injection wells involve provisions of Chapter 373, Florida Statutes, administered by the various water management districts, and Chapter 403, Florida Statutes, administered by the Department. Efforts have been made by the Department and districts to coordinate this permit review process, and applicants should contact the district and Department offices for specific information on the permit coordination procedures.

(11) To those counties or municipalities, pursuant to Section 403.1815, Florida Statutes, the authority to regulate the construction of water distribution mains and sewage collection laterals of ten inches (10") or less which may be connected to any water system or

sewerage system owned by the county or municipality, as has been delegated from time to time by order of the Secretary, after fourteen (14) days public notice in the Florida Administrative Weekly and in a newspaper of general circulation in the county or municipality to whom delegation is proposed. Any authority delegated shall be listed in this section subsequent to delegation.

(12) To the Department of Natural Resources:

(a) Aquatic Weed Control Discharge Permitting. Pursuant to 403.061(27), Florida Statutes, the Department of Environmental Regulation delegates to the Department of Natural Resources (DNR) the authority to issue, deny, modify, revoke, and suspend permits authorizing persons to discharge into waters, in accordance with Section 403.088(1), Florida Statutes, chemicals, biological agents and other substances for the purpose of the control of aquatic weeds or algae, provided:

1. the discharge is in accordance with a program approved by DNR pursuant to Chapter 16C-20, FAC; and

2. DNR conforms to the requirements of Chapter 120, Florida Statutes and Chapters 17-103 and 28-5, FAC, the processing of all permit applications; and

3. the Department is allowed to intervene as of right in any DNR licensing proceeding involving this delegation.

(b) To authorize the application of chemicals to marine waters of the state for the purpose of capturing live marine species.

(13) To the Department of Health and Rehabilitative Services:

(a) The authority to issue permits for individual domestic wastewater disposal facilities listed in Rule 17-6.020(1), (2) and (3), FAC;

(b) The authority to grant written authorizations for the application of pesticides to waters of the state for the purpose of insect control in accordance with subsection 403.088(1), F.S., and Rule 10D-54.46, FAC.

(14) To the Department of Agriculture and Consumer Services:

(a) Regulation of certain open burning activities in accordance with Rule 17-5.09, FAC;

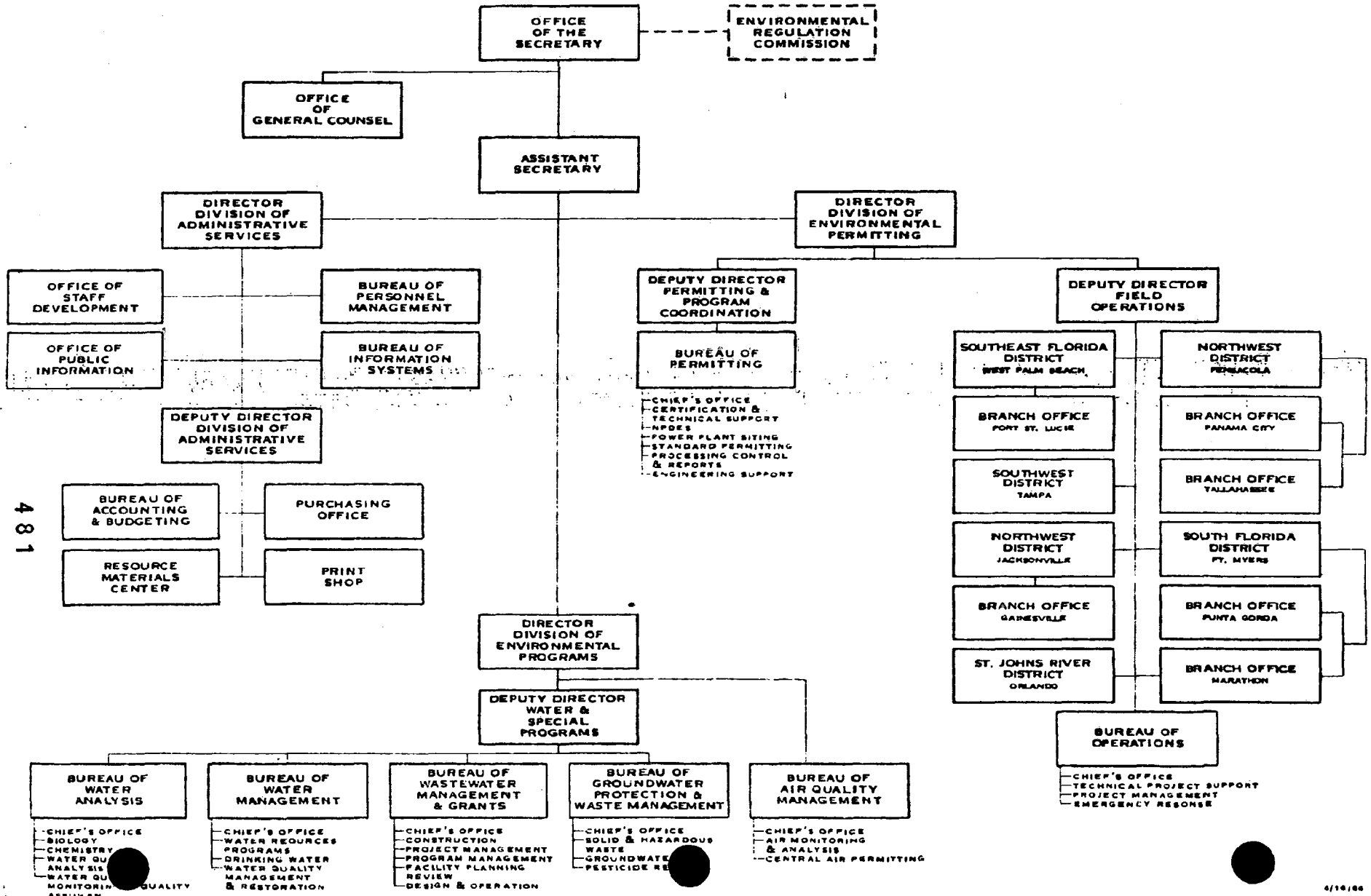
(b) Testing and certifying gasoline tank trucks in accordance with Rule 17-2.700(6)(c)2.d., FAC, and gasoline storage tanks in accordance with Rule 17-2.650(1)(f)11., FAC.

Specific Authority: 120.53(1)(a), 373.103, 373.308, 403.061, 403.1815, 403.812, 110.201, F.S. Law Implemented: 120.53(1)(a), 403.088, 110.227, F.S. History: New 2-6-78, Amended 4-28-81, 6-30-81, 6-3-82, Transferred from 17-1.04 and Amended 6-1-84.

17-101.050 General Description of Agency Organization and Operations. The agency is composed of three operating divisions, supporting staff offices, and district and branch offices located around the state to make agency services accessible to the citizens of Florida. The internal structure of the Department of Environmental Regulation is reflected graphically on the organization chart (Figure 2).

(1) Office of the Secretary. This office includes the Secretary, who exercises those powers and duties delegated to the head of the Department by Florida law, and the Assistant Secretary, who acts as agency head in the Secretary's absence and carries out such other

DEPARTMENT OF ENVIRONMENTAL REGULATION



duties as assigned by the Secretary. Additional functions carried out by personnel located in this office include coordination of the Department's water management, legislative, and industrial development programs.

(a) Office of the General Counsel. The Office of General Counsel is headed by the General Counsel who is appointed by and serves at the pleasure of the Secretary. All Department attorneys are located in this office and are directly supervised by four (4) deputy general counsels. This office provides all of the legal support to the Department of Environmental Regulation and provides legal advice to the Governor and Cabinet and Environmental Regulation Commission on Department legal matters.

(b) Industrial Development Coordination Section. This Section, in cooperation with the Department of Commerce, Division of Economic Development, communicates with prospective new industries, or existing industries wishing to expand, to aid them in selecting sites and procedures that will minimize environmental problems.

(c) Office of Coastal Management. This office is responsible for implementation of the Department's powers and duties relating to coastal planning and management in Florida, including the implementation of a comprehensive state plan for the protection and proper utilization of Florida's coastal resources, making maximum use of any federal funding for this purpose. The office works closely with all levels of state and local government in the implementation of the Florida Coastal Management Program.

(2) Division of Administrative Services. The Division of Administrative Services is headed by the Director of Administrative Services, who is appointed by and serves at the pleasure of the Secretary. The division performs four broad functions: provides centralized administrative services for the Department; coordinates the flow and analysis of program status information from district and branch offices and water management offices to the central office in Tallahassee; disseminates information to the public concerning the activities of the Department and facilitates citizen involvement in efforts to protect the environment; and develops and administers Department-wide staff development programs.

(a) Office of Deputy Director of Administrative Services. This office is headed by the Deputy Director of Administrative Services and is responsible for providing overall direction and supervision for administrative services support activities of the Department through the Bureau of Accounting and Budgeting, the Office of Purchasing, the Resource Materials Center, and the Print Shop.

1. Bureau of Accounting and Budgeting. This bureau is headed by the Chief, Bureau of Accounting and Budgeting and provides financial management services to the Department. These services include collection and deposit of revenue, preaudit and payment of invoices, payroll accounting, preparation of financial reports, preparation of legislative and operating budgets and amendments, administration of the State Bond Loan Program, maintenance of property records, and distribution of funds appropriated for water management districts and

other special purposes.

2. Purchasing Office. This office is headed by the Purchasing Director and is responsible for all purchasing services, contracts administration, facility leasing, supply room supervision, and central motor pool management.

3. Resource Materials Center. This office is headed by the Resource Materials Center Manager and is responsible for the Department's library and records management services.

4. Print Shop. This office is headed by the Print Shop Supervisor and provides in-house printing services for the Department including the district offices.

(b) Bureau of Personnel Management. This bureau is headed by the Chief, Bureau of Personnel Management, who serves as the Department's management representative in collective bargaining activities and supervises all personnel actions for agency employees. Employment applications and information regarding current vacancies may be obtained from the bureau at the address listed in Rule 17-101.020(1), FAC, telephone (904) 488-0450.

(c) Bureau of Information Systems. This office provides activity/resource analysis and data systems coordination.

(d) Office of Public Information. The Office of Public Information coordinates programs designed to provide information and education concerning environmental problems and activities in Florida.

(d) Office of Staff Development. This office provides preservice, in-service, and professional development activities for all employees of the Department.

(3) Division of Environmental Programs. The Division of Environmental Programs is headed by the Director of Environmental Programs, who is appointed by and serves at the pleasure of the Secretary. This division is composed of the Bureau of Wastewater Management and Grants, the Bureau of Water Analysis, the Bureau of Groundwater Protection and Waste Management, the Bureau of Water Management, and the Bureau of Air Quality Management.

(a) The Office of the Director includes:

1. The Office of Economic Analysis is responsible for compiling and evaluating information on the economic impacts of proposed Department rules and for developing an economic evaluation system for all Department programs.

2. The Office of Grant Coordination. This office is responsible for screening all grant applications, except state and federal grants for wastewater treatment works, developing the annual Water Program Plan, and coordinating the development of all other Department program plans.

(b) Bureau of Wastewater Management and Grants.

This bureau administers the federal construction grants program for public wastewater treatment projects under a delegation agreement with the U.S. Environmental Protection Agency. The bureau also administers a separate state-funded grant program for similar projects. Other activities include technical review of projects seeking loan funding from state pollution control bonds revenue, generally providing technical expertise and policy recommendations for issues relating to wastewater treatment and management, and development of rules to

administer the programs.

1. Program Management Section. This section provides management and administrative support for both the federal and state construction grants programs. Responsibilities include developing and managing the state system for determining funding priorities; reviewing and approving grant applications/amendments, payments, and procurement procedures; maintaining official grant files and a computerized grant data system; and assisting with final project administrative inspection.

2. Facility Planning Section. This section reviews project facility planning studies and related environmental analyses, sewer system evaluation surveys and infiltration/inflow studies, user charge systems, and sewer use ordinances. Staff also reviews financial capability documentation submitted by grantees.

3. Design and Operation Section. This section reviews project plans and specifications, reviews plant operation and maintenance manuals, and conducts value engineering studies of large projects. Staff also provides technical assistance as needed in administrative review of projects.

4. Project Management Section. This section assists program participants from project conception to completion by providing a liaison between the grantee and all other bureau sections to ensure administrative continuity during all project stages. Staff assists with federal/state regulations compliance and provides technical coordination with sections on facility planning, engineering, design/operation and construction.

5. Construction Section. This section assists grantees during project construction through preconstruction conferences and interim inspections; through reviewing project modifications, including engineering review and cost/price analyses; and by assisting with final construction and final administrative inspection. Staff coordinates with U.S. Army Corps of Engineers and departmental district offices in construction oversight.

(c) Bureau of Groundwater Protection and Waste Management.

1. Office of the Bureau Chief. This bureau supervises and manages the statewide programs for solid waste disposal, hazardous waste management, underground tank control, ground water protection, and restricted use pesticides review. It applies for and manages federal or state monies to further the objectives and goals of these programs.

2. Solid and Hazardous Waste Management Section. This section is responsible for planning, rule development, and technical assistance for the safe disposal of solid and hazardous wastes (including sludges), and development of the state program for regulation of underground storage facilities in accordance with Chapter 17-61, FAC.

3. Ground Water Section. This section provides technical review and evaluation for other programs in the Department on all aspects of ground water availability, contamination, protection, monitoring, and management. The section investigates known or suspected cases of ground water pollution and develops measures and recommendations for corrective action and also provides for ground water sampling support at uncontrolled hazardous waste sites. Other duties of the section include developing rules and regulations

regarding statewide well construction and abandonment, salinity barrier lines, minimum ground water levels and the development and implementation of the Florida Underground Injection Control Program and a statewide ambient ground water quality monitoring plan. The section will also be responsible for the development of a central ground water data storage, the analysis and retrieval systems to be located in the Department.

4. Pesticides Review Section. This section is responsible for providing comments on the environmental impact of restricted-use pesticides to the Pesticide Review Council and providing the Department's representative on the Council. Duties also include assisting the Department of Agriculture in formulating a statewide pesticides use policy.

(d) Bureau of Water Management.

1. Office of the Bureau Chief. This Bureau is responsible for coordinating Department powers and duties pursuant to Chapter 373, Florida Statutes, planning and coordination of the water quality management programs required by Sections 208 and 303 of Public Law 92-500; reviewing the Stormwater Rule; the periodic review of State Water Quality Standards, the State Public Works Program, the State Dam Safety Program, the State "298" District Review, the State Drinking Water Program, and other special projects relating to the water resources of the State of Florida.

2. Water Quality Management and Restoration Section. This section is responsible for providing technical and planning assistance for the development and implementation of state and area-wide water quality management plans, and nonpoint source management programs.

3. Water Resources Programs Section. This section is responsible for the coordination of various federal and state programs related to water management, including:

a. the State Public Works Program,

b. the Annual Cooperative Agreement between the United States Geological Survey and the Department involving cooperative investigations and data collection programs,

c. a State Dam Safety Permitting and Inspection Program involving the implementation of a Dam Safety Rule,

d. Chapter 298, F.S., Water Control Districts involving monitoring these districts and assisting in the appointment of supervisors when needed,

e. Outstanding Florida Water (OFW) petitions involving staff review of petitions and recommendations to the Secretary as to the acceptability of OFW petitions,

f. water resources restoration projects including development and monitoring of contracts for projects assigned to the Department by the Legislature, and

g. United States Geological Survey Flood Prone Maps involving responding to requests for these maps.

4. Drinking Water Section. This section is responsible for ensuring that public drinking water is obtained from an adequate source, properly treated, protected from contamination after treatment, and safely distributed to the consumer by planning, developing and coordinating the activities of the Department for effective management of the drinking water program.

(e) Bureau of Air Quality

Management. This bureau plans, coordinates, and implements the state air pollution control program and serves as the liaison between the state and the United States Environmental Protection Agency (EPA) on matters related to air quality.

The bureau is organized into three operating groups:

1. Bureau Chief's Office (BCO), which plans and directs the activities of the bureau and the Office of Rules and Special Projects (ORASP), which coordinates air rule development work, maintains the State Implementation Plan (SIP), and provides coordination and technical assistance to Metropolitan Planning Organizations (MPO's) that have the responsibility for developing the transportation portions of the state's ozone or carbon monoxide nonattainment area SIP's.

2. Central Air Permitting (CAPS) composed of the Modeling Section and the New Source Review (NSR) Section. The CAPS group processes construction permit applications for major air sources, provides technical assistance to district and local air programs, provides computer modeling, and coordinates Best Available Control Technology (BACT) and Lowest Achievable Emission Rate (LAER) determinations, and the National Emissions Standards for Hazardous Air Pollutants (NESHAPS) program.

3. Air Monitoring and Analysis (AMA) group, composed of the Monitoring Section and the Quality Assurance Section, which manages the statewide ambient air monitoring program, provides technical assistance to district and local program air monitoring personnel, and conducts special stack tests on behalf of the Department.

(f) Bureau of Water Analysis.

1. Office of the Bureau Chief. This bureau is comprised of the following sections: Biology, Chemistry, Water Quality Analysis, and Water Quality Monitoring and Quality Assurance. The primary responsibilities of the bureau are to assess the physical, biological and chemical integrity of the surface waters of the state and to develop effluent limitations for point sources to insure maintenance of state water quality standards, to coordinate a state toxics control program, and to provide guidelines and other information needed for the use of chemical dispersants during oil spills.

2. Biology Section. This section provides specialized biological monitoring and analyses, and technical assistance to the Department staff on matters relating to biological water quality parameters.

3. Chemistry Section. This section provides special analytical services and technical expertise relating to the detection, identification and quantification of inorganic and organic toxic pollutants in surface and groundwaters, solid wastes and hazardous wastes.

4. Water Quality Analysis Section. This section is responsible for assuring that state surface water quality is not degraded below state standards as a result of discharges from point sources. Water quality based effluent limitations (WQBEL) are developed using site-specific historical and intensive survey data and state-of-the-art water quality prediction tools such as numerical models and statistical analysis. These WQBEL or wasteload allocations may be required for permitting purposes by both state and federal law (Section 403.088,

Florida Statutes, and Sections 301(b), 302(a), 303(d) and 401 of Public Law 92-500 respectively).

5. Water Quality Monitoring and Quality Assurance Section. This section is responsible for implementing the Quality Assurance Program of the Department to ensure that the water quality data collected by the Department or submitted for its use are reliable, scientifically sound and of known precision and accuracy. In addition to this function, this section is also responsible for the design and coordination of Florida's surface water quality monitoring program, as well as collection, handling and processing of all surface water quality data collected by the Department and other agencies in the state. Also, this section is responsible for preparing an annual bibliography of all water resource investigations in the state.

(4) Division of Environmental Permitting. The Division of Permitting is headed by the Director of Environmental Permitting and two Deputy Directors. This division is composed of the Bureau of Permitting, the Bureau of Operations, the Offices of the Deputy Directors, and the District Offices, as shown on Figure 1.

(a) Office of the Deputy Director for Permitting and Program Coordination. This portion of the division includes the Deputy Director for Permitting and Program Coordination, his staff and the Bureau of Permitting.

1. In addition to administrative functions and coordination with district offices, the staff of the deputy is responsible for processing petitions for relief from Department requirements, in accordance with Chapter 403, F.S., and Florida Administrative Code Title 17; coordinating the review, evaluation and public notice proceedings with various sections of the Department, federal, local or state agencies, and the general public; review of and response to Notices of Application for subdividing land issued by the Division of Florida Land Sales and Condominiums; and review or response to agencies requesting comments from the Department on plans, rules, ordinances, impact statements and various other items.

2. Bureau of Permitting. This bureau is responsible for the review of standard (major) dredge and fill applications for permit, applications for power plant siting, industrial siting, and transmission line siting certifications, National Pollutant Discharge Elimination System (NPDES) applications for certification, applications for certification as a wastewater/water treatment plant operator, and applications for licensure as a well drilling contractor. The bureau maintains an extensive library of dredge and fill materials relating to past agency actions, including the actions taken by predecessor agencies. The bureau is subdivided into the NPDES Section, the Standard Permitting Section, the Certification and Technical Support Section, the Processing Control and Reports Section, the Power Plant Siting Section, and the Engineering Support Section.

(b) Office of the Deputy Director for Operations. This portion of the Division includes the Deputy Director for Operations, the Bureau of Operations and the District Offices.

1. The Bureau of Operations is responsible for administering, coordinating, or planning for emergency response operations in the clean up of pollutant spills; for operations

in the clean up of hazardous substances including identification of sites qualifying for Superfund; and for technical support on specific hazardous waste sites that are being cleaned up. The bureau is subdivided into the Technical Support Section, the Superfund Section, the State Fund Section, and the Emergency Response Section.

2. District Offices. These offices are responsible for all permitting activities except for those described in (a)2. above and in Rule 17-101.050(3)(e), FAC, and all enforcement activities except for those specifically described in Rule 17-101.050(1)(a), FAC, including:

a. Permitting-the evaluation of applications and issuance or denial of permits for the construction, modification or temporary operation of wastewater treatment facilities, other water pollution sources, public drinking water systems, short-form (as set forth in Rules 17-4.28 and 17-4.29, FAC) dredge and fill projects, and air pollution sources, except for those issued or denied by the Bureau of Air Quality Management. Staff is available to advise the public on permit requirements, criteria, and jurisdiction of the Department;

b. Technical Assistance-the systematic ambient and pollution source sampling of air and water throughout the state, evaluation and analysis of data in support of Department activities; and

3. c. Enforcement-inspection of facilities to determine compliance with conditions of permits, investigation of complaints pertaining to possible pollution sources, location and identification of pollution sources which may be in violation of Department rules, issuance of warning letters and participation in the processing of administrative or judicial remedies. Information is provided to the public as necessary concerning the Department standards and requirements.

Specific Authority: 120.53(1)(a), F.S. Law Implemented: 120.53(1)(a), F.S. History: New 2-6-78, Amended 4-28-81, Transferred from 17-1.05 and Amended 6-1-84.

17-101.060 Designation of Agency Clerk; Duties.

(1) The Department designates as Agency Clerk the position of Secretary to the General Counsel in the Office of General Counsel, at the address described in Rule 17-101.020(1), FAC, telephone number (904) 488-9730. The Agency Clerk shall be responsible for filing and recording the date of filing of orders pursuant to Section 120.52(9), Florida Statutes, entered by the agency head, and orders entered pursuant to administrative appeal. The Agency Clerk shall be responsible for the receipt and certification of all notices of appeal pursuant to the Florida Rules of Appellate Procedure.

(2) The Department designates as Deputy Agency Clerks each District Manager, at the address and telephone numbers described in Rule 17-101.020(3), FAC. The responsibility of a Deputy Agency Clerk is limited to the filing and recording the date of filing of final orders entered by the District Manager. This responsibility may be delegated to a person within the District Office.

Specific Authority: 120.53(1), F.S. Law Implemented: 120.52(9), 120.53(1), F.S. History: New 4-28-81, Amended 12-19-82, Transferred from 17-1.682 and Amended 6-1-84.

CHAPTER 17-102

RULES OF ADMINISTRATIVE PROCEDURE - RULEMAKING

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PART I
RULEMAKING

17-102.010 General. Proceedings held by the Environmental Regulation Commission or the Secretary for the adoption, amendment or repeal of Department rules shall be conducted according to the provisions of this rule Part, Section 120.54, Florida Statutes, and Chapter 28-3, FAC.
Specific Authority: 120.53(1)(b), 403.061(7), F.S. Law Implemented: 120.53(1)(b), F.S. History: Revised 10-20-73, Amended 2-6-78, Formerly 17-1.01, Transferred from 17-1.06 and Amended 6-1-84.

17-102.020 Legal Objections. All objections to the notice of a scheduled hearing shall be filed with the Secretary at least ten (10) days after the defect became, or should have become, apparent. All other legal issues should be brought to the Secretary's attention and an attempt made to resolve them prior to the hearing.
Specific Authority: 120.53(1)(b), 403.061(7), F.S. Law Implemented: 120.53(1)(b), F.S. History: Revised 10-20-73, Amended 2-6-78, Formerly 17-1.05, Transferred from 17-1.10, 6-1-84.

17-102.030 Environmental Regulation Commission; Quorum. A quorum of the commission shall consist of a majority of the members of the Commission. A majority vote of those present shall be required to adopt,

repeal or amend a proposed rule, or take other official action.
Specific Authority: 120.53(1), 403.061(7), F.S. Law Implemented: 120.53(1), F.S. History: Revised 10-20-73, Amended 2-6-78, Formerly 17-1.06, Transferred from 17-1.11, 6-1-84.

17-102.040 Notice.

(1) Notice of the Commission's or Secretary's intent to adopt, amend, or repeal a proposed rule shall be given in accordance with Section 120.54, Florida Statutes, and Chapter 28-3, FAC, and applicable federal regulations, and a copy of the notice shall be mailed to each Commissioner on the same day the notice is forwarded to the Florida Administrative Weekly. When a proposed rule is directed toward a particular class of persons, the notice published in the Florida Administrative Weekly is the prescribed notice unless a specific Department rule requires additional notice.

(2) When the Secretary determines that a proposed rule which has been agendaed for public hearing before the Commission is complex or controversial, or is likely to engender proposed amendments to the rule as noticed, the following procedure shall be followed, provided however, that failure to comply with these procedures shall not be a basis for invalidating a rule adopted in accordance with Chapter 120, F.S.:

(a) the notice and mailings referred to in subsection (1) above should be given and mailed at least forty (40) days prior to the intended action, unless the Secretary determines that this requirement would unduly delay consideration of a proposed rule,

(b) a copy of the notice referred to in subsection (1) above, a copy of the proposed rule, a copy of the economic impact statement required by Section 120.54(2), Florida Statutes, and a list of all persons whose names are listed in accordance with this paragraph shall also be mailed at least forty (40) days prior to the intended action to all persons who have caused their names and addresses to be listed with the Department for the specific purpose of receiving copies of the proposed rule and complying with the procedural requirements of this subsection.
Specific Authority: 120.53(1), F.S. Law Implemented: 120.53(1), F.S. History: New 2-6-78, Amended 6-3-82, Transferred from 17-1.15 and Amended 6-1-84.

17-102.050 Public Participation.

(1) All affected persons and the public shall be given an opportunity to be heard; however, the Environmental Regulation Commission or Secretary of the Department may set fair and reasonable limitations on presentations by parties, intervenors, or the public to insure an orderly and fair hearing. All witnesses shall be sworn.

(2) After publication of notice of intended rulemaking in accordance with Section 120.54, F.S., any proposed amendments to the rule as noticed or other comments or objections should be submitted to the Commission, the Department, and those persons whose names have been listed in accordance with Rule 17-102.040(3)(b), FAC, in writing no later than fifteen (15) days before

the hearing, to allow sufficient time to evaluate the proposed amendments and facilitate greater public participation. Nothing herein shall be considered to abridge the right of any affected person to participate at a hearing conducted by the Commission or Secretary.

Proposed amendments submitted in accordance with this section shall:

(a) Be submitted on paper with numbered lines and clearly identify the portion of the rule which is proposed to be amended;

(b) Indicate deletions from the rule as noticed by double struck through type (e.g., ~~struck-through~~) and additions by double underlining (e.g., underlining); and

(c) Include an explanation of the reasons for the proposed amendment and objections to the language of the rule as noticed.

Specific Authority: 120.53(1), F.S. Law Implemented: 120.53(1), F.S. History: New 2-6-78, Amended 6-3-82, Transferred from 17-1.16 and Amended 6-1-84.

17-102.060 Smoking Prohibited. Smoking, igniting, or burning of tobacco or any other substances shall be prohibited at any public workshop, hearing, or meeting conducted by the Department or Commission for the purpose of considering a proposed rule. Smoking in Department buildings is governed by Chapter 17-105, FAC. Smoking in other state buildings is governed by the rules of the agency responsible for the building. At reasonable intervals, persons who desire to smoke shall be provided an opportunity to do so in a location which will not affect persons who choose not to smoke. If a local law or ordinance prescribes a more stringent smoking policy it shall be complied with where applicable.

Specific Authority: 120.53(1), F.S. Law Implemented: 120.53(1), F.S. History: New 2-6-78, Amended 4-28-81, Transferred from 17-1.17 and Amended 6-1-84.

17-102.070 Recording of Rulemaking Proceedings. Rulemaking proceedings before the Commission shall be recorded. The Department shall make appropriate arrangements to ensure that the Commission rulemaking proceedings are recorded and preserved. A written transcript of the rulemaking proceeding shall be prepared, if requested, at the cost of the requesting party. Rulemaking proceedings before the Secretary shall be mechanically recorded and preserved. The operator of the recording equipment shall certify, under oath, that the recording is a true and accurate record of the proceeding. A written transcript of the recording shall be prepared, if requested, at the cost of the requesting person.

Specific Authority: 120.53(1)(a), F.S. Law Implemented: 120.53(1)(a), F.S. History: New 2-6-78, Transferred from 17-1.18 and Amended 6-1-84.

PART II
FINAL ACTION ON STANDARDS STRICTER THAN FEDERAL STANDARDS UNDER SECTION 403.804(2), FLORIDA STATUTES

17-102.100 General. The procedural rules found in this part govern final action by the Governor and Cabinet on Department standards

adopted by the Environmental Regulation Commission which are stricter or more stringent than those which have been set by Federal agencies pursuant to Federal law or regulation.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 403.804(2), F.S. History: New 3-2-77, Formerly 17-1.90, Transferred from 17-1.105, 6-1-84.

17-102.110 Hearing; Nature; Record.

(1) Upon adoption of the proposed standard by the Environmental Regulation Commission, the Governor and Cabinet shall consider such Department standard at a hearing which shall be appellate in nature. No evidence shall be offered or admitted which was not in the record before the Environmental Regulation Commission at its consideration of the proposed standard.

(2) The record shall consist of the following:

(a) A copy of the standard submitted for final action.

(b) All exhibits and documentary evidence presented to the Environmental Regulation Commission at hearings held on the standard.

(c) The official transcription of the hearing(s).

(d) All pleadings and motions submitted in the proceedings before the Commission.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 403.804(2), F.S. History: New 3-2-77, Formerly 17-1.91, Transferred from 17-1.106, 6-1-84.

17-102.120 Notice of Hearing; Public Meetings.

(1) Notice of the hearing before the Governor and Cabinet shall be published in the Florida Administrative Weekly, and mailed to all persons on the official Department mailing list no later than sixty-five (65) days prior to the scheduled hearing, which notice shall contain at least:

(a) description of the Department standard which will come before the Governor and Cabinet for final action.

(b) date, time and location of the hearing before the Governor and Cabinet.

(c) notice as to the applicability and availability of these rules of procedure.

(2) Public meetings of the Governor and Cabinet for the purpose of this Part shall generally be held with regular Governor and Cabinet meetings. A meeting shall not be held on holidays, election days or when the number present fails to constitute a quorum except that special meetings may be held at any place or time at the call of the Governor or a majority of the members of the Cabinet.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 403.804(2), F.S. History: New 3-2-77, Formerly 17-1.92, Transferred from 17-1.107 and Amended 6-1-84.

17-102.130 Participation in Proceedings; Notice.

(1) Persons who wish to participate in the appellate proceedings before the Governor and Cabinet may do so by submitting briefs in support of or in opposition to a proposed standard and/or offering oral argument.

(2) Such persons shall file Notice of Participation no later than fifty (50) days before the

hearing, which notice shall include:

(a) name and address of person requesting argument;

(b) standard which the person intends to address;

(c) a statement as to whether the person opposes or supports said standard;

(d) a short summary of the basis for the opposition or support; and

(e) a statement indicating whether the person intends to submit briefs and/or participate in oral argument.

(3) Persons not filing a notice pursuant to paragraph (2) above shall not be permitted to file briefs or present oral argument.

(4) Oral arguments and briefs presented to the Governor and Cabinet shall be based solely on and specifically reference the record as defined in Rule 17-102.110, FAC. A copy of such record shall be furnished to any interested person upon request to the Department at no more than the cost of reproduction.

(5) Not later than forty (40) days prior to the hearing, the Department shall mail to all persons filing a notice pursuant to paragraph (2) above, a memorandum listing all persons filing said notice, a statement as to their position in support of or in opposition to said standard, and their indication as to paragraph (2)(e) above. The memorandum shall advise persons of the right to obtain a copy of any briefs submitted for cost of reproduction upon request to the Department.

(6) Except for the oral presentation by the Department of Environmental Regulation, no briefs or oral arguments will be entertained on a standard on which no notice indicating opposition or support is received.

Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 403.804(2), F.S. History: New 3-2-77, Formerly 17-1.93, Transferred from 17-1.108 and Amended 6-1-84.

17-102.140 Briefs and Oral Argument.

(1) No later than thirty-five (35) days prior to the hearing, persons submitting briefs shall file with the Department either a Brief in Support or a Brief in Opposition.

(2) No later than ten (10) days prior to the hearing persons who submitted briefs under paragraph (1) above may file a Brief in Response to any briefs filed by persons presenting the opposing view. If a Brief in Response is filed, persons filing such a brief shall serve a copy on all persons whose briefs are being addressed by the Brief in Response.

(3) Briefs shall:

(a) be typed on letter size paper;

(b) set forth separately each argument;

(c) make reference to the record by page number where appropriate;

(d) include a cover page with the title of the brief; address, and telephone number of the person submitting the brief; and

(e) include an index page of the arguments presented.

(4) Oral argument shall be limited to points raised in the briefs or Notice of Participation.

(5) Unless otherwise set by the Governor and Cabinet, the limits for oral arguments shall be as follows: Each person shall have a total of

twenty (20) minutes to present argument which includes time for rebuttal.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 403.804(2), F.S. History: New 3-2-77, Formerly 17-1.94, Transferred from 17-1.109, 6-1-84.

17-102.150 Filing.
(1) All notices, briefs or other material authorized or required to be filed under this rule shall be filed with the Secretary of the Department of Environmental Regulation, who shall provide copies to the Governor and Cabinet within forty-eight (48) hours of receipt.
(2) Filing shall be complete upon receipt by the Department.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 403.804(2), F.S. History: New 3-2-77, Formerly 17-1.95, Transferred from 17-1.110, 6-1-84.

17-102.160 Motions. The Governor and Cabinet or, where appropriate, the Secretary, may entertain motions to effectuate the purposes and requirements of this part.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 403.804(2), F.S. History: New 3-2-77, Formerly 17-1.96, Transferred from 17-1.111, 6-1-84.

17-102.170 Computation of Time. In computing any period of time prescribed or allowed by this part, the day of the act, or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 403.804(2), F.S. History: New 3-2-77, Formerly 17-1.97, Transferred from 17-1.112, 6-1-84.

17-102.180 Copies. All notices, briefs or other material filed pursuant to this rule shall be accompanied by fourteen (14) copies thereof.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 403.804(2), F.S. History: New 3-2-77, Formerly 17-1.98, Transferred from 17-1.113, 6-1-84.

17-102.190 Membership of Florida Cabinet; Presiding Officer Quorum; Agendas; Distribution of Agendas; Recording of Proceedings; Agency Action; Voting; Amendment to Rules; Parliamentary Matters; Minutes; Order of Procedure.
(1) The provisions of Sections 16-4.02, 16-4.04, 16-4.05, 16-4.06, 16-4.07, 16-4.08, 16-4.12, 16-4.13, 16-4.14, 16-4.15, FAC, are incorporated herein with the following exceptions:
(a) Where the phrase "Department of Natural Resources" appears, the phrase "Governor and Cabinet" is substituted;
(b) Where the phrase "Executive Director" appears, the phrase "Secretary of the Department of Environmental Regulation" is substituted;
(c) The last two (2) sentences in Section 16-4.06, FAC, are not germane to the subject matter of this rule, and therefore, are excluded from incorporation herein.

(2) The Secretary of the Department of Environmental Regulation shall keep the official minutes of the Governor and Cabinet relevant to this part, transcribe them into writing, and have them approved at a subsequent meeting of the Governor and Cabinet. The minutes, when approved, of each meeting; shall be part of the official record of the meeting. The minutes, before being submitted for approval, shall be checked against the electronic recordings of each meeting to ascertain their accuracy.

(3) The order of procedure for the regular meetings shall be as follows:

Invocation and Pledge of Allegiance

Introduction of Guests

Presentation of Resolutions and Awards

Meetings of the commissions, departments or boards in the following order:

(a) Board of Administration
Governor
Comptroller
Treasurer

(b) Administration Commission
Governor and Cabinet

(c) Land and Water Adjudicatory Commission
Governor and Cabinet

(d) Department of Criminal Law Enforcement
Governor and Cabinet

(e) Department of Highway Safety and Motor Vehicles
Governor and Cabinet

(f) Department of Revenue
Governor and Cabinet

(g) Department of Education
Governor and Cabinet

(h) Department of General Services
Governor and Cabinet

(i) Department of Natural Resources
Governor and Cabinet

(j) Board of Trustees of the Internal Improvement Trust Fund
Governor and Cabinet

(k) Governor and Cabinet acting under section 403.804(2), Florida Statutes

Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 120.53, 403.804(2), F.S. History: New 3-2-77, Formerly 17-1.99, Transferred from 17-1.114 and Amended 6-1-84.

PART III
AGENDA AND SCHEDULING OF MEETINGS AND WORKSHOPS

17-102.300 Notice of Meetings.

(1) Except in the case of emergencies, the Department shall give at least seven (7) days public notice of any public meeting or workshop affecting the general public interest (and not relating exclusively to organization, procedure or practice, or not concerned with internal administrative or ministerial matters not affecting the public generally) by publication in the Florida Administrative Weekly.

(2) Such notice of such meeting or workshop shall state:

(a) The date, time and place of the event.

(b) A brief description of the purpose of the event.

(c) The address where interested persons can write to obtain a copy of the agenda.

(3) The Department shall follow substantially the following form in

providing notice of the meeting or workshop.

NOTICE OF PUBLIC MEETING
OR WORKSHOP

The Department of Environmental Regulation announces a public meeting or workshop to which all persons are invited.
DATE AND TIME: _____
PLACE: _____
PURPOSE: _____
A copy of the agenda may be obtained by writing to the Department of Environmental Regulation, _____, (office) _____, (room) Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

Specific Authority: 120.53(1), F.S.
Law Implemented: 120.53(1)(d), F.S.
History: New 2-6-78, Transferred from 17-1.115, 6-1-84.

17-102.310 Agenda of Meetings and Workshops.

(1) The agenda shall be prepared by the Department in time to insure that a copy may be received at least seven (7) days before the event by any person in the state who has requested a copy and pays the reasonable cost per copy.

(2) The agenda shall list the items in the order they are to be considered. For good cause stated in the record, items on the agenda may be considered out of their stated order with the approval of the Department or the person designated to preside.

(3)(a) The agenda shall list the items to be considered and shall summarize those matters involving the exercise of Departmental discretion and policy-making. Additions to agenda items such as "old business", "new business", "other business", or similar terms may be used for consideration of solely ministerial or internal-administrative matters which do not affect the interests of the public generally.

(b) The Department may utilize substantially the following form in preparing its agenda for a public meeting:

"DEPARTMENT OF
ENVIRONMENTAL REGULATION"
TIME, DATE AND PLACE
OF THE MEETING
THIS MEETING IS OPEN
TO THE PUBLIC

1) Call to Order
2) Review of Minutes
3) Old Business:
Listing of all matters involving Departmental discretion or policy-making with brief summary of each.
4) New Business:
Listing of all matters involving Departmental discretion or policy-making with brief summary of each.
5) Other Business:
Listing of all matters involving Departmental discretion or policy-making with brief summary of each.

(c) The following agenda may be used for a public workshop:

"DEPARTMENT OF
ENVIRONMENTAL REGULATION"
TIME, DATE AND PLACE
OF THE WORKSHOP
SUBJECT
THIS WORKSHOP IS OPEN
TO THE PUBLIC

1) Call to Order
2) Explanation of Subject Matter by Department Staff
3) Presentation by Affected Parties or Members of the Public
4) Discussion, if Appropriate
5) Adjournment

(4) Additions or changes may be made to the agenda after it has been made available for distribution by the Department only for "good cause" as determined by the person designated to preside and stated in the record. This shall include, but not be limited to, consent of all parties substantially affected by the item to be added to the agenda; provided, however, that the Department may consider an item on an emergency basis. No specific addition may be made, however, unless the general subject matter of the addition was included in the meeting notice previously published by the Department or an emergency item exists.

(5) The Department shall provide that such meeting or workshop shall be open to the public unless this is not required because of the nature of the meeting or workshop or provisions of applicable law.
Specific Authority: 120.53(1), F.S. Law Implemented: 120.53(1)(d), F.S. History: New 2-6-78, Transferred from 17-1.116 and Amended 6-1-84.

17-102.320 Smoking Prohibited. Smoking, igniting, or burning of tobacco or any other substance shall be prohibited at any public workshop, hearing, or meeting conducted by the Department or Commission for the purpose of considering a proposed rule. Smoking in Department buildings is governed by Chapter 17-105, FAC. Smoking in other state buildings is governed by the rules of the agency responsible for the building. At reasonable intervals, persons who desire to smoke shall be provided an opportunity to do so in a location which will not affect persons who choose not to smoke. If a local law or ordinance prescribes a more stringent smoking policy it shall be complied with where applicable.
Specific Authority: 120.53(1), 255.27, F.S. Law Implemented: 120.53(1), F.S. History: New 2-6-78, Amended 4-28-81, Transferred from 17-1.117 and Amended 6-1-84.

17-102.330 Emergency Meeting and Workshop.

(1) The Department may without prior notice or agenda hold an emergency meeting or workshop, for the purpose of acting upon internal-administrative and ministerial matters, and matters of immediate danger to the public health, safety, and welfare.

(2) Whenever an emergency meeting is scheduled to be held, the Department may notify at least one major newspaper of general circulation in the area where the meeting will take place and also all major wire services of the time, date, place and purpose of the meeting.
Specific Authority: 120.53(1), F.S. Law Implemented: 120.53, F.S. History: New 2-6-78, Transferred from 17-1.118, 6-1-84.

CHAPTER 17-103

RULES OF ADMINISTRATIVE PROCEDURE - FINAL AGENCY ACTION (NON-RULEMAKING) AND APPEAL

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PART I
DECISIONS (ADJUDICATORY) DETERMINING SUBSTANTIAL INTERESTS OF AFFECTED PERSONS

17-103.010 General. Proceedings determining the substantial interests of a person, except rulemaking proceedings, under statutes which the Department is required to implement, shall be pursuant to Section 120.57, Florida Statutes, Chapter 17-103 and Chapter 28-5, FAC, as amended, except for proceedings for which another specific rule has been promulgated.
Specific Authority: 120.53(1), F.S.
Law Implemented: 120.53(1), F.S.
History: Revised 10-20-73, Amended 2-6-78, Formerly 17-1.10, Transferred from 17-1.19 and Amended 6-1-84.

17-103.020 Who May Appear: Criteria for Authorized Representation.

(1) A party may be represented by an attorney or other qualified representative or may appear on his own behalf.

(2) If a party is not represented by an attorney, or does not appear on his own behalf, the presiding officer, as early as possible in the proceedings, but prior to the final hearing, shall make diligent inquiry of the representative under oath, to assure that the representative is qualified to appear in the agency proceeding and capable of preserving the rights of the party. This inquiry shall include consideration of the nature of the legal skills, knowledge and experience of the representative, including the representative's ability to apply concepts relating to the rules of evidence and hearsay, the ability of the representative to apply and interpret Chapter 120, Florida Statutes, including Section 120.57, Florida Statutes, and Titles 17 and 28, FAC, the representative's ability to identify the issues in the proceeding, the representative's knowledge of and experience with the statutes and rules at issue in the proceeding, the nature and complexity of the factual and legal issues present in the proceeding, and the representative's experience in dealing with these issues, the representative's interest in the proceeding, whether the party is aware of the nature and extent of the representation which the representative can provide, whether the party is aware of the right to be represented by an attorney, and any other matter deemed relevant by the presiding officer. The presiding officer shall authorize the representative to appear in the proceeding if the presiding officer is reasonably assured that the representative is capable of providing

competent, responsible and ethical representation of the party's substantial interests in a manner which will not impair the fairness of the proceeding or the correctness of the action to be taken. The presiding officer may reconsider, for specific cause relative to the criteria established by this subsection, a ruling on this issue at any time during the proceedings.

(3) All attorneys and qualified representatives appearing in proceedings shall conform to the standards of ethical conduct required of attorneys before the courts of the state of Florida as specified in the Florida Code of Professional Responsibility, and presiding officers shall require such compliance. Failure to comply shall authorize presiding officers to disqualify any attorneys or qualified representatives appearing before them in a proceeding.

(4) An attorney or other qualified representative (approved by the presiding officer) for any party to a proceeding who has filed an initial pleading or notice of appearance for that party shall remain the attorney or representative of record and shall receive pleadings until a motion to withdraw has been served on the represented party and approved by the presiding officer, or until disqualified by the presiding officer.

(5) Notice of appearance by any successor or associated attorney or other qualified representative shall be filed prior to the filing of any pleading with, or appearance before, the agency or presiding officer.
Specific Authority: 120.53(1), 120.62(2), F.S. Law Implemented: 120.53(1), 120.62(2), F.S. History: revised 10-20-73, Formerly 17-1.12, Amended 4-28-81, Transferred from 17-1.21 and Amended 6-1-84.

17-103.030 Staff Personnel. Staff personnel of the Department should appear solely on behalf of the general public interest. Their duty is to reasonably insure that all facts touching upon the general public interest are clearly brought before the Department. Where staff personnel appear as witnesses they shall be sworn and subject to examination.
Specific Authority: 120.53(1), F.S.
Law Implemented: 120.53(1), F.S.
History: Revised 10-20-73, Formerly 17-1.14, Transferred from 17-1.23, 6-1-84.

17-103.040 Form. All pleadings in adjudicatory proceedings shall be printed, typewritten, or otherwise duplicated in legible form on white paper. Unless printed, the impression shall be on one side of the paper only, and the lines shall be double spaced, except quotations of two or more lines, which shall be single spaced and indented. Standard legal size paper or standard letter size paper may be used; however, a left margin of not less than one and one-half inches, and a top margin of at least two inches must be provided.
Specific Authority: 120.53(1), F.S.
Law Implemented: 120.53(1), F.S.
History: Revised 10-20-73, Formerly 17-1.15, Transferred from 17-1.24, 6-1-84.

17-103.050 Filing and Service.

(1) Filing of the initial pleading required to be filed by the Department, such as a petition for hearing, petition for declaratory statement, petition for rule or

other pleading or document which initiates a proceeding, or of a notice of appeal, or a request for extension of time, shall be deemed complete upon receipt, during regular business hours, by the Office of General Counsel of the Department in Tallahassee, Florida.

(2) Service of a subsequent pleading, motion, or other document shall be deemed complete upon being properly addressed, stamped and deposited in the United States Mail.

(3) If a hearing officer has been assigned to conduct the proceedings, pursuant to Section 120.57, Florida Statutes, the original and one copy of each subsequent pleading, motion, or other document shall be filed with the hearing officer, and a copy served on the designated Department attorney and all parties of record. However, after the Hearing Officer has submitted a Recommended Order to the Department all subsequent pleadings and documents shall be filed with the Department's clerk in the Office of General Counsel.

Specific Authority: 120.53, F.S.
Law Implemented: 120.53, F.S.
History: Revised 10-20-73, Amended 2-6-78, Formerly 17-1.16, Amended 4-28-81, Transferred from 17-1.25 and Amended 6-1-84.

17-103.060 Signature, Verification and Certificate of Service. Pleadings shall be signed by one of the parties, or an official thereof if the party is a corporation or association, or by the party's attorney. Initial pleadings filed pursuant to Section 403.412, Florida Statutes, shall be verified. Pleadings filed by the Department will be signed by the Secretary, Department Counsel, or other designee of the Secretary. All pleadings shall include a Certificate of Service as provided in the Florida Rules of Civil Procedures, except initial pleadings.

Specific Authority: 120.53(1), F.S.
Law Implemented: 120.53(1), F.S.
History: Revised 10-20-73, Amended 2-6-78, Formerly 17-1.17, Transferred from 17-1.26, 6-1-84.

17-103.070 Extension of Time for Filing. The hearing officer, or Secretary of the Department, if no hearing officer is presiding, may, for good cause shown, grant an extension of time for the filing of any pleading required or permitted by Department rule. Requests for such extensions must be served on all parties and filed with the Department. Such requests for extensions of time shall contain a certificate that the moving party has consulted with the opposing party, or his counsel, concerning the extension, and whether or not the opposing party, or his attorney, objects to such an extension, and will promptly file objection. Written objections may be filed within five (5) days of service of the request for extension. A timely request for extension of time shall toll the running of the applicable time period until the request is acted upon.

Specific Authority: 120.53(1), F.S.
Law Implemented: 120.53(1), F.S.
History: Revised 10-23-77, Amended 2-6-78, Formerly 17-1.20, Amended 4-28-81, Transferred from 17-1.29 and Amended 6-1-84.

17-103.080 Computation of Time. Except for the filing of notices of appeal, the time within which any pleading, motion, notice, brief or

exceptions may be served or filed, or the time within which any act is required to be performed, as provided by any rule or order of the Department, shall be computed in accordance with the Florida Rules of Civil Procedure.
Specific Authority: 120.53, F.S.
Law Implemented: 120.53, F.S.
History: Revised 10-20-73, Amended 2-6-78, 4-28-81, Formerly 17-1.16, Transferred from 17-1.32 and Amended 6-1-84.

17-103.090 Informal Conference.

(1) If the Department deems it advisable in reaching a prompt resolution of a controversy or dispute with a party or parties, it may arrange an informal conference between the party or parties and the Department. Unless otherwise specified, an informal conference shall be requested within ten (10) days of service of the initial pleading. An attempt shall be made to resolve the controversy or dispute in an amicable manner.

(2) A respondent's rights will not be adjudicated at such a conference, and the right to request a public hearing on the alleged violations or the orders for corrective action subsequently issued will not be affected by requesting and participating in an informal conference. The Department staff members participating in such informal conference shall file with the Department a report concerning matters covered in the informal conference. Unless otherwise specified, in writing, by the Department, a responsive pleading or demand for hearing shall be filed within ten (10) days from the completion of the informal conference, unless a longer time is provided by Rule 17-103.110, FAC, or Chapter 403, Florida Statutes. Failure to file responsive pleading or demand for hearing within that time period shall be deemed a waiver thereof.
Specific Authority: 120.53(1), F.S.
Law Implemented: 120.53(1), F.S.
History: Revised 10-20-73, Amended 2-6-78, Formerly 17-1.44, Transferred from 17-1.53 and Amended 6-1-84.

17-103.100 Petitions or Applications for Variances.

(1) A petition or application for a variance, pursuant to Section 403.201, Florida Statutes, of the Florida Air and Water Pollution Control Act, shall be in accordance with these rules. The petitioner or applicant shall address the factors listed in paragraphs (a) through (g) in the request. The Department shall review the petition within a reasonable period of time to determine if the petition is complete. If the Department determines the petition to be incomplete, the petitioner shall be afforded an opportunity to supply additional information before the Department evaluates the merits of the request.

(a) The statute or rule from which a variance is sought.

(b) The facts which show that a variance should be granted because of one of the reasons set forth in Section 403.201, Florida Statutes.

(c) The period of time for which the variance is sought, including the reasons and facts in support of the time period.

(d) The requirements which the petitioner can meet, including the date or time when the requirements will be met.

(e) The steps or measures the petitioner is taking to meet the

requirement from which the variance is sought. If the request is pursuant to Section 403.201(1)(b), F.S., the petitioner shall include a schedule when compliance will be achieved.

(f) The social, economic and environmental impacts on the applicant, residents of the area and of the state if the variance is granted.

(g) The social, economic and environmental impacts on the applicant, residents of the area and of the state if the variance is denied.

(2) Renewals of variances, pursuant to Section 403.201, Florida Statutes, shall be applied for in the same manner as for the initial variance.

(3) Variances shall be denied or granted at the discretion of the Secretary of the Department, except for variances submitted under the Florida Electrical Power Plant Siting Act, the Florida Transmission Line Siting Act or the Florida Industrial Siting Act, which shall be granted or denied at the discretion of the Governor and the Cabinet.

(4) The Department shall publish notice of intent in the Florida Administrative Weekly. The petitioner shall publish such notice in a newspaper of general circulation in the area affected by the proposed variance. Notice shall be in accordance with Rule 17-103.150, FAC, and shall read substantially as set forth in Rule 17-103.150(3), FAC.

(5) An application for a variance or exemption, pursuant to Section 403.854, Florida Statutes, of the Florida Safe Drinking Water Act, shall be in accordance with Section 17-22.09, Florida Administrative Code. The variance provisions of Section 403.201, Florida Statutes, do not apply to the Florida Safe Drinking Water Act or rules promulgated thereunder.

(6) Relief from Department rules may also be granted pursuant to other specific rules, such as, but not limited to, rules 17-3.031, 17-4.243, and 17-4.245, FAC.

Specific Authority: 120.53(1), F.S.
Law Implemented: 120.53(1), F.S.
History: New 2-6-78, Amended 7-8-82, Transferred from 17-1.57 and Amended 6-1-84.

17-103.110 Administrative Enforcement Actions.

(1) Notice of Violation.

(a) A notice of violation is an appropriate initial administrative pleading which may be issued by the Department when, after investigation, it has reason to believe that a person has, or is presently engaged in an activity in violation of the provisions of Chapters 403, 373, 376 or 253, Florida Statutes, or Department rules. Such notice shall be served on the respondent(s) by actual delivery to; service of process on, in accordance with Florida Rules of Civil Procedure; or by certified mail, return receipt requested; and shall identify the provision of law, rule, or Department permit alleged to have been violated, and shall include a brief statement of the facts constituting such alleged violation.

(b) A notice of violation shall be issued by the Secretary, Assistant Secretary or District Manager. Unless a responsive pleading and request for a Section 120.57 administrative hearing is filed within twenty (20) days after service of the notice, or as otherwise provided by Rule 17-103.090, FAC (Informal

Conference), the notice of violation, and the allegations contained therein, shall become binding and final, and the right to an administrative hearing shall be deemed waived.

(2) Orders for Corrective Action.

(a) Orders for corrective action may accompany and be served with a notice of violation upon the alleged violator of provisions of law, rule, or a Department permit. The orders shall include a description of remedial action, with implementing time-table, which is required, and set forth any damages, costs of investigation, or other demands the Department is authorized by law to recover. Unless a responsive pleading and request for a Section 120.57 administrative hearing is filed within twenty (20) days after service of the notice, or as otherwise provided by Rule 17-103.090, FAC (Informal Conference), the orders for corrective action shall become final and effective, and shall constitute a final adjudication of the matters alleged, subject only to judicial review under Section 120.68, Florida Statutes.

(b) Orders for corrective action, which constitute final agency action, shall be enforceable pursuant to sections 403.161(1)(b), 403.131, 403.412, 403.860, and 120.69, Florida Statutes.

(3) Consent Order.

A consent order is a final agency order wherein all parties and the Department, by negotiation, have arrived at a mutually acceptable resolution of alleged violations of law for the purpose of achieving full and expeditious compliance with Chapters 253, 403, 373 and 376, Florida Statutes, and Department rules promulgated thereunder. A consent order, executed by all parties to an enforcement action, shall have the same force and effect as a final order entered by the Department after a formal Section 120.57 administrative hearing and the submission of hearing officer's recommended order, and shall be enforced in like manner. The Secretary, or his authorized designee, may enter consent orders, copies of which shall be served on all parties. If a notice of violation is issued, in accordance with Rule 17-103.110, FAC, no consent order shall be entered until ten (10) days after the filing of the notice.

Specific Authority: 120.53, F.S.
Law Implemented: 120.53, F.S.
History: New 2-6-78, Transferred from 17-1.58 and Amended 6-1-84.

17-103.120 Department Approval of Testing and Research Programs for Air Pollution Sources.

(1) Upon receiving a petition for authorization to conduct testing, demonstration of new or innovative technologies, and/or research programs relating to pollution and its causes, effects, prevention, abatement and control, the Department may, in its discretion, issue an order authorizing the testing, demonstration, or research program as a temporary source of air pollution.

(a) The petition shall be filed with the Secretary of the Department and shall include at least the following information:

1. The name and address of the person or entity requesting authorization;

2. A description of the substance of the proposed testing, demonstration, or research program;

3. A list of all rules, permit or certification conditions, and other requirements of law that might be temporarily violated as a result of the testing, demonstration, or research program;

4. The proposed duration of the program; and

5. The purpose of the proposed program.

(b) The Department shall, after due notice, hold a public hearing on each petition.

(2) The order of the Department authorizing an air testing, demonstration or research program shall contain such conditions as are necessary to assure that state and federal ambient air quality standards, applicable Prevention of Significant Deterioration increments, Standards of Performance for New Sources contained in 40 C.F.R., Part 60, and National Emissions Standards for Hazardous Air Pollutants contained in 40 C.F.R., Part 61, will not be violated; and that the program will not interfere with attainment of ambient air quality standards in nonattainment areas. The order shall authorize the construction or operation of a temporary source of pollution subject to such interim emission limitations, sampling and monitoring requirements, reporting requirements, and any other requirement different from that established by rule, permit or certification condition, or Department Order.

(3) No condition, contained in an order issued pursuant to this Section, which is different from any requirement established by rule, permit or certification condition, or Department Order, shall be effective for more than two years, provided however, the order may be renewed by the Department.

Specific Authority: 120.53, F.S. Law Implemented: 120.53, 403.061(8), 403.061(18), F.S. History: New 4-6-80, Transferred from 17-1.585 and Amended 6-1-84.

17-103.130 Burden of Proof; Order of Presentation.

(1)(a) In licensing (permit) proceedings, including variance, exception, exemption, site specific alternative criteria, or other similar proceedings, the applicant shall have the burden of establishing, by a preponderance of the evidence, entitlement to the requested license, variance, exception, exemption, site specific alternative criteria, or other relief.

(b) The order of presentation in proceedings described in Rule 17-103.130(1)(a), FAC, shall be applicant, any party who supports issuance of the license or granting of other relief, the Department (whether it proposes to issue or deny the license or other relief), and any party who supports denial of the license or other relief. Rebuttal testimony and public comment shall be submitted as directed by the presiding officer. The parties may agree to, or for good cause the presiding officer may direct, any other order of presentation.

(2) In enforcement, license revocation, or other similar proceedings, the Department shall have the burden of proof. In these proceedings, the order of presentation shall be the Department, any party who supports the action proposed by the Department, any party against whom the proceeding has been initiated and any party who opposes the action proposed by the Department. Rebuttal testimony and public

comment shall be submitted as directed by the presiding officer. The parties may agree to any other order of presentation.
Specific Authority: 403.087, 403.088, 120.53, F.S. Law Implemented: 120.53, F.S. History: New 2-6-78, Amended 4-28-81, Transferred from 17-1.59 and Amended 6-1-84.

17-103.140 Relationship with Other Rules. Where there are conflicts between the requirements of this Chapter and other specific procedural rules such as Chapter 17-17, FAC, procedural rules promulgated to implement the Florida Electrical Power Plant Siting Act, and the Florida Transmission Line Siting Act, and Chapter 17-23, FAC, procedural rules to implement the Florida Industrial Siting Act, and any rules which set forth more specific procedures, the latter rules shall govern.
Specific Authority: 120.53, F.S. Law Implemented: 120.53, F.S. History: New 2-6-78, Transferred from 17-1.61 and Amended 6-1-84.

17-103.150 Public Notice of Application and Proposed Agency Action.

(1) Each person who files an application for a Department permit may publish, or may be required to publish, and provide proof of publication to the Department, at his own expense, a Notice of Application in a newspaper of general circulation in the county in which the activity will be located or take place. Publication of a Notice of Application shall be required for those projects which, because of their size, potential effect on the environment or natural resources, controversial nature, or location, are reasonably expected by the Department to result in a heightened public concern or likelihood of request for administrative proceedings. If required, the notice shall be published one time only within fourteen (14) days after a complete application is filed and shall contain:

(a) name of applicant, a brief description of the project and its location;

(b) where the application file is located and when it is available for public inspection;

(c) the notice shall be prepared by the Department and shall comply with the following format:

Notice of Application

The Department of Environmental Regulation announces receipt of an application for permit from (name of applicant) to (brief description of project). This proposed project will be located at (location) in (county) (city).

This application is being processed and is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at (name and address of office).

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(2)(a) All applicants for construction permits for domestic, wastewater treatment plants, or industrial wastewater treatment plants, solid waste disposal facilities, standard form dredge and fill projects, major air pollution sources and drinking water treatment facilities shall publish, at the

applicant's expense, a Notice of Proposed Agency Action on Permit Application. The Department may require other applicants to publish notice of proposed agency action where, in the judgment of the Department, the project is reasonably expected to result in a heightened public concern or likelihood of request for administrative proceedings because of the project's size, potential effect on the environment or natural resources, controversial nature or location. The applicant shall cause the notice to be published as soon as possible after notification by the Department of its intended action, and no later than fourteen (14) days prior to final agency action. The Department shall notify the applicant of its intended action within ninety (90) days of a completed application, and the provisions of Section 120.60(2), F.S., shall be tolled by the request of the Department for publication of notice and shall resume fourteen (14) days after receipt by the Department of proof of publication.

(b) The notice shall be published one time only in the legal ad section of a newspaper of general circulation in the county where the activity is proposed, and the applicant shall provide proof of publication to the Department within seven (7) days of publication. The notice shall be prepared by the Department and shall contain:

1. name of applicant, brief description of the proposed activity, and its location;

2. location of the application and its availability;

3. statement of the Department's intended action; and

4. notification of administrative hearing opportunity.

(c) The notice shall substantially read as follows:

Notice of Proposed Agency Action on Permit Application

The Department of Environmental Regulation gives notice of its intent to (issue)(deny) a permit to (name of applicant) to (brief description of project).

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative proceeding (hearing) in accordance with Section 120.57, Florida Statutes. The petition must conform to the requirements of Chapters 17-103 and 28-5, Florida Administrative Code and must be filed (received) in the Office of General Counsel of the Department at 2600 Blair Stone Road, Twin Towers Office Building, Tallahassee, Florida 32301, within fourteen (14) days of publication of this notice. Failure to file a request for hearing within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under Section 120.57, Florida Statutes.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this preliminary statement. Persons whose substantial interests will be affected by any decision of the Department have the right to intervene in the proceeding. A petition for intervention must be filed pursuant to Model Rule 28-5.207 at

least five (5) days before the final hearing and be filed with the Hearing Officer if one has been assigned at the Division of Administrative Hearings, Department of Administration, 2009 Apalachee Parkway, Tallahassee, Florida 32301. If no Hearing Officer has been assigned, the petition is to be filed with the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32301. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S.

The application is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at (name and address of office).

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(3) The Department, or any person whose substantial interests are or may be affected by proposed agency action other than on a permit application may publish or may be required to publish public notice, and provide proof of publication, in a newspaper of general circulation in the county or counties affected by the proposed action. Such public notice shall contain:

State of Florida
Department of
Environmental Regulation
Notice of Proposed Agency Action

(a) The proposed agency action (e.g., Consent Order);

(b) Description and location of the subject matter or activity covered by the action;

(c) Location of complete copies of the proposed agency action and accompanying material which are available for public inspection; and

(d) Paragraphs which read substantially as follows:

Persons whose substantial interests are affected by the above proposed agency action have a right, pursuant to Section 120.57, F.S., to petition for an administrative determination (hearing) on the proposed action. The Petition must conform to the requirements of Chapters 17-103 and 28-5, FAC, and must be filed (received) with the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32301, within fourteen (14) days of publication of this notice. Failure to file a petition within the fourteen (14) days constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Section 120.57, F.S.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the proposed agency action. Persons whose substantial interests will be affected by any decision of the Department have the right to intervene in the proceeding. A petition for intervention must be filed pursuant to Model Rule 28-5.207, FAC, at least five (5) days before the final hearing and be filed with the Hearing Officer if one has been assigned at the Division of Administrative Hearings, Department of Administration, 2009 Apalachee Parkway, Tallahassee, Florida 32301. If no Hearing Officer has been assigned, the petition is to be filed with the Department's Office

of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32301. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such person has to an administrative determination (hearing) under Section 120.57, F.S.

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(4) Notice to substantially affected persons concerning applications for Department permits is an essential and integral part of the state environmental licensing process. Therefore, no application for a permit for which publication of notice is required shall be granted until and unless proof of publication of Notice is furnished to the appropriate Department permitting office.

(5)(a) Any applicant or person benefiting from the Department's action may elect to publish notice of proposed agency action in the manner provided by subsection (2) or (3). Any person who elects to publish notice of proposed agency action, upon presentation of proof of publication to the Department, prior to final agency action, shall be entitled to the same benefits under this rule as a person who is required to publish notice of proposed agency action. Since persons whose substantial interests are affected by a Department decision on a permit application may petition for an administrative proceeding within fourteen (14) days after receipt of notice and since, unless notice is given or published as prescribed in this rule, receipt of notice can occur at any time, the applicant or persons benefiting from the Department's action cannot justifiably rely on the finality of the Department's decision without the notice having been duly given or published.

(b) The notices required by this rule may be combined with other notices required by the Department pursuant to Chapter 403, 376, or 253, F.S., or Chapter 17, FAC.

(c) The provisions of this section shall also apply to the permitting of hazardous waste facilities, but only to the extent it is consistent with Chapter 17-30, Part IV, FAC. Whenever Chapter 17-30, Part IV, FAC, provides for a different time or notice procedure than that set forth in this section the time and notice provisions of Chapter 17-30 shall govern.

(6) Failure to publish any notice of application, notice of proposed agency action, or notice of agency action required by the Department shall be an independent basis for the denial of a permit.

Specific Authority: 120.53, 403.0876, 403.815, F.S. Law Implemented: 120.53, F.S.
History: New 9-20-79, Amended 4-28-81, Transferred from 17-1.62 and Amended 6-1-84.

17-103.155 Petition for Administrative Hearing; Waiver of Right to Administrative Proceeding.

(1)(a) Any person whose substantial interests may be affected by proposed or final agency action may file a petition for administrative proceeding. A petition shall be in the form required by this Chapter and Chapter 28-5, FAC, and shall be filed (received) in the Office of General Counsel of the Department within fourteen (14) days of receipt of notice of proposed agency action or within fourteen (14) days of receipt of notice of

agency action whenever there is no public notice of proposed agency action. In addition to the requirements of Rule 28-5.201, FAC, the Petition must specify the county in which the project is or will be located.

(b) Failure to file a petition within fourteen (14) days of receipt of notice of agency action or fourteen (14) days of receipt of notice of proposed agency action, whichever notice first occurs, shall constitute a waiver of any right to request an administrative proceeding under Chapter 120, F.S.

(c) When there has been no publication of notice of agency action or notice of proposed agency action as prescribed in Rule 17-103.150, FAC, a person who has actual knowledge of the agency action or has knowledge which would lead a reasonable person to conclude that the Department has taken final agency action, has a duty to make further inquiry within fourteen (14) days of obtaining such knowledge by contacting the Department to ascertain whether action has occurred. The Department shall upon receipt of such an inquiry, if agency action has occurred, promptly provide the person with notice as prescribed by Rule 17-103.150, FAC. Failure of the person to make inquiry with the Department within fourteen (14) days after obtaining such knowledge may estop the person from obtaining an administrative proceeding on the agency action.

(2)(a) "Receipt of notice of agency action" means receipt of written notice of final agency action, as prescribed by Department rule, or the publication, pursuant to Department rule, of notice of final agency action, whichever first occurs.

(b) "Receipt of notice of proposed agency action" means receipt of written notice (such as a letter of intent) that the Department proposes to take certain action, or the publication pursuant to Department rule of notice of proposed agency action, whichever first occurs.

(3) Notwithstanding any other provision in this Chapter, should a substantially affected person who fails to timely request a hearing under Section 120.57, F.S., administratively appeal the final Department action or order, the record on appeal should be limited to:

(a) the application, and accompanying documentation submitted by the applicant prior to the issuance of the agency's intent to issue or deny the requested permit.

(b) the materials and information relied upon by the agency in determining the final agency action or order;

(c) any notices issued or published; and

(d) the final agency action or order entered concerning the permit application.

(4) In such cases where persons do not timely exercise their rights accorded by Section 120.57(1), Florida Statutes, the allegations of fact contained in or incorporated by the final agency action shall be deemed uncontested and true, and appellants may not dispute the truth of such allegations upon subsequent appeal.

(5) Any applicant may challenge the Department's request for additional information by filing with the Office of General Counsel an appropriate petition for administrative proceeding pursuant to Section 120.60, F.S., following receipt by

the applicant of the Department's notification, pursuant to Section 403.0876, F.S., that additional information is required.
Specific Authority: 120.53, 403.0876, 403.815, F.S. Law Implemented: 120.53, F.S.
History: New 9-20-79, Amended 4-28-81, Transferred from 17-1.62 and Amended 6-1-84.

17-103.160 Uniformity in Approval and Denial of Applications for Department Permits and Certifications. To the extent possible and consistent with the public interest, the Department approves and denies applications for permits and certifications on a uniform and consistent basis. Final Department actions on applications for permits and certifications shall be consistent with prior Department actions, unless deviation therefrom is explained by the Department in writing or the hearing officer who submits a recommended order to the Department for final agency action in accordance with Section 120.57, Florida Statutes.
Specific Authority: 120.53(1), F.S. Law Implemented: 120.53(1), 120.68(12), F.S. History: New 2-6-78, Transferred from 17-1.63, 6-1-84.

17-103.170 Designation, Preparation and Transmittal of Record for Administrative Appeals.

When any Department action or order is the subject of an administrative appeal under Chapter 17-103, Part II, FAC, the following requirements shall apply:

(1) Designation of Record. Within fifteen (15) days of rendition of the Department's final order, the appellant shall designate to the Department, in writing, with copies to other parties, those documents or things under the control of or in the possession of the Department which the appellant desires to have included in the record, and which were received or considered in the Department proceeding below. If a proceeding was reported by mechanical recording devices, the appellant shall designate those portions of the proceeding for which it requires written transcription or tapes for transcription. Any other party may designate other portions of the record in the manner provided herein. Such cross-designation shall be filed with the Department, with copies provided other parties, within seven (7) days after receipt of the designation by the appellant.

(2) Original Record. The Department shall thereupon include in the record all of the designated portions of the original papers and exhibits in the proceedings or matter from which administrative appeal is taken, together with a copy of any such parts of the proceedings as were stenographically reported or transcribed from tapes, and as have been designated by the parties and certified by a notary public, the reporter, or other officer for inclusion in the record on appeal or review, and certified copies of the order, if any, of which review is sought. The Department may, at its discretion, substitute certified copies for original papers or documents in its possession.

(3) Preparation of Record. Upon tender or deposit by appellant of the estimated cost of preparation, the Department shall prepare the record in accordance with the designations of the parties. The cost of preparation, and reproduction,

shall be borne by the party requesting the designated portions of the record.

(4) Transmittal of Record. Upon preparation, and payment of associated costs, the administrative appeals clerk of the Department's Office of General Counsel shall transmit the record to the appropriate tribunal and serve notice of said transmittal and filing on all parties to the proceeding below.

(5) Extensions of Time in Which to Prepare Record. In administrative appeals under Chapter 17-103, Florida Administrative Code, a timely motion may be filed with the Secretary of the Department requesting an extension of time, for a definite period, within which to comply with the above requirements. Otherwise, the record on appeal shall be transmitted no later than the time by which appellant is required to file its main brief under Chapter 17-103, Florida Administrative Code. Failure of the appellant to follow the above requirements may subject the appeal to dismissal by the administrative appellate body.

(6) Copies of all public records may be inspected and examined by members of the public at reasonable times and under reasonable conditions. The Department shall furnish copies of public records upon payment of the actual cost of duplication. When the reproduction of records requires extensive clerical or supervisory assistance, the Department may charge an additional reasonable fee based on the actual salary rate of the personnel providing the service. Reproduction requests totaling more than 100 copies shall be presumed to require an additional fee for personnel service. Copies of rules which the agency implements may be obtained without cost to members of the public.

Specific Authority: 119.07, 120.53, 403.061(7), F.S., Chapter 286.0105, Laws of Florida. Law Implemented: 119.07, 120.53, 253.76, F.S. History: New 2-6-78, Amended 4-28-81, 4-1-82, Transferred from 17-1.64 and Amended 6-1-84.

17-103.180 Videotaped Depositions.

(1) Depositions for the purpose of discovery or any other use allowed by the Florida Rules of Civil Procedure may be recorded upon videotape after notice appropriate under the Rules of Civil Procedure.

(2) Such depositions may be utilized, without transcription, in any proceeding before the Department.

(3) The originals of any deposition so recorded shall be filed with the Clerk of the Office of General Counsel who shall make appropriate provision for their preservation.

(4) Upon request and tender of the actual costs of reproduction, the Department shall provide a copy of any tape or tapes to any person, and shall make available on the premises of the Department equipment for reviewing the same by any party.

(5) Oaths of deponents shall be administered by any person who is authorized by law to administer oaths.

(6) Videotape equipment utilized to record such depositions shall be operated by a person trained in the operation of such equipment and such person shall certify, under oath, that the videotape is a true and accurate recording of any such deposition.

(7) Upon a showing of good cause, a hearing officer or the Secretary may prescribe additional safeguards designed to assure the accurate recording and preservation of any testimony given by deposition.
Specific Authority: 120.53, F.S.
Law Implemented: 120.53, F.S.
History: New 2-6-78, Transferred from 17-1.65, 6-1-84.

17-103.190 Suspension and Revocation of Department Permits, Certifications or Certificates. The Department may suspend or revoke any Department permit, certification, or certificate as provided by Section 403.087, Florida Statutes, and Chapters 17-4 and 17-16, Florida Administrative Code. Prior to suspending or revoking such permit, certification, or certificate, the Department shall serve, by certified mail, an administrative complaint. The procedures contained in Sections 28-6.09, and 28-6.11, Florida Administrative Code, are expressly incorporated herein, and shall govern such suspension or revocation.
Specific Authority: 120.53, 403.061(7), F.S. Law Implemented: 403.087, 120.53, 120.60(5), F.S.
History: New 2-6-78, Amended 4-28-81, Transferred from 17-1.67, 6-1-84.

17-103.200 Agency Action on Recommended Orders. The following procedures shall apply to the entry of Final Department Orders adopting, rejecting or modifying Recommended Orders submitted by hearing officers of the Division of Administrative Hearings (DOAH).

(1) Within ten (10) days after submittal of a Recommended Order to the Department by a DOAH hearing officer, in accordance with Section 120.57(1), Florida Statutes, parties to the proceeding may file with the Department written Exceptions to the Recommended Order, with service of copies on all parties. Exceptions shall state, with particularity, the basis for asserting that the hearing officer erred in entering or omitting specific findings of fact, conclusions of law, or a recommendation. Any exception disputing a finding of fact must be accompanied by a complete transcript of the hearing. Any party may serve one Response to Exceptions within ten (10) days of service of the Exceptions. The Department may extend or shorten the times provided herein. Any party may submit a proposed final order.

(2) After expiration of the allotted time for filing Exceptions and within the time requirements imposed by Sections 120.60 and 120.59, Florida Statutes, the Secretary shall issue the Final Order of the Department in accordance with Section 120.57, Florida Statutes.

(3) Should a party desire to present oral argument before the Secretary in support of its Exceptions, a Request for Oral Argument shall accompany the Exceptions. The granting of oral argument and the time allowed is discretionary with the Secretary.
Specific Authority: 120.53(1), F.S.
Law Implemented: 120.53(1), F.S.
History: New 2-6-78, Amended 4-28-81, Transferred from 17-1.68 and Amended 6-1-84, Amended 12-23-84.

17-103.201 Final Orders.
In any final order (including a decision on a permit application) issued by the Department pursuant

to Sections 120.59 or 120.60, Florida Statutes, one or the other of the following paragraphs shall be included:

(1) If the parties to the Order were given notice pursuant to Rule 17-103.150, FAC, the following paragraph shall be included:

Any party to this Order has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Apellate Procedure, with the clerk of the Department in the Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32301; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Order is filed with the clerk of the Department.

(2) If the parties to an Order were not given notice pursuant to Rule 17-103.150, FAC, the following paragraph shall be included in the Order:

Persons whose substantial interests are affected by this Order have a right, pursuant to Section 120.57, Florida Statutes, to petition for an administrative determination (hearing) on it. The Petition must conform to the requirements of Chapters 17-103 and 28-5, FAC, and must be filed (received) with the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32301, within fourteen (14) days of receipt of this notice. Failure to file a petition within the fourteen (14) days constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Section 120.57, F.S.

This Order is final and effective on the date filed with the clerk of the Department unless a petition is filed in accordance with this paragraph. Upon the timely filing of a petition this Order will not be effective until further Order of the Department.

When the Order is final any party to the Order has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32301; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date the Final Order is filed with the clerk of the Department.

Specific Authority: 120.53, F.S.
Law Implemented: 120.59, F.S.
History: New 10-11-84.

17-103.202 Certificate of Mailing or Hand Delivery; Permitting. In each letter of intent to grant or deny a permit application, and in each order denying or granting a permit (including the permit itself if not accompanied by separate order), the Department shall include a certification that shows the time and date the letter, order or permit was mailed or hand delivered to the applicant, each party or the party's attorney, and to each person who requested notice of the action or proposed action. The Department

shall file the letter, permit, or order with the agency clerk, or deputy agency clerk, as appropriate.
Specific Authority: 120.53, F.S.
Law Implemented: 120.60, F.S.
History: New 10-11-84.

17-103.205 Official Record of Hearing.

(1) The Department routinely provides mechanical recording devices at any evidentiary hearing. A copy of the recording tapes shall be made available to any party upon request and tender of actual cost of the tape and of making the copy. It is the responsibility of the party seeking a transcript of a hearing to forward a copy of the tape to the court reporter of their choice for transcription. Any party desirous of having a court reporter present in lieu of the Department mechanically recording the hearing shall make arrangements with the reporter of their choice. Original written transcriptions or copies may be ordered directly from the court reporter at the requesting party's expense. If a court reporter is present at the hearing and records the proceedings, the recordation shall become the official transcript. The Department, in its discretion, may opt not to provide mechanical recording whenever a court reporter is present.

(2) Prior to the hearing, any party arranging for the presence of a court reporter should notify the hearing officer and all parties of the identity, mailing address and telephone number of the court reporter engaged to record the proceeding.

(3) Should any party decide to appeal any decision made by the Department with respect to any matter considered at a hearing of the Department, that party may need to ensure that a verbatim record of the proceedings is made. Such a record shall include the testimony and evidence upon which the appeal is to be based. A party filing exception to any finding of fact of the hearing officer must file a complete transcript of the hearing with the exception.
Specific Authority: 120.53, F.S.
Law Implemented: 120.53, F.S.
History: New 6-1-84, Amended 12-23-84.

17-103.210 Designation of Official Reporter; Subject Matter Index. The Department designates Judicial and Administrative Research Associates, Inc., publisher of the Florida Administrative Law Reports, as its official reporter for the purpose of publishing and indexing by subject matter all Department orders rendered after a proceeding in which the substantial interests of a party are determined by the Department. A subject matter index of permits is available for public inspection at the Bureau of Information Systems, Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32301. This index is computerized, therefore it is recommended that prior arrangements be made with the office. A copy of the index is available upon payment of actual costs.
Specific Authority: 403.087, 403.088, 120.53, F.S. Law Implemented: 120.53, F.S. History: New 4-28-81, Transferred from 17-1.681 and Amended 6-1-84.

PART II
APPEALS TO THE GOVERNOR AND CABINET ON COASTAL CONSISTENCY

17-103.300 General. The following rules shall govern appeals from final agency action before the Governor and Cabinet, hereinafter referred to as the Board, arising under section 380.23(2), F.S., regarding determinations by the department of consistency with the Florida Coastal Management Program. Proceedings prior to final agency action are governed by Chapter 17-103, Part I, FAC. Rule 17-103.050, FAC, shall govern the filing and service of pleadings. The Florida Rules of Appellate Procedure shall govern the computation of time, except where inconsistent with this part.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 380.23(2), F.S. History: New 6-24-76, Formerly 17-1.70, Amended 4-28-81, Transferred from 17-1.87 and Amended 6-1-84, Amended 2-20-85.

17-103.310 Final Agency Action. The final agency actions subject to appeal under this part are those final actions of the Secretary of the Department and of those persons designated by the Secretary to take such actions, and which involve:

(1) the determination of consistency or inconsistency of a matter with the Florida Coastal Management Program pursuant to section 380.23(2), F.S.

(2) Declaratory Statements involving section 380.23(2), F.S. and issued by the Secretary pursuant to section 120.565, F.S.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 380.23(2), F.S. History: New 6-24-76, Formerly 17-1.71, Amended 4-28-81, Transferred from 17-1.88, 6-1-84, Amended 2-20-85.

17-103.320 Parties to Appeals; Amicus Curiae; Intervenors.

(1) Only parties of record to final agency actions subject to appeal may initiate an appeal.

(2) The Secretary may allow other persons to appear and participate as amicus curiae in accord with Rule 9.370, Fla. R. App. P., except that the time for filing a motion to appear as an amicus curiae shall be within fifteen (15) days of the filing of the notice of appeal. The motion may be heard and disposed of by the Secretary after reasonable notice of such hearing has been served on the attorneys in the cause.

(3) The Board may allow other persons to intervene as parties to the appeal who were not parties to the final agency action, if such persons demonstrate that:

(a) they have standing under section 120.57, F.S., and that

(b) they had no reasonable notice of the agency proceeding prior to the entry of the written document representing final agency action. Persons allowed to become parties to an appeal pursuant to this subsection shall be bound by the record on appeal and the status of the proceedings as they find them at the time they are permitted to become a party.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 253.76, F.S. History: New 6-24-76, Formerly 17-1.72, Amended 4-28-81, Transferred from 17-1.89, 6-1-84.

17-103.330 Initiation of Appeal; Request for Record; Contents of Notice; Compliance and Enforcement; Public Notice.

(1) Appellate review under this part shall be initiated by the filing of a Notice of Appeal with the Office of General Counsel of the Department of Environmental Regulation, on behalf of the Board, within fifteen (15) days of the service upon a party of the written document representing final agency action.

(2) A Notice of Appeal shall include the following:

(a) Style of the matter appealed, and the case, file, notice or permit number;

(b) Nature of action being appealed;

(c) Date of service of written document representing the final agency action being appealed;

(d) A statement, with particularity, of the reasons for the appeal; and

(e) Request, if any, for modification of action appealed.

(3) The record on appeals shall be requested and developed pursuant to section 17-103.170, FAC. The times for further prosecution of the appeal shall be tolled until the requested record has been completely developed. Until such record has been completely developed, the appeal shall not be deemed received by the Board.

(4) Compliance and Enforcement. Those portions of final agency action which are contested in an appeal filed pursuant to this part shall not be subject to enforcement action by the department, nor shall compliance with said portions be required until final disposition of the appeal under this part. Those portions of final agency action which are not contested shall be subject to compliance and enforcement regardless of the pendency of the appeal. However, the department shall not be precluded from seeking injunctive relief to prevent irreparable harm.

(5) The department shall publish notice in the Florida Administrative Weekly of each appeal filed under this part.

Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 380.23(2), F.S. History: New 6-24-76, Formerly 17-1.73, Amended 4-28-81, Transferred from 17-1.90, 6-1-84, Amended 2-20-85.

17-103.340 Initiation of Cross-Appeals. Cross-appeals are authorized and shall be initiated in the same manner and shall follow the same procedures as provided for appeals in this part.

Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 253.76, F.S. History: New 6-24-76, Formerly 17-1.74, Transferred from 17-1.91, 6-1-84.

17-103.350 Briefs.

(1) Within fifteen (15) days of the filing of the Notice of Appeal, the appellant shall file a main brief in support of the appeal.

(2) An appellee who desires to file a brief shall do so within fifteen (15) days of the service of the appellant's main brief. An amicus curiae shall file a brief within fifteen (15) days of the date of service of the order authorizing his appearance as an amicus curiae.

(3) An appellant who desires to file a reply brief shall do so within five (5) days of the service of the brief to which the reply brief is directed.

(4) Assignments of error not argued in a party's brief are deemed abandoned by that party.

(5) Briefs shall conform to the style and content requirements for briefs set forth in Rule 9.210, Fla. R. App. P.

(6) Motions for extensions of time for filing briefs may be granted by the Secretary for good cause shown, but such extensions shall not be for more than ten (10) days.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 253.76, F.S. History: New 6-24-76, Formerly 17-1.75, Amended 4-28-81, Transferred from 17-1.92, 6-1-84.

17-103.360 Oral Argument.

(1) Requests for oral argument, if desired, shall accompany the appellant's main brief and the appellee's and amicus curiae's briefs. Oral argument, including rebuttal, shall be limited to fifteen (15) minutes per appellant, appellee, and amicus curiae. However, the Board by majority vote of those members present, may extend or further limit the time for oral argument.

(2) Oral argument shall not be granted to anyone not filing a brief, and points not raised by a party's or amicus curiae's brief shall not be argued orally by that party or amicus curiae, except in response to questions by members of the Board.

(3) The granting of oral argument is discretionary with the Board, and may be dispensed with by a vote of the majority of the Board members present.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 253.76, F.S. History: New 6-24-76, Formerly 17-1.76, Transferred from 17-1.93, 6-1-84.

17-103.370 Proposed Orders. Parties may submit proposed orders to the Board. However, if a party desires to submit a proposed order, the proposed order shall be served within ten (10) days of the last day for filing the last brief by any party.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 253.76, F.S. History: New 6-24-76, Formerly 17-1.77, Transferred from 17-1.94, 6-1-84.

17-103.380 Record. Appeals shall be based solely upon a record developed pursuant to sections 120.57 and 120.565, F.S.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 253.76, F.S. History: New 6-24-76, Formerly 17-1.78, Transferred from 17-1.95, 6-1-84.

17-103.390 Scope of Review.

(1) If the Board finds that the agency has erroneously interpreted a provision of law or rule and that a correct interpretation compels a particular action, it shall:

(a) Set aside or modify the agency action, or

(b) Remand the case to the agency for further action under a correct interpretation of the provision of law.

(2) If the agency's action depends on any fact found by the agency in a proceeding meeting the requirements of section 120.57, F.S., the Board shall not substitute its judgment for that of the agency as to the weight of the evidence on any disputed finding of fact. The Board shall, however, set aside agency action or remand the case to the agency if it finds that the

agency's action depends on any finding of fact that is not supported by competent, substantial evidence in the record.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 253.76, F.S. History: New 6-24-76, Formerly 17-1.79, Transferred from 17-1.96, 6-1-84.

17-103.400 Decisions.

(1) The decision of the Board on an appeal shall be reduced to writing and served by the Secretary upon the parties and amicus curiae within fifteen (15) days of the making of the decision.

(2) The written decision shall reflect the vote of each Board member, and shall set forth the basis for each Board finding. The Board may adopt and incorporate by reference in its findings all or part of the agency's final order.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 253.76, F.S. History: New 6-24-76, Formerly 17-1.80, Transferred from 17-1.97, 6-1-84.

17-103.410 Ex Parte Communications.

(1) Upon the filing of a notice of appeal, no ex parte communication relative to the merits of the appeal, threat, or offer of reward shall be made to the Board, or Board member, by:

(a) An agency head or member of the agency or any other public employee or official engaged in prosecution or advocacy in connection with the matter under consideration or a factually related matter; or

(b) A party to the proceeding or any person who, directly or indirectly, would have a substantial interest in the agency action, or his authorized representative or counsel.

(2) Any ex parte communication shall be reduced to writing and placed in the record by the Board member to whom the communication was directed. Copies shall be served on all parties and amicus curiae. Any party and amicus curiae shall be allowed to rebut the communication, if a request to do so is served within ten (10) days after service of the communication.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 253.76, F.S. History: New 6-24-76, Formerly 17-1.81, Transferred from 17-1.98, 6-1-84.

17-103.420 Settlement. Nothing in this part shall preclude the parties to an appeal from disposing of any or all matters on appeal by a settlement agreement entered into by all of the parties to the appeal.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 253.76, F.S. History: New 6-24-76, Formerly 17-1.82, Transferred from 17-1.99, 6-1-84.

17-103.430 Certificates of Service.

(1) The notice of appeal shall contain a certificate of service stating that a copy of the notice has been served on all of those persons who were designated in the written document representing final agency action as having been sent copies of that document.

(2) All other documents, pleadings, motions, briefs, proposed orders, and orders shall contain a certificate of service on all parties and amicus curiae to the appeal.

Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 253.76, F.S. History: New 6-24-76, Formerly 17-1.83, Transferred from 17-1.100, 6-1-84.

17-103.440 Copies. All pleadings, motions, briefs, and other material, filed with the department shall be accompanied by seven copies thereof in addition to copies served on amicus curiae and parties.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 253.76, F.S. History: New 6-24-76, Formerly 17-1.84, Transferred from 17-1.101, 6-1-84.

17-103.450 Motions. The Board, or, where appropriate, the Secretary, may entertain motions to effectuate the purpose and requirement of this part.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 253.76, F.S. History: New 6-24-76, Formerly 17-1.85, Transferred from 17-1.102, 6-1-84.

17-103.460 Orders. The Board, and Secretary where appropriate, shall issue such orders and take such action as may be necessary to effectuate and enforce the provisions of this part.
Specific Authority: 20.05(5), 120.53, F.S. Law Implemented: 253.76, F.S. History: New 6-24-76, Formerly 17-1.86, Transferred from 17-1.103, 6-1-84.

17-103.470 Meetings; Notice; Presiding Officer; Quorum Agendas; Distribution of Agendas; Recording of Proceedings; Minutes; Order of Procedure; Agency Action; Voting; Amendment to Rules; Parliamentary Matters.

(1) The provisions of sections 16-4.02, 16-4.03, 16-4.04, 16-4.05, 16-4.06, 16-4.07, 16-4.08, 16-4.10, 16-4.12, 16-4.13, 16-4.14, and 16-4.15, F.A.C., are incorporated herein with the following exceptions:

(a) Where the phrase "Department of Natural Resources" appears, the phrase "Board" is substituted;

(b) Where the phrase "Executive Director" appears, the phrase "Secretary of the Department of Environmental Regulation" is substituted;

(c) The last two sentences in section 16-4.06 are irrelevant and therefore excluded from incorporation herein;

(2) The Secretary of the Department of Environmental Regulation shall keep the official minutes of the meeting of the Board. Unless otherwise directed by the Board the Board's Final Order shall constitute the minutes.
Specific Authority: 20.05, 120.53, F.S. Law Implemented: 120.53, 380.23(2), F.S. History: New 6-24-76, Formerly 17-1.87, Transferred from 17-1.104, 6-1-84, Amended 2-20-85.

PART III
DECLARATORY STATEMENT

17-103.500 Purpose and Use of Declaratory Statement. A declaratory statement is a means for determining the rights of substantially affected persons when a controversy, or when doubt concerning the applicability of any statutory provision, rule or order, has arisen before any wrong has actually been committed. The potential impact upon petitioner's interests must be alleged in order for petitioner to show the existence of a controversy or doubt.
Specific Authority: 120.53(1), F.S. Law Implemented: 120.53(1), F.S. History: New 2-6-78, Transferred from 17-1.119, 6-1-84.

17-103.510 Petition.
(1) The petition seeking a declaratory statement shall be filed in writing with the Department.
(2) A form for submission of such petition shall be substantially as follows:

PETITION FOR
DECLARATORY STATEMENT
TO THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

1) Name of Petitioner: _____
2) Address of Petitioner: _____
3) Agency rule, order or statutory provision on which declaratory statement is sought: _____
4) The precise factual circumstances giving rise to the petition: _____
5) Description of how this rule, order or statute may or does affect the petitioner; and
6) The point(s) on which the petitioner requests a declaration.

(Signature of Petitioner)

(Address)

(Date)

Specific Authority: 120.53(1), 120.54(9), 120.565, F.S. Law Implemented: 120.53(1), 120.54(9), 120.565, F.S. History: New 2-6-78, Transferred from 17-1.120, 6-1-84.

17-103.520 Department Disposition.
(1) A Department order rendered pursuant to Section 120.565, Florida Statutes, shall only be applicable to the petitioner.
(2) The Department may at its discretion, either upon its own motion or upon request, hold a hearing to dispose of a petition submitted pursuant to Section 120.565, Florida Statutes.
(3) A department order shall be rendered within sixty (60) days after receipt of the petition; provided however, if a hearing is held, the Department order shall be rendered within thirty (30) days of the hearing conclusion and receipt of the transcript, if any.
(4) The Department shall notice in the Florida Administrative Weekly that a petition has been filed. The notice shall contain sufficient information to advise substantially affected persons of the proceedings.
(5) The hearing, if granted by the Department, shall be conducted pursuant to Section 120.57, Florida

Statutes, or as otherwise agreed upon by the Department and the parties.
Specific Authority: 120.53(1), 120.54(10), 120.565, F.S. Law Implemented: 120.53(1), 120.54(10), 120.565, F.S. History: New 2-8-78, Transferred from 17-1.121, 6-1-84.

CHAPTER 17-104

ADMINISTRATIVE PROCEDURES FOR THE WATER RESOURCES RESTORATION AND PRESERVATION PROGRAM

17-104.010 Purpose.
17-104.020 Application of Rules.
17-104.030 Definitions.
17-104.040 General.
17-104.050 Limitation of Funding.
17-104.060 Application of Funds.
17-104.070 Criteria for Selection of Proposals and for Allocation of Funds.
17-104.080 Award of Funds.

17-104.010 Purpose. The purpose of these rules is to set forth the criteria for the allocation of funds pursuant to the Water Resources Restoration and Preservation Act. These rules are adopted pursuant to Chapter 77-369, Laws of Florida and Section 403.061, Florida Statutes.
Specific Authority: 403.061(28), F.S. Law Implemented: 403.0615, F.S. History: New 5-29-78, Transferred from 17-1.123, 6-1-84.

17-104.020 Application of Rules. These rules shall apply to the Florida Department of Environmental Regulation and to all persons or organizations applying for or receiving funds under the Water Resources Restoration and Preservation Act.
Specific Authority: 403.061(28), F.S. Law Implemented: 403.0615, F.S. History: New 5-29-78, Transferred from 17-1.124, 6-1-84.

17-104.030 Definitions. As used in this chapter:

(1) "Department" is the Florida Department of Environmental Regulation.

(2) "Water resource" shall include, but not be limited to rivers, lakes, streams, springs, impoundments; and all other waters or bodies of water, including fresh, brackish, saline, tidal, surface or underground.
Specific Authority: 403.061(28), F.S. Law Implemented: 403.0615, F.S. History: New 5-29-78, Transferred from 17-1.125, 6-1-84.

17-104.040 General.

(1) Funds from the Water Resources Restoration and Preservation Program shall be used only for restoration or preservation proposals which in the determination of the department, show promise of long-term effectiveness.

(2) Funds from this program shall be available only to state, regional, and local government entities for use in the restoration and preservation of water resources.

(3) Funds from this program shall not be awarded or used for the following purposes:

(a) for construction of treatment facilities for domestic or industrial waste disposal;

(b) for restoration or preservation of any water resource if, by time of completion of restoration, point sources affecting the water resource will not be in compliance with applicable standards, and a program approved by the department will not have been implemented for control of pollution from non-point sources;

(c) for restoration or preservation of any water resource if the

water resource is inaccessible to the public; or,

(d) for the harvesting of aquatic vegetation, the purchase, use or maintenance of lake aeration devices, or for any other palliative, temporary, or cosmetic restorative treatment, except when such are an integral part of a water resource restoration program which is determined by the department to be long-lasting and designed to treat the actual causes of the resource problems.

(4) The department shall require, as a condition of project approval, that the governmental organization sponsoring the project coordinate the implementation of the project with other affected governmental agencies. This coordination shall include obtaining the appropriate permits for the approved work before implementation from all local, state and federal agencies authorized to require permits for such activities.

Specific Authority: 403.061(28), F.S. Law Implemented: 403.0615, F.S. History: New 5-29-78, Transferred from 17-1.126, 6-1-84.

17-104.050 Limitation of Funding.

(1) Funding shall be based upon a contract between the department and the recipient of the funds, setting forth conditions which shall apply to the use of the funds. The contract may require actions and responsibilities of a continuing nature from the recipient.

(2) Contracts for standard restoration and preservation projects may be awarded for:

(a) a study of feasibility, for up to sixty percent (60%) of the total cost of the study; and

(b) the actual restoration or preservation of a water resource, for up to eighty percent (80%) of that part of the total project cost not funded by federal moneys.

(3) Contracts for projects of unusually high scientific value and exceptional difficulty of successful restoration, as determined by the department, may be awarded for:

(a) a study of feasibility without a "percent of total cost" limitation as described in Rule 17-104.050(2)(b), FAC; and,

(b) the actual restoration or preservation of a water resource without a "percent of total cost" limitation as described in Rule 17-104.050(2)(b), FAC.

(4) In no case will more than two awards be made in a single year for projects of high scientific value and exceptional difficulty which are to receive funding in excess of sixty percent (60%) of the total cost of a feasibility study, unless otherwise provided by law.

(5) In no case will more than two awards be made in a single year for projects of high scientific value and exceptional difficulty which are to receive funding in excess of eighty percent (80%) of that part of the total cost of restoration or preservation not funded by federal moneys, unless otherwise provided by law.

Specific Authority: 403.061(28), F.S. Law Implemented: 403.0615, F.S. History: New 5-29-78, Transferred from 17-1.127 and Amended 6-1-84.

17-104.060 Application of Funds.

(1) Application of Water Resources Restoration and Preservation Funds shall be made on DER Form

17-1.214(1) supplied by the department.

(2) Information to be supplied in or pursuant to the application shall include, but not be limited to:

(a) a description of the morphometry of the water resource, including surface area, mean depth, bathymetry, and nutrient; and water budget, if available;

(b) a description of current and project land use practices affecting the water resource, and local ordinances, land use plans or zoning which may affect the land use;

(c) a description of the nature of possible pollutants of the water resource, the history of the problems, and any treatment already attempted;

(d) identification of the nature and quantity of point and nonpoint pollution affecting the water resource;

(e) an explanation of existing and proposed programs which have been, and are directed at reducing or eliminating pollutant discharges into the water;

(f) a listing of studies in progress or already completed on the water resource;

(g) a description of the proposed method of restoration and/or preservation, including its tangible and intangible economic costs;

(h) a description of the provisions made for public access and public control;

(i) an estimate of the time required for the restoration;

(j) a listing of any lawsuits concerning pollution of the water resource, particularly including those for which any damages or penalties are being sought or have been collected; and,

(k) documentation of the degree of public concern about the project, as evidenced by news media coverage, public expenditures, citizens' associations, or other means.

(3) Specific items of information may be omitted at the discretion of the department, based upon a case by case determination of their necessity.

Specific Authority: 403.061(8), F.S.
Law Implemented: 403.0615, F.S.
History: New 5-25-78, Transferred from 17-1.128 and Amended 6-1-84.

17-104.070 Criteria for Selection of Proposals and for Allocation of Funds. Selection of proposals for restoration or preservation shall be based upon a consideration of:

(1) the severity of the problem which shall be determined by the department with regard to the following factors:

(a) conditions that adversely affect the water resource;

(b) conditions that change the biological integrity of the water resource;

(c) conditions that inhibit life forms or threaten elimination of life forms in the water resource;

(d) conditions such as eutrophication or ecological disturbances;

(e) costs to the public of meeting or maintaining water quality standards; and,

(f) conditions which intermittently or frequently prevent a beneficial use.

(2) The feasibility of restoration or preservation (the extent to which restoration or preservation is likely to be accomplished by the proposed treatment) which shall be

determined by the department with regard to the following factors:

(a) whether the restoration treatment proposed will have beneficial effects for an extended period of time;

(b) whether the restoration treatment proposed is compatible with sound environmental practices;

(c) the extent to which pollutant discharge into the water resource has been reduced;

(d) whether the treatment or investigation proposed is likely to produce new knowledge of a transferrable technique in water resources restoration or preservation; and,

(e) the extent to which the local and regional governments with jurisdiction over the water resource and adjacent areas have implemented, or will have begun to implement, a water quality program to protect and enhance the water quality of the subject water resource by the time restoration or preservation is initiated.

(3) The interest and involvement of governmental entities and the public which shall be determined by the department with regard to the following factors:

(a) an endorsement by the governing board of the governmental entity sponsoring the project proposal;

(b) comments from the appropriate Water Management District, the Game and Fresh Water Fish Commission, and the Department of Natural Resources;

(c) the amount of public access and the extent of use by the public;

(d) whether the local government has expended funds to restore or preserve the water resource;

(e) whether the local government has adopted and implemented a comprehensive water quality program;

(f) whether the water resource is designated as a national resource water, a geographical area of particular concern under the approved state Coastal Zone Management Program, or other rare or unique ecosystem; and,

(g) Comments from, and interest expressed by, the public.

Specific Authority: 403.061(28), F.S. Law Implemented: 403.0615, F.S. History: New 5-29-78, Transferred from 17-1.129, 6-1-84.

17-104.080 Award of Funds.

(1) Applications for a study of feasibility of restoration or preservation may be submitted at any time, however, awarding of funds will depend on available moneys.

(2) The department shall consider only those applications for actual restoration or preservation received by September 1 for funding in the following fiscal year, unless otherwise provided by law. To assure consideration for funding, applications and supporting information and data should be as complete as possible. Applications should be submitted as early as possible before September 1 to allow comprehensive review and expeditious processing.

(3) After applying the selection criteria described in Rule 17-104.070, FAC, all restoration and preservation applications shall be ranked in order of their priority and submitted to the Secretary for approval. The Secretary shall then approve or disapprove, in writing, the awarding of funds to the highest ranked projects to the extent of the funds available for restoration and preservation.

(4) Projects funded in the preceding year and not completed are

eligible for further funding without reapplication.

(5) Selection of a project may be made contingent upon the project proposal receiving supplemental funding from sources other than the Water Resources Restoration and Preservation Program. If a proposal which was selected for funding contingent upon the receipt of other funding does not, in fact, obtain the supplemental funding by May 30, the funds proposed to be awarded by the department may be reallocated.

(6) Projects shall be implemented statewide with, to the extent feasible, an equitable geographic distribution, unless otherwise provided by law.

Specific Authority: 403.061(28), F.S. Law Implemented: 403.0615, F.S. History: New 5-29-78, Transferred from 17-1.130 and Amended 6-1-84.

RULES OF THE DEPARTMENT OF ADMINISTRATION

COMPREHENSIVE PLANNING

CHAPTER 22E-2 TEN-YEAR SITE PLANS

22E-2.01	Introduction (Purpose).
22E-2.02	Definitions.
22E-2.03	Fees.
22E-2.04	Submission and Review of the Ten-year Site Plans.
22E-2.05	Contents of Ten-year Site Plans.

22E-2.01 Introduction (Purpose). Section 403.505 of the Florida Electrical Power Siting Act requires that all electric utilities operating in the State of Florida submit to the Division of State Planning, a ten-year plan which will include:

(1) An estimate of electric power-generating needs.

(2) Disclosure of the general location of proposed power plant sites. The Division of State Planning is required to make a preliminary study of each plan submitted, and to classify each plan as "suitable" or "unsuitable" within twelve months of receipt. As the result of its review, the Division may suggest alternate plans to those proposed. In conducting its review, the Division is required to consider:

1. The need for electrical power in the area to be served, including need as determined by the Florida Public Service Commission.

2. The anticipated environmental impact of an electrical power plant on the area.

3. Possible alternatives to the proposed plan.

4. The views of appropriate local, state, and Federal agencies.

In addition, the Division is required to adopt rules for the submission, processing, and study of the ten-year plan. These rules establish the requirements for data, format and information to be submitted in the ten-year plan and the procedures to be used in reviewing and processing these submissions. The Division may, from time to time, elect to modify rules. Such modification will be made in accord with the requirements of Chapter 120 of the Florida Statutes and will be consistent with Section 403.505 of the Florida Electrical Power Siting Act.

General Authority 20.05, 20.31 FS. Law Implemented 23.0191 FS. History—New 10-2-73.

22E-2.02 Definitions. The terms used in the rules for ten-year site plans are defined as follows:

1. Electric Utility means cities and towns, counties, public utility districts, regulated electric companies, electric cooperatives and joint operating agencies, or combinations thereof, engaged in or authorized to engage in the business of generating, transmitting, or distributing electric energy.

2. Site means any proposed location wherein a power plant, or power plant alteration or addition resulting in an increase in generating capacity, will be located, including offshore sites within state jurisdiction.

3. Electrical Power Plant means any steam or solar electrical generating facility using any process or fuel, including nuclear materials, and shall include those directly associated transmission lines required to connect the electrical power plant to an existing transmission network.

4. Commence to Construct means any clearing of land, excavation, or other action which would adversely affect the natural environment of the site, but does not include any changes for temporary use or preparation of the site.

5. Directly Associated Transmission Lines means only new right-of-way corridor and new transmission lines from the electrical power plant to the first structure on an existing transmission system.

6. Potential Sites are sites which a utility is considering, or has considered, for possible location of a power plant. Such sites shall be generally disclosed in the ten-year site plan.

7. General Disclosure means specifying the Multi-County Planning Region in which a power plant may be sited and identifying areas within that region which are considered not suitable for plant sites. Criteria to be used determining that an area is not suitable shall include at least: the availability of cooling water, environmental sensitivity, current and projected land-uses and economic factors.

8. Preferred Sites are sites on which a utility intends to construct a power plant, provided certification is obtained. These sites shall be fully disclosed in the ten-year site plan as soon as all parcels of land making up the site have either been purchased by, or are under option to, the utility or are the subject of condemnation proceedings, or as soon as the decision has been made to site a plant off-shore.

9. Full Disclosure means complete identification of a specific area of land or of a precise off-shore location.

General Authority 20.05, 20.31 FS. Law Implemented 23.0191 FS. History—New 10-2-73.

22E-2.03 Fees. As authorized by the Florida Electrical Power Siting Act, each utility will be required to pay a study fee with each ten-year plan submitted. The rate schedule for fees is based on MWH of energy sold annually and is as follows:

Greater than 500,000 MWH	— $1000
100,000 to 500,000 MWH	— 500
Less than 100,000 MWH	— 250

General Authority 20.05, 20.31 FS. Law Implemented 23.0191 FS. History—New 10-2-73.

22E-2.04 Submission and Review of the Ten-year Site Plans.

(1) Who must file

Each electric utility in the State of Florida is required to submit a ten-year site plan to the Division of State Planning annually on April 1. The plan shall date from April 1 of the year in which it is submitted.

If an electric utility has no plans to expand its existing facilities for the generation of electricity, and/or if it currently serves only as a distributor of power purchased from other utilities, it will be required to submit a plan only in the first year (1974) and provide information only on existing capacity. Subsequent increases in demand in the regions serviced by such utilities will be reported in the ten-year plans of the utilities generating the power to be sold. Forecasts of demand for additional power shall be prepared by each purchasing utility and submitted to the utility generating the power sold. Such submissions shall be prepared in accord with these rules and shall be made on or before October 1 of each year.

If a nonreporting utility elects to construct additional generating facilities exceeding 50 MW generating capacity, it must submit a plan in the year the decision is made or at least three years prior to application for certification, and every year thereafter until the facility becomes fully operational.

All utilities with existing generating capacity of 250 MW or greater must file annually, regardless of expansion plans.

On a voluntary basis, the utilities in Florida will seek to cooperate in compiling a comprehensive state-wide plan embracing individual utility plans and will endeavor to submit this plan to the Division by May 1 of each year.

(2) The review process.

The review process itself will involve participation by several agencies under the coordination of the Division of State Planning. These agencies include:

1. The Department of Pollution Control
2. The Public Service Commission
3. The Department of Natural Resources
4. The Department of Transportation
5. The Department of Agriculture and Consumer Services
6. The Department of Community Affairs
7. The Department of Health and Rehabilitative Services
8. The Game and Fresh Water Fish Commission
9. The Coastal Coordinating Council
10. The Board of Trustees of the Internal Improvement Trust Fund. Changes to the list of participating agencies may be made by the Division at any time. The participating agencies and their roles are summarized in Figure 1 and the schedule of the review process is shown in Figure 2 attached to these rules.

The Division of State Planning is responsible for the conduct of the preliminary studies of the ten-year site plans and will classify the plans as "suitable" or "unsuitable". The division will complete its review of the plans within nine months following submission and will report its findings to each reporting utility along with any appropriate comments or recommendations. The Division's findings will also be available to reviewing agencies and other persons or organizations requesting notification.

The findings of the Division and the classification of specific plans as suitable or unsuitable are to be considered as adv statements providing guidance to the ut for their planning purposes only. Findi the Division will be made availa Department of Pollution Control the responsibility to certify sites Florida Electrical Power Siting Act.

The law recognizes that the ten-year site plans will be based upon tentative information, and are consequently subject to change at any time. Accordingly, initial findings of the Division regarding the suitability of proposed plans are subject to modifications as the amount of data available regarding various site alternatives increases. In the same manner, plans that have been previously classified by the Division as unsuitable, may be declared suitable, based on additional available data.

General Authority 20.05, 20.31 FS. Law Implemented 23.0191 FS. History—New 10-2-73.

FIGURE 1
Review and Approval
Process and Responsibilities

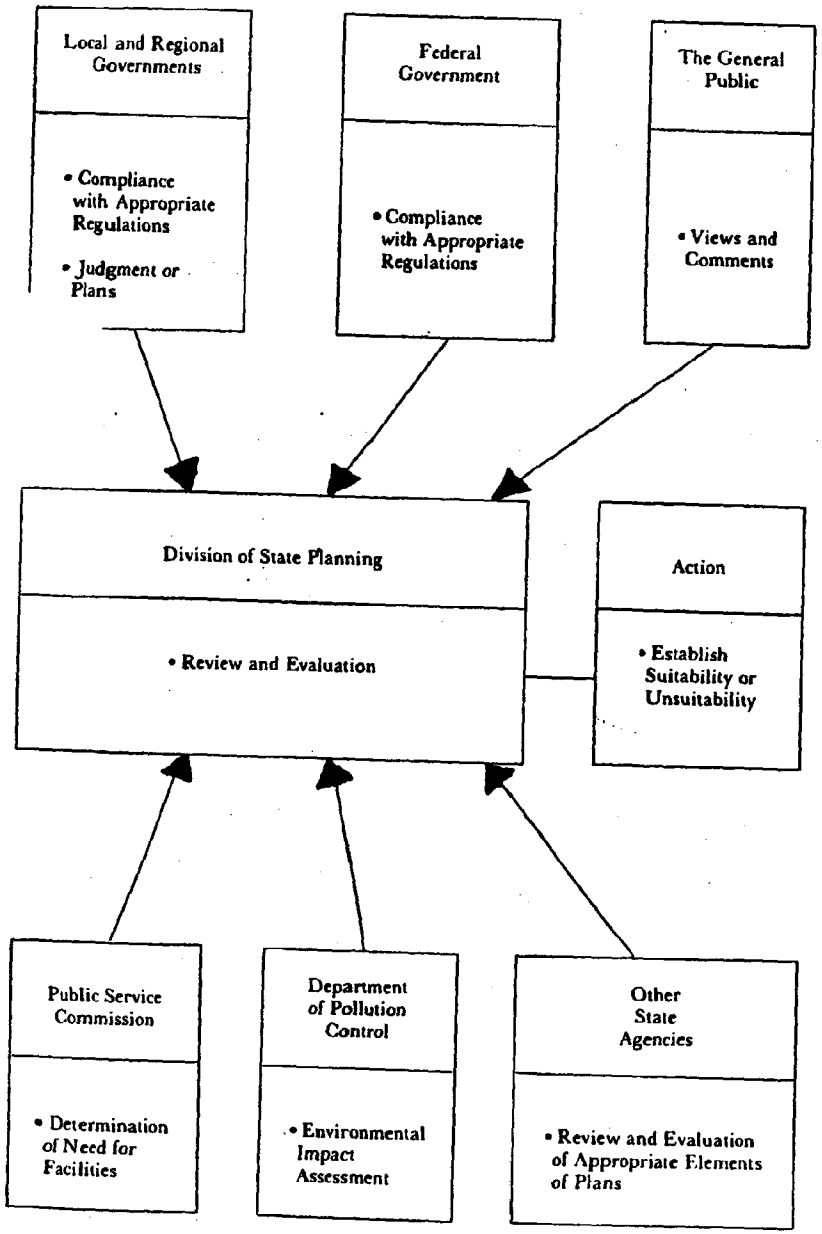
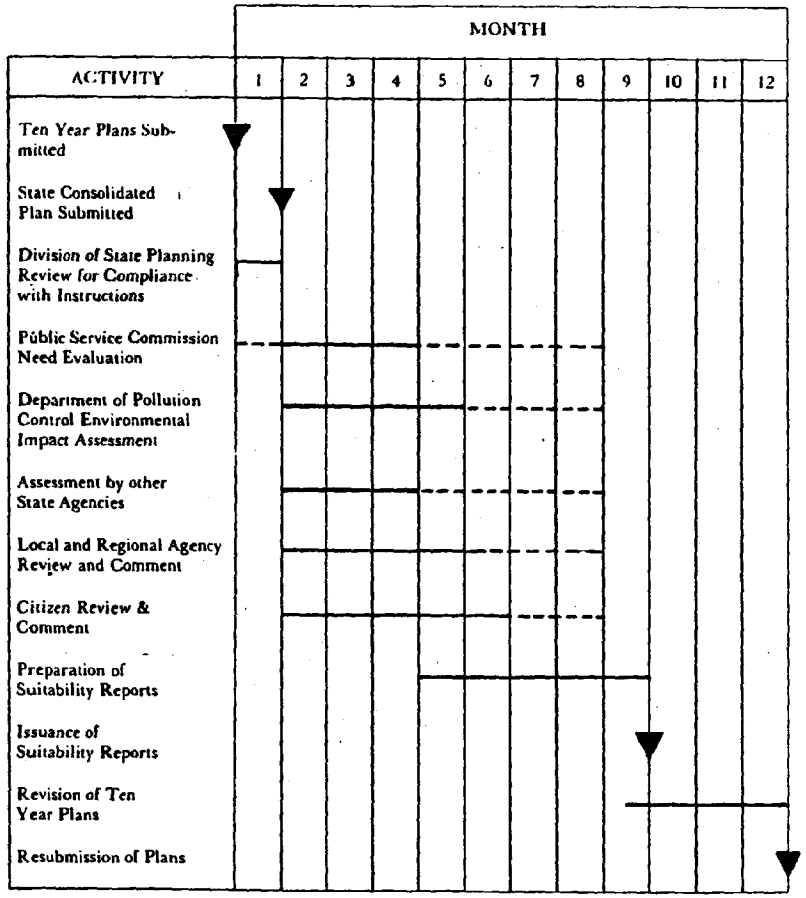


FIGURE 2
Review Schedule



22E-2.05 Contents of Ten-year Site Plans. The ten-year site plans will contain, as appropriate to the filing utility, the following categories of information:

1. A Description of Existing Facilities
2. A Forecast of Electric Power Demand
3. A Forecast of Facilities Requirements
4. A Description of Proposed Sites and Facilities
5. A Preliminary Assessment of Environmental Effects of Proposed Facility Sitings

Data and information will be presented on forms, and in accord with instructions, provided by the Division.

These forms and instructions may be revised by administrative action. They provide a uniform procedure and format for presentation of the following required information.

(1) Description of Existing Facilities.

A description of each utility's existing generating and transmission facilities will be provided in the ten-year site plans to permit an evaluation of the capabilities of existing utility resources. The information to be provided shall include at least:

1. A description of electric power generating facilities.

2. An electric system map or maps showing all transmission lines with voltage rating of 230 KV or greater and all interties with voltage rating of 69 KV or greater, as well as the boundaries of the reporting utility's service area.

(2) Forecast of Electric Power Demand

The demand forecast will provide the key element of the demonstration of the need for additional generating capacity, and hence the requirement for additional power plant sites. The forecasting horizon must be sufficient to insure that the need will be established for all facilities on which construction will commence within ten years. The forecast should include at least:

1. A tabular and graphical display of historical and forecast energy consumption (MWH) by customer classification (residential, commercial, and industrial) within the reporting utility's service area. Sales and [illegible]ses within the state and out-of-state sho[illegible] included and identified.

2. [illegible]r and graphical display of hist[illegible] forecast winter and summer peai[illegible]) in the reporting service area. [illegible]recast of peak loads for the first two [illegible]t years shall also be provided.

3. [illegible]isplay of historical and forecast peak demand levels for major load centers (MW).

Each utility submitting a ten-year forecast may select its own forecasting methods and procedures, but is required to provide documentation of the forecasting procedures used and the rationale for their use, a description of the types of data and data sources used, and a discussion of any significant assumptions and informed judgments implicit in the forecast.

(3) Forecast of Facilities Requirements

Each filing utility shall illustrate how its existing and proposed generating facilities will provide for the forecast load. The capacity forecast shall consider all existing generating capability and all plants currently under construction, and compare this total capability to projected demand plus required reserves to determine requirements for additional generating facilities of 50 MW capacity or greater. The requirements forecast shall identify all such facilities for which construction is planned during the ten-year period following April 1 of the forecast year.

Specific information to be provided in the forecast of facilities requirement shall include:

1. A forecast of additional electric generating capability requirements (MW) including a ten-year historical record of operating statistics, a ten-year projection of generating requirements with resulting reserve margins, and a summary of additional planned electric generating capacity (MW) to become operational in the ten-year forecast period.

2. The total generating capacity (MW), the number of generating units and the type of fuel to be used for each facility on which construction will commence during the ten-year forecast period.

3. Historical and forecast requirements for fuels to be used in the utility's existing and proposed generating facilities.

4. The number and operating voltages of transmission lines associated with proposed generating facilities.

(4) Description of Proposed Sites and Facilities

The Division of State Planning recognizes that, in their normal process of selecting sites for future power plants, utilities may consider and evaluate several potential sites before a preferred site is identified. It is further recognized that there is a need for releasing differing degrees of information at different times about the sites being considered before an application for certification is filed with the Department of Pollution Control. From an environmental assessment and land planning viewpoint, however, as specific a site disclosure as possible is necessary so that the Division can make a timely assessment of any adverse environmental effects, and obtain the views of local, other state, and federal agencies, as well as private citizens.

In accord with both of these considerations, the following rules for disclosing prospective power plant sites shall apply:

1. Potential sites for each new facility identified in the requirements forecast shall be generally disclosed in the plan as soon as possible following determination of the need for additional generating capacity and no later than five years prior to the filing of an application for site certification. At least two and no more than four potential sites for each required facility shall be submitted to the Division for review. A map shall be provided of the Multi-County Planning Region designated as the general location for each potential site and the areas within that region considered not suitable for a site shall be clearly shown. The relative acceptability among the potential sites disclosed shall be indicated. Whenever it is possible for a utility to disclose the general location of a potential site more precisely than by designation of the Multi-County Planning Region, it should do so in the plan.

2. A preferred site shall be fully disclosed for each required facility no later than two years prior to the filing of an application for site certification. At the time of disclosing a preferred site, the utility shall designate one of the potential sites considered in the selection process as an alternative to the preferred site. A description shall be given of each preferred site disclosed in the plan and of the facility to be located thereon. The site description shall include appropriate maps indicating physical characteristics of the site and corridors for proposed transmission lines directly associated with the proposed facility, as well as facilities layouts and site preparation plans. The facility description shall include specifications of the proposed generating, cooling and pollution-control equipment and of directly associated transmission lines, as well as descriptions of all major structures. Data provided in the facility descriptions shall be the best available at the date the plan is submitted and shall be updated in each subsequent submission. The Division shall reserve the right to waive the time requirements for identification of potential and preferred sites.

(5) Preliminary Assessment of Environmental Effects of Proposed Facility Siting

Environmental and land-use data shall be submitted to the Division for each potential and preferred site disclosed in the ten-year plan. This data will permit the Division, in cooperation with the Department of Pollution Control (DPC) and others to make a preliminary assessment of the environmental effects of a proposed facility siting prior to the submission of an application for certification.

The submission of environmental impact data to the Division of State Planning shall be in accord with the following general rules:

1. General comparative environmental and land-use data shall be submitted for each potential site under consideration for each proposed facility. This data shall be sufficiently detailed to permit the relative effects of siting a power plant at each of the potential sites to be assessed in qualitative terms.

2. Detailed environmental and land-use data shall be submitted for each preferred site identified in the plan and general comparative data shall be submitted for the alternative selected for that site.

3. When an application for certification of a preferred site for a proposed facility has been filed with the DPC, no further environmental data need be submitted for that site. However, the status of the site (e.g., certified, certification pending, certification denied) should be indicated in the plan.

The requirements for environmental and land-use data shall consider the variables and physical parameters and be submitted in the format specified by the DPC. Until rules for site certification are promulgated the data requirement shall be as follows:

a. General comparative environmental and land-use data shall include information on:

—Existing air and water quality in the vicinity of the site

—Potential impacts of air and water emissions resulting from construction and operation of the proposed plant at the site

—Current land-uses at the site

—Potential ecological impacts of constructing and operating a plant at the site

—The availability of cooling water and the potential thermal impacts on receiving waters or the atmosphere of operating a plant at the site

—Potential aesthetic impacts

—The severity of impacts resulting from any projected radioactive emissions

b. Detailed environmental and land-use data shall include appropriate:

—Hydrological data

—Meteorological data

—Descriptions of existing flora and fauna

—Data on current air pollution levels in the Federal Air Quality Control Region(s) surrounding the site

—Data on pollution levels (thermal and chemical) in waters on or adjacent to the site

—Data on projected air emissions during construction and operation and control procedures

—Data on projected waterborne wastes during construction and operation

—Data on projected thermal discharge and related effects

—Data on solid waste generation and disposal during construction and operation

—Data on projected radioactive emissions and proposed safety plans

—Description of proposed procedures and equipment for monitoring all pollutants

—Data on noise emissions and control procedures

—Description of potential aesthetic impacts of the proposed facility

—Description of any impacts on historical, recreational or natural areas

—Data on existing land-uses in a 100 square mile region surrounding the proposed site

General Authority 20.05, 20.31 FS. Law Implemented 23.0191 FS. History—New 10-2-73.

ADMINISTRATION COMMISSION

CHAPTER 27F-1
LAND PLANNING
PART I
GENERAL
(Formerly 22F-1)

PART I — GENERAL

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PART I — GENERAL

27F-1.01 *Definitions.*

(1) "Development" means the carrying out of any building or mining operation or the making of any material change in the use or appearance of any structure or land and the dividing of land into three (3) or more parcels, as defined in Section 380.04, Florida Statutes.

(2) "Development of regional impact" means any development which, because of its character, magnitude or location, would have a substantial effect on the health, safety or welfare of citizens of more than one (1) county, as defined in Section 380.06, Florida Statutes.

(3) All the terms defined in Section 380.031, Florida Statutes, shall have the meanings enumerated in such statute, whenever used in this chapter.

(4) "Comprehensive Development Proposal Regulations" means land development regulations which set forth a procedure or process, however denominated, which enables a local government to be provided with sufficient information for it to make a reasonable and informed determination of the total impact of a proposed development on the environment and natural resources; on the economy; on water, sewer, solid waste disposal and other necessary public services and facilities; on transportation facilities; on the ability of people to find adequate housing reasonably accessible to their places of employment; and that provides assurance that the development will not deviate substantially from the terms of the approval.

(5) "Bureau" means the Bureau of Land and Water Management, Department of Community Affairs, and is synonymous with the "state land planning agency" referred to in Chapter 380, Florida Statutes.

Specific Authority 20.05, 14.202 FS. Law Implemented 380 FS. History—New 7-1-73, Amended 6-26-73, Formerly 22F-1.01.

27F-1.02 Comprehensive Development Proposal Approval and Certification of Regulations.

(1) If a local government has adopted Comprehensive Development Proposal Regulations that have been certified by the Bureau pursuant to this rule, and a developer has been granted a development order approving a Comprehensive Development Proposal under those Regulations, then any incremental developments specified within the Comprehensive Development Proposal as approved need not be treated as separate developments during such period, not to exceed five years, as is specified in the development order.

(2) If a local government wishes to grant Comprehensive Development Proposal Approvals as outlined in subsection (1), it shall submit the relevant portions of its land development regulations to the Bureau for certification. If such regulations are certified by the Bureau as Comprehensive Development Proposal Regulations, then development orders regarding Comprehensive Development Proposals shall have the effect specified in subsection (1). The Bureau shall specify the period of effectiveness of the certification.

(3) Any change by a local government in certified Comprehensive Development Proposal Regulations shall terminate the certification of those Regulations, and the Regulations shall be submitted for recertification. Termination of certification shall not affect any Comprehensive Development Proposal previously approved unless the Bureau finds that the change in the Regulations will permit the developer to deviate substantially from the terms of the original approval.

Specific Authority 20.05, 14.202 FS. Law Implemented 380 FS. History—New 6-26-73, Formerly 22F-1.02.

PART II — RULES OF PRACTICE AND PROCEDURE PERTAINING TO DEVELOPMENTS OF REGIONAL IMPACT

Subpart A — General

27F-1.10 Purpose. The purpose of these rules is to make available uniform procedures and guidelines of statewide applicability pertaining to the administration of Chapter 380, Florida Statutes, as it relates to developments of regional impact; to carry forward the Bureau's responsibility to coordinate planning between the state and local levels of government and with the regional planning agencies designated by the Bureau pursuant to Subsection 380.031 (13), Florida Statutes; and to promote consistency and uniformity in the data to be considered in the planning process.

Specific Authority 20.05(5), 23.0115(1), 23.012(3), 120.53(1) FS. Law Implemented 23.0115(1), 23.012(3), 120.53(1), 380.06 FS. History—New 7-7-76, Formerly 22F-1.10.

27F-1.11 Applicability. These rules shall apply to the Bureau of Land and Water Management, Department of Community Affairs, and all developers engaged in applications to or proceedings before the Bureau. These rules shall be utilized by all regional planning agencies to the extent provided by law or agreement with the Bureau. It is intended that, where appropriate, these rules may be utilized by all local governments with jurisdiction over proposed developments of regional impact, and any developer proposing to undertake a development of regional impact.

Specific Authority 20.05(5), 23.0115(1), 23.012(3), 120.53(1) FS. Law Implemented 23.0115(1), 23.012(3), 120.53(1), 380.031, 380.06 FS. History—New 7-7-76, Formerly 22F-1.11.

27F-1.12 Public Participation. Public participation is an integral part of the development of regional impact review process. Each agency having statutory or contractual responsibilities relating to Section 380.06, Florida Statutes, should encourage public communication and input and keep the public fully informed about the status and progress of agency actions, including petitions for binding letters of interpretation, adoption, revision and repeal of rules, receipt of notice of intent to undertake development of regional impact in an unregulated jurisdiction, receipt of notice of filing an application for development approval for a development of regional impact, and proceedings

with regard to developments of regional impact.
Specific Authority 20.05(5), 23.0115(1), 23.012(3), 120.53(1) FS. Law Implemented 23.012(3), 120.53(1), 380.021, 380.06 FS. History—New 7-7-76, Formerly 22F-1.12.

27F-1.13 Notices, Agenda, Conduct of Proceedings. With respect to developments of regional impact, the Bureau shall notice, agenda, and conduct any proceedings in accordance with the Model Rules of Procedure, Florida Administrative Code.
Specific Authority 120.53(1) FS. Law Implemented 120.53(1), 120.54(9), 380.06, 380.10 FS. History—New 7-7-76, Formerly 22F-1.13.

27F-1.14 Weekly List.

(1) The Bureau shall prepare each week, and mail to any person upon payment of reasonable charge to cover the cost of preparation and mailing, a current list of all notices of applications for developments of regional impact that have been filed with the Bureau.

(2) The list shall provide information relating to the Bureau file number, the date of receipt by the Bureau of the notice, name of the developer or his authorized agent, the name, type, size, and location of the proposed development, and public hearing information.
Specific Authority 120.53(1) FS. Law Implemented 120.53(1), 380.06(9) FS. History—New 7-7-76, Formerly 22F-1.14.

27F-1.15 Guidelines and Standards.

(1) The guidelines and standards under Chapter 27F-2, Florida Administrative Code, shall be used in determining whether particular developments shall be presumed to be of regional impact.

(2) From time to time the Bureau may review the guidelines and standards and make specific recommendations for change to the Administration Commission.

(3) In reviewing and recommending change to the guidelines and standards, the Bureau shall consider the statutory criteria specified in Section 380.06(2), Florida Statutes.

(4) The guidelines and standards, relating to developments of regional impact, are adopted by rule by the Administration Commission upon recommendation from the Bureau. Any changes to the guidelines and standards adopted by the Administration Commission are subject to change or addition as provided in Section 380.10, Florida Statutes.
Specific Authority 120.53(1) FS. Law Implemented 120.53(1), 380.06(2), 380.10 FS. History—New 7-7-76, Formerly 22F-1.15.

27F-1.16 Binding Letters of Interpretation.

(1) If any developer is in doubt whether his proposed development would be a development of regional impact, or whether his rights have vested pursuant to Subsection 380.06(12), Florida Statutes, or whether a proposed substantial change to a development of regional impact previously vested pursuant to Subsection 380.06(12), Florida Statutes, or whether a proposed substantial change to a development of regional impact previously vested pursuant to Section 380.06(12), Florida Statutes, would divest such rights, he may request a Binding Letter of Interpretation from the Bureau. Prior to submitting a formal request, the developer is encouraged to consult with the Bureau staff to insure that proper information is presented. A request for a Binding Letter of Interpretation shall be under the authority of Subsection 380.06(4)(a), Florida Statutes. The developer shall submit his request by completion of Form DSP-BLWM-12-76 (vested rights) or BSP-BLWM-13-76 (development of regional impact), or DSP-BLWM-35-77 (substantial change), as appropriate. These forms may be obtained upon request to a regional planning council or the Bureau, the address of which is 530 Carlton Building, Tallahassee, Florida 32301. The completed form shall be submitted to the Bureau.

(2) The Bureau shall give notice of receipt of an application for a Binding Letter of Interpretation by publication in the Florida Administrative Weekly. Notice shall also be given to the local government having jurisdiction over the proposed development and to the appropriate regional planning agency. A copy of the notice shall be given to the applicant.

(3) The Bureau shall review the completed application form and, if necessary to an informed determination, request additional information. The Bureau shall consider all written documents, written statements, and information submitted by the applicant or gathered and made part of the record by the Bureau in its evaluation of the application. The Bureau may initiate an investigation of any statement in an application or relative to other information submitted and may utilize in its evaluation any relevant facts obtained by such investigation or otherwise available to it. The applicant shall be informed of any such facts utilized by the Bureau and shall be given an opportunity to respond to them. The Bureau shall solicit and accept submissions of information from an appropriate regional planning agency (agencies) and appropriate local government (governments), relevant to any application. The Bureau may solicit and accept submissions from any other third persons who may possess factual information relevant to the Bureau's investigation of an application. The applicant shall be offered an opportunity to respond to all submissions. A copy of all submissions shall be provided to the applicant. In evaluating an application prior to making a determination, the Bureau may convene a conference at the request of the applicant or on its own initiative, if, in its discretion, it considers that such conference will advance its evaluation of the application. Any such conference shall be recorded and shall be part of the record on which the determination is made. A party shall be entitled to a transcript of any conference upon payment of costs.

(4) The Bureau's policy is to monitor all development types set forth in Chapter 27F-2, Florida Administrative Code, which exceed the applicable numerical threshold contained in Chapter 27F-2, Florida Administrative Code. The Bureau will also monitor developments less than the applicable numerical threshold contained in Chapter 27F-2, Florida Administrative Code, if the Bureau obtains information that such development may have substantial regional impact because of its character, magnitude or location. A developer may request a Binding Letter of Interpretation from the Bureau to determine whether the proposed development is a development of regional impact. As used above, the term "monitor" means to notify a developer in writing that a proposed development may be a development of regional impact. This notice shall include a copy of Chapter 380, Florida Statutes; Chapter 27F-1, Part II, Rules of Practice and Procedure Pertaining to Developments of Regional Impact; and Chapter 27F-2, Part II, Development Presumed to be of Regional Impact. Copies of binding letter application forms are also included and may be used by the developer if he requests a Binding Letter of Interpretation from the Bureau.

(5) The Bureau shall make an initial determination as to whether the proposed development is a development of regional impact. For each request for a Binding Letter of Interpretation for development of regional impact status received by the Bureau, it is the Bureau's policy to determine whether the proposed development would substantially impact more than one county using the information submitted on Form DSP-BLWM-01-79 and other factual information submitted by third persons including an appropriate regional planning agency and local government. The Bureau may specify that all information submitted by the developer or by third persons relevant to a binding letter application must be transmitted to the Bureau by a date certain within the 60 day time period. Failure to submit such information by the specified date may result in the information not being considered by the Bureau in its determination. The Bureau may determine that proposed development below the applicable numerical threshold contained in Chapter 27F-2, Florida Administrative Code, is a development of regional impact if the Bureau has determined that such development would have substantial regional impact. Likewise, the Bureau may determine that a proposed development above the applicable numerical threshold contained in Chapter 27F-2, Florida Administrative Code, is not a development of regional impact, if it determines that such development will not have substantial regional impact according to the information obtained as a result of the application procedures. A copy of each application for a Binding Letter of Interpretation and supplemental information shall be provided by the applicant to the appropriate regional planning agency(ies) and local government(s) as defined in Section 380.031, Florida Statutes, at the time it is submitted to the Bureau. If the information presented is sufficient to determine that the proposed development is not a development of regional impact, the Bureau shall issue a binding letter.

(6) If the Bureau determines that the proposed development is a development of regional impact, the Bureau will make a determination as to whether rights have vested pursuant to Subsection 380.06(12), Florida Statutes, if requested by the submission of Form DSP-BLWM-12-76. If the information before the Bureau is sufficient to determine that rights are vested, the Bureau shall issue a binding letter.

(7) When requested by the submission of Form DSP-BLWM-35-77 and the Bureau has determined that the proposed development is a development of regional impact and that rights are vested, the Bureau shall make a determination as to whether a proposed change is substantial, and, if substantial, whether the proposed change would result in reduced regional impacts. In order for the Bureau to make such determination, the developer shall have furnished sufficient information for the Bureau to have determined that the development has acquired vested rights pursuant to Subsection 380.06(12), Florida Statutes. If the information presented to the Bureau is sufficient to determine that the change to a previously vested development is not substantial or that the regional impact has been reduced, in making such determination, the criteria pursuant to Subsection 380.06(4), Florida Statutes, shall be considered, and the Bureau shall issue a binding letter.

(8) If the Bureau finds that the pr[illegible] development is a development of regi[illegible] that rights have not vested, or t[illegible] change to a previously vested deve[illegible] divest rights to complete the develop[illegible] issue a binding letter requiring compli[illegible] Chapter 380, Florida Statutes. The bindi[illegible] shall include a summary of the factual, legal, and policy grounds therefore, and shall notify the applicant that he has a right to present additional testimony, evidence, or written statements to the Bureau pursuant to Subsection 120.57(2)(a)2, Florida Statutes, in opposition to its action or to establish an appropriate record for appeal.

(9) In the event information cannot be obtained sufficient for a determination whether the proposed development is a development of regional impact, or whether rights have vested pursuant to Subsection 380.06(1), Florida Statutes, or whether the proposed change to a previously vested development would divest rights pursuant to Subsection 380.06(4)(b), Florida Statutes, the Bureau shall so notify the applicant and provide him with a summary of the factual, legal, policy or other reasons as to why the determination cannot be made, and why it cannot issue a binding letter. The Bureau shall give the

applicant an opportunity to present additional evidence or to establish an appropriate record for appeal pursuant to Subsection 120.57(2)(a)2, Florida Statutes.

(10) The initial determination made under subsections (4), (5), (6), (7), (8), or (9) above shall be made within sixty (60) days of receipt of the application, but not sooner than fourteen (14) days after publication of the notice in the Florida Administrative Weekly. The time for issuance of a binding letter may be extended upon agreement between the Bureau and the applicant.

(11) The determination made pursuant to subsections (4), (5), (6), (7), (8), or (9) above shall be final agency action unless within thirty (30) days of the date of mailing of said determination the applicant requests in writing an opportunity to present additional testimony, evidence, or written statements as provided herein. Such request shall be deemed to constitute a waiver of the sixty (60) d· ·eriod for issuance of the binding letter of ·ation.

·ny time in the course of the preceding ·nt believes the determination involves ·sue of material fact which requires a evidentiary hearing, the applicant may ·est a hearing pursuant to Subsection 57(1), Florida Statutes, by filing a petition ·suant to Subsection 120.57(1) and the applicable Model Rule in Chapter 28-5, F. A. C.

(13) Notice of the issuance of a binding letter shall be given to all parties to the proceeding, to persons the Bureau finds may be affected by the binding letter, and to persons who have requested notice. Binding Letters of Interpretation shall bind all state, regional, and local agencies as well as the developer.

Specific Authority 20.05(5), 120.53(1), 380.032, 380.06(4), 380.06(14)(a) FS. Law Implemented 120.53(1), 120.565, 380.06(4) FS. History—New 7-7-76, Amended 10-13-76, 1-23-78, 3-25-79, Formerly 22F-1.16.

***Library References:** Updating the DRI Process, Henry Dean, 53 Fla. Bar J. 249, 253 (April, 1979) (cites former Rule 22F-1.16).*

ANNOTATIONS

Binding letter

Binding letter of interpretation that revised proposed project does not constitute development of regional impact, issued pursuant to F. S. A. § 380.06(4)(a) by Division of Land Planning to appellee, binds South Florida Regional Planning Council (SFRPC) as to determination by Division and bars SFRPC from pursuing appeal of favorable local government action under F. S. A. § 380.07(2); SFRPC is barred from collaterally attacking validity of binding letter of interpretation issued under F. S. A. § 380.06(4)(a) where it made appearance in proceedings but failed to take judicial review therefrom. South Florida Regional Planning Council v. State Land and Water Adjudicatory Commission, App., (3rd) 372 So. 2d 159 (1979).

Standing

Where Boy Scouts Council neither sought nor obtained status as intervenor in binding letter proceeding in which it claimed proposed development of adjacent property would impede activities on its property, council lacked standing as party to request formal administrative hearing. Suwance River Area Council Boy Scouts of America v. State Department of Community Affairs, App., (1st) 384 So. 2d 1369 (1980).

27F-1.17 Application Procedure. Prior to undertaking development of a development of regional impact a developer should comply with:

(1) Subpart B of these rules if the development is proposed within a regulated jurisdiction, which as used herein shall mean a local government that has adopted a zoning ordinance or subdivision regulations, or both; or

(2) Subpart C of these rules if the development is proposed within an unregulated jurisdiction, which as used herein shall mean a local government that has not adopted either a zoning ordinance or subdivision regulations; or

(3) Subpart D of these rules if the development is proposed within an area of critical state concern, which as used herein shall mean a specific geographical area of the state defined by general law or by rule of the Administration Commission pursuant to Section 380.05, Florida Statutes.

Specific Authority 120.53(1) FS. Law Implemented 23.012(3), 120.53(1), 380.06(5) FS. History—New 7-7-76, Formerly 22F-1.17.

27F-1.18 Reserved.

27F-1.19 Reserved.

Subpart B — Development of Regional Impact Procedures in Regulated Jurisdictions

27F-1.20 General Requirements.

(1) Chapter 380, Florida Statutes, creates the following requirements, which are in addition to applicable local land development regulations, for a developer proposing to undertake a development of regional impact within a regulated jurisdiction, unless exempted under Subsection 380.06(12), Florida Statutes:

(a) Filing an application for development approval pursuant to Subsection 380.06(6), Florida Statutes;

(b) A determination that the application for development approval contains sufficient information pursuant to Subsections 380.06(6) and 380.06(7), Florida Statutes;

(c) A report and recommendation by the regional planning agency on the regional impact of the proposed development pursuant to Subsection 380.06(8), Florida Statutes;

(d) A development of regional impact public hearing pursuant to Subsection 380.06(7), Florida Statutes;

(e) Issuance of a development of regional impact development order pursuant to Subsections 380.06(10) and 380.06(11), Florida Statutes.

(2) A development order approving, or approving with conditions, the proposed development of regional impact shall be issued prior to or concurrently with a final development permit or other authorization to undertake development, and, in all cases, prior to undertaking any development as defined in Chapter 380, Florida Statutes.

(3) In accordance with Subsections 380.06(6) and 380.06(7), Florida Statutes, the developer shall file completed copies of an application for development approval with the local government having jurisdiction. Copies of the application should also be filed with the appropriate regional planning agency and the Bureau; copies of Form DSP-BLWM-11-76, listed in Rule 27F-1.31, may be obtained from either of them. The applicatio· should be filed in accordance with the local gov· nment's applicable procedures and as early as ·ossible in its permitting process. The appropri·e regional planning agency may be determin·d by reference to Form DSP-BLWM-15-76, relating to regional planning agencies designated under Chapter 380, Florida Statutes.

(4) If a proposed development project includes two or more developments of regional impact, a developer may file a comprehensive development of regional impact application for development approval pursuant to Section 380.06(13), Florida Statutes.

(5) Pursuant to Subsection 380.06(7), Florida Statutes, the regional planning agency shall make a determination as to the sufficiency of the information contained in the application.

(a) If the agency determines that the application is sufficient to begin review, the agency shall provide written notice to the appropriate local government and the applicant within fifteen (15) working days of receipt of the application, stating that the application contains sufficient information for the agency to begin review pursuant to the criteria of Subsection 380.06(8), Florida Statutes, and that a public hearing date may be set.

(b) If the agency determines that the application is insufficient, it shall provide written notice to the appropriate local government and the applicant within fifteen (15) working days of receipt of the application stating that the application contains insufficient information for the agency to discharge its responsibilities under Subsection 380.06(8), Florida Statutes, and a statement requesting additional information. Within five (5) working days of the receipt of the statement the applicant shall provide written notice to the local government and the agency that the requested information will be supplied, or will not be supplied, in whole or in part. Upon receipt of the requested information, the agency shall provide written notice to the local government and the applicant pursuant to Subsection 380.06(7), Florida Statutes.

(c) Requests for additional information should be reasonably related to the discharge of the agency's responsibilities under Subsection 380.06(8), Florida Statutes.

(d) The regional planning agency should provide copies of agency requests for additional information and the applicant's response to the Bureau.

Specific Authority 23.0115(1), 23.012(3), 120.53(1) FS. Law Implemented 23.0115(1), 23.012(3), 120.53(1), 380.031, 380.04, 380.05, 380.06(5)-(12) FS. History—New 7-7-76, Formerly 22F-1.20.

27F-1.21 Notice of Public Hearing.

(1) The appropriate local government shall give notice and hold a hearing on the application for development approval of a development of regional impact as required by Subsection 380.06(7), Florida Statutes.

(2) The notice of hearing shall state that the proposed development would be a development of regional impact. In addition to noticing the Bureau, and the appropriate regional planning agency, notice shall be given to the appropriate Department of Environmental Regulation district office and to the Tallahassee office, to the appropriate water management district office, established pursuant to Chapter 373, Florida Statutes, and to adjacent counties.

(3) When a development of regional impact is proposed within the jurisdiction of more than one local government, the local governments, at the request of the developer, may hold a joint public hearing.

Specific Authority 120.53(1) FS. Law Implemented 120.53(1), 380.06(5), 380.06(7) FS. History—New 7-7-76, Formerly 22F-1.21.

27F-1.22 Regional Report and Recommendations.

(1) Upon receipt of the notice of public hearing issued pursuant to Section 380.06(7), Florida Statutes, the appropriate regional planning agency shall prepare a report and recommendations on the regional impact of the proposed development in accordance with the criteria identified in Section 380.06(8), Florida Statutes.

(2) Copies of the completed report and recommendations shall be submitted by the regional planning agency to the local government, the Bureau, and the developer within fifty (50) days after receipt by the regional planning agency of notice of public hearing.

(3)(a) When the proposed development of regional impact lies within the review jurisdiction of two or more regional planning agencies, the Bureau, with the consent of the affected agencies, may designate a lead agency to assume responsibility for determining the sufficiency of information contained in the application for development approval and for preparing the regional report and recommendations.

(b) Upon completion of the staff report and recommendations, copies should be transmitted to the respective regional planning agencies for formal action.

(c) The regional report and recommendations adopted by formal action of the respective regional planning agencies where possible should be

coordinated and consistent. Upon concurrence by each regional planning agency the report and recommendations should be submitted to the appropriate local governments pursuant to Subsection 380.06(8), Florida Statutes. When the reviewing agencies are unable to concur in the adoption of a joint report and recommendations, each agency may prepare and submit to the local government within its jurisdiction a separate report and recommendations.

Specific Authority 120.53(1) FS. Law Implemented 120.53(1), 380.031(13), 380.06(5)-(8) FS. History—New 7-7-76, Formerly 22F-1.22.

27F-1.23 Local Development Orders.

(1) Within thirty (30) days after the development of regional impact public hearing, [illegible]cal government shall enter a development [illegible]uant to Subsection 380.06(7), Florida [illegible]on the application for development [illegible]nless an extension of time is granted [illegible] written request by the developer.

(2) In considering whether the development should be approved, denied, or approved subject to conditions, restrictions or limitations, the local government shall consider, as required by Subsection 380.06(11), Florida Statutes, whether and the extent to which:

(a) The development unreasonably interferes with the achievement of the objectives of an adopted state land development plan applicable to the area;

(b) The development is consistent with the local land development regulations; and

(c) The development is consistent with the report and recommendations of the regional planning agency.

(3) Local development orders issued pursuant to an application for development approval may include, but shall not be limited to:

(a) Findings of fact by the local government; and

(b) A statement that the application for development approval is approved; or

(c) A statement that the application for development approval is approved subject to conditions, specifying the conditions; or

(d) A statement that the application for development approval is denied, specifying the reasons for denial and changes in the development proposal that would make it eligible to receive a development permit; and

(e) The period of effectiveness of the development order; and

(f) Conditions under which additional development of regional impact review shall be required; and

(g) A statement incorporating into the development order by reference the application for development approval and other relevant written documents; and

(h) A substa[illegible]viation clause, specifying standards relati[illegible]to.

(4) If a development order is issued approving or approving with conditions the application for development approval, subsequent requests for local development permits need not require further development of regional impact review unless otherwise stipulated in the development order. Factors requiring further development of regional impact review may include, but shall not be limited to:

(a) A substantial deviation from the terms or conditions in the development order or other changes to the approved development plans which create a reasonable likelihood of adverse regional impacts or other regional impacts which have not been evaluated in the review by the regional planning agency; or

(b) Expiration of the period of effectiveness of the development order; or

(c) A finding of an existing emergency condition.

(5) Copies of all development orders pertaining to a development of regional impact including any amendments or modifications thereto shall be transmitted by the local government to the Bureau, to the appropriate regional planning agency, and to the owner or developer of the property subject to such order.

Specific Authority 120.53(1) FS. Law Implemented 121.53(1), 380.06(5), 380.06(7), 380.06(11), 380.07(2), 380.08(3) FS. History—New 7-7-76, Formerly 22F-1.23.

27F-1.24 Alternative Review Procedure.

(1) It is the purpose of this rule to provide alternative procedural guidelines for the preparation of the application for development approval, the review of said application by the regional planning agency, and the decision of the local government on the application for development approval. If used, this rule shall supplement the provisions of the Part.

(2) If a proposed development includes one or more developments of regional impact with an extended build-out period, the local government may grant master plan or conceptual approval of the development subject to subsequent review by the appropriate regional planning agency of increments or phases of the development or of unresolved issues related to regional impacts, pursuant to the requirements of Section 380.06, Florida Statutes. Where such a procedure is appropriate, the developer should consult with the local government and the regional planning agency regarding information to be provided and the timing of review of phases, increments, or issues related to regional impacts of the proposed development.

(3) In addition to any recommendations included in the report prepared pursuant to Subsection 380.06(8), Florida Statutes, the regional planning agency should specify those issues related to regional impacts of the development which have been sufficiently reviewed, if approval is recommended, and those issues which would be subject to further review upon submission of subsequent phases or increments of the proposed development. The regional planning agency should make recommendations on the phases, increments, and issues related to regional impacts in need of subsequent review for consideration by the local government in formulating a development order pursuant to Section 380.06, Florida Statutes.

(4) In its development order, the local government may require subsequent review of phases, increments, or issues related to regional impacts of the proposed development pursuant to the requirements of Section 380.06, Florida Statutes. The development order should be consistent with the report and recommendations of the regional planning agency in providing for further review. Any development approval granted should be based upon adequate review and resolution of the regional impacts of the approved level of development. Approval of any conceptual or master plan shall not be construed as approval of subsequent phases or increments when review of subsequent phases or increments is required by the development order.

(5) This rule shall not be construed to limit or modify the statutory responsibility of the regional planning agency to determine the sufficiency of information contained in any application for development approval pursuant to Subsection 380.06(7), Florida Statutes. In making said determination, the regional planning agency shall give due consideration to the reasonable availability of sufficient reliable information and, where appropriate, the necessity for subsequent review of phases, increments, or issues related to regional implants. This rule shall not be construed to limit or modify the authority, responsibilities, or prerogative of local government in complying with Section 380.06, Florida Statutes.

Specific Authority 20.05(5), 23.0115(1), 23.012(3), 120.53(1) FS. Law Implemented 23.0115(1), 23.012(3), 120.53(1), 380.06(5)-(11), 380.06(13) FS. History—New 7-7-76, Formerly 22F-1.24.

27F-1.25 Reserved.

27F-1.26 Reserved.

Subpart C — DRI Procedures in Unregulated Jurisdictions

27F-1.27 Ninety Day Notice Requirement.

(1) Prior to undertaking development, a developer proposing a development of regional impact in an unregulated jurisdiction shall submit a written notice to the Bureau and to any local government having jurisdiction to adopt zoning or subdivision regulations for the area in which the development is proposed. The notice to the Bureau shall be by a completed copy of Form DSP-BLWM-14-76 as listed in Rule 27F-1.31. The form shall be transmitted by certified mail, to establish a date certain of receipt.

(2) Within ninety days of receipt of the form specified in subsection (1) of this rule:

(a) Any local government with jurisdiction may adopt zoning or subdivision regulations. If a zoning or subdivision regulation is adopted during the ninety day period, the developer shall file an application for development approval as required by Subsection 380.06(6). Florida Statutes, to commence development of regional impact review and permitting procedures.

(b) The state may designate the area within which the development is proposed as an area of critical state concern. If such an area of critical state concern is designated during the ninety day period, the developer shall comply with the requirements set forth in Section 380.05, Florida Statutes, and Rule 27F-1.30 of these rules.

(3) If, after ninety days from the receipt of the notice specified in subsection (1), no zoning or subdivision regulations have been adopted by the local government, nor an area of critical state concern designated, the developer may undertake the proposed development of regional impact.

(4) Any substantial changes from the proposed development as set forth in the notice to the Bureau specified in subsection (1) of this rule shall require a new ninety day notice under Subsection 380.06(5)(c), Florida Statutes.

Specific Authority 120.53(1) FS. Law Implemented 120.53(1), 380.05(13), 380.06(5) FS. History—New 7-7-76, Formerly 22F-1.27.

27F-1.28 Reserved.

27F-1.29 Reserved.

Subpart D — Developments of Regional Impact Procedures in Areas of Critical State Concern

27F-1.30 Areas of Critical State Concern. If a proposed development of regional impact is located within an area of critical state concern the developer shall be subject to the requirements of Section 380.06, relating to development of regional impact review and permitting procedures, when the rule designating the area of critical state concern so provides.

Specific Authority 120.53(1) FS. Law Implemented 120.53(1), 380.05(13), 380.06(5), 380.06(10), 380.06(11) FS. History—New 7-7-76, Formerly 22F-1.30.

27F-1.31 Forms.

(1) The attached forms are prescribed for use with these rules:

(a) Form Number DSP-BLWM-11-76, relating to Developments of Regional Impact Application for Development Approval the use of which shall not be required prior to July 1, 1976;

(b) Form Number DSP-BLWM-01-79, relating to Application for a Binding Letter on DRI status;

(c) Form Number DSP-BLWM-12-76, relating to Application for a Binding Letter of Vested Rights;

(d) Form Number DSP-BLWM-35-77, relating to Substantial [illegible]e to a Previously Vested Development;

(e) Form Number [illegible]P-BLWM-14-76,

relating to Notice of Intent to Undertake a Development of Regional Impact in an Unregulated Jurisdiction; and

(f) Form Number DSP-BLWM-15-76, relating to Regional Planning Agencies designated under Chapter 380, Florida Statutes.

(2) These forms may be obtained without cost from the appropriate regional planning agency or by making written request to:

Bureau of Land and Water Management
Department of
Community Affairs
530 Carlton Building
Tallahassee, Florida 32301

Specific Authority 120.53 FS. Law Implemented 120.53, 380.031(13), 380.06(4)-(6) FS. History—New 7-7-76, Amended 3-25-79, Formerly 22F-1.31.

CHAPTER 27F-2
LAND PLANNING
PART II
DEVELOPMENTS PRESUMED TO BE OF REGIONAL IMPACT
(Formerly 22F-2)

27F-2.01	Airports.
27F-2.02	Attractions and Recreation Facilities.
27F-2.03	Electrical Generating Facilities and Transmission Lines.
27F-2.04	Hospitals.
27F-2.05	Industrial Plants and Industrial Parks.
27F-2.06	Mining Operations.
27F-2.07	Office Parks.
27F-2.08	Petroleum Storage Facilities.
27F-2.09	Port Facilities.
27F-2.10	Residential Developments.
27F-2.11	Schools.
27F-2.12	Shopping Centers.

Library References: Updating the DRI process, Henry Dean, 53 Fla. Bar J. 249, 253 (April, 1979) (cites former Chapter 22F-2); Judicial interpretation of Florida's developments of regional impact, Terry Carley, 53 Fla. Bar J. 633, 634 (Nov., 1979).

27F-2.01 Airports. The following development shall be presumed to be a development of regional impact and subject to the requirements of Chapter 380, Florida Statutes:

The proposed construction of any airport development project as defined in the Federal Airport and Airway Development Act of 1970, Title 49 United States Code, Section 1701 et seq., involving the location of a new airport, a new runway or a runway extension.

Specific Authority 380.06(2) FS. Law Implemented 380.06, 380.10 FS. History—New 7-1-73, Formerly 22F-2.01.

27F-2.02 Attractions and Recreation Facilities. The following developments shall be presumed to be developments of regional impact and subject to the requirements of Chapter 380, Florida Statutes:

(1) Any sports, entertainment, amusement or recreation facility, including, but not limited to, sports arenas, stadiums, race tracks, tourist attractions and amusement parks, the proposed construction or expansion of which:

(a) for single performance facilities:

1. provides parking spaces for more than two thousand five hundred (2,500) cars; or

2. provides more than ten thousand (10,000) permanent seats for spectators; or

(b) for serial performance facilities:

1. provides parking spaces for more than one thousand (1,000) cars; or

2. provides more than four thousand (4,000) permanent seats for spectators.

For purposes of this subsection "serial performance facilities" shall mean those using their parking areas or permanent seating more than one time per day on a regular or continuous basis.

(2) The proposed construction of any facility authorized under state law to conduct pari-mutuel wagering activities or the proposed expansion of such a facility, which would result in more than a ten percent (10%) increase in parking spaces or permanent seats for spectators.

Specific Authority 380.06(2) FS. Law Implemented 380.06, 380.10 FS. History—New 7-1-73, Formerly 22F-2.02.

27F-2.03 Electrical Generating Facilities and Transmission Lines. The following developments shall be presumed to be developments of regional impact and subject to the requirements of Chapter 380, Florida Statutes:

(1) Any proposed steam electrical generating facility with a total generating capacity greater than one hundred (100) megawatts, or a proposed steam addition to an existing electrical generating facility, which addition has a generating capacity of greater than one hundred (100) megawatts; except that this paragraph shall not apply to a facility which produces electricity not for sale to others. Generating capacity shall be measured by the manufacturer's rated "name plate" capacity.

(2) Any proposed electrical transmission line which has a capacity of two hundred thirty (230) kilovolts or more and crosses a county line.

Provided, however, that no electrical transmission line shall be considered as falling within this standard if its construction is to be limited to an established right-of-way, as specified in Subsection 380.04(3)(b), Florida Statutes.

Specific Authority 380.06(2) FS. Law Implemented 380.06, 380.10 FS. History—New 7-1-73, Formerly 22F-2.03.

27F-2.04 Hospitals. The following development shall be presumed to be a development of regional impact and subject to the requirements of Chapter 380, Florida Statutes:

Any proposed hospital which has a design capacity of more than six hundred (600) beds, or whose application for a certificate of need under Section 381.494, Florida Statutes, shows in the statement of purpose and need that such hospital is designed to serve the citizens of more than one county.

Specific Authority 380.06(2) FS. Law Implemented 380.06, 380.10 FS. History—New 7-1-73, Formerly 22F-2.04.

Library References: Juergensmeyer & Wadley, Fla. Zoning — Specific Uses (The Harrison Company), § 3-27.

ANNOTATIONS

Certificate of need

Where no public hearing was held on application by health care institution for construction of new hospital pursuant to Health Facilities Planning Act, issuance of certificate of need lacked quasi-judicial character and it was appropriate for plaintiff to attack it by mandamus, prohibition or injunction. Humana of Florida, Inc. v. Keller, App., (1st) 329 So. 2d 420 (1976).

Review

Order of hearing officer designated to conduct proceeding on application for certificate of need to construct hospital was not that of "agency," so was not final agency action subject to judicial review. Bureau of Community Medical Facilities Planning of Department of Health and Rehabilitative Services v. Sampson, App., (1st) 341 So. 2d 1071 (1977).

27F-2.05 Industrial Plants and Industrial Parks. The following development shall be presumed to be a development of regional impact and subject to the requirements of Chapter 380, Florida Statutes:

Any proposed industrial, manufacturing, or processing plant under common ownership, or any proposed industrial park under common ownership which provides sites for industrial, manufacturing, or processing activity, which:

(1) provides parking for more than one thousand five hundred (1,500) motor vehicles; or

(2) occupies a site greater than one (1) square mile.

Specific Authority 380.06(2) FS. Law Implemented 380.06, 380.10 FS. History—New 7-1-73, Formerly 22F-2.05.

27F-2.06 Mining Operations.

(1) The following development shall be presumed to be a development of regional impact and subject to the requirements of Chapter 380, Florida Statutes:

Any proposed solid mineral mining operation which annually requires the removal or disturbance of solid minerals or overburden over an area, whether or not contiguous, greater than one hundred (100) acres or whose proposed consumption of water would exceed three million (3,000,000) gallons per day. In computing the acreage for this purpose, a removal or disturbance of solid minerals or overburden shall be considered part of the same operation if it is all located within a circle, the radius of which is one (1) mile and the center of which is located in an area of removal or disturbed solid minerals or overburden.

(2) As used in this section:

(a) The term "overburden" means the natural covering of any solid mineral sought to be mined, including, but not limited to, soils, sands, rocks, gravel, limestone, water or peat.

(b) The term "solid mineral" includes, but is not limited to, clay, sand, gravel, phosphate rock, lime, shells (excluding live shellfish), stone and any rare earths contained in the soils or waters of this state, which have theretofore been discovered or may be hereafter discovered.

Specific Authority 380.06(2) FS. Law Implemented 380.06, 380.10 FS. History—New 7-1-73, Formerly 22F-2.06.

Library References: Juergensmeyer & Wadley, Fla. Zoning — Specific Uses (The Harrison Company), § 3-36.

27F-2.07 Office Parks. The following development shall be presumed to be a development of regional impact and subject to the requirements of Chapter 380, Florida Statutes:

Any proposed office park operated under one common property ownership or management, that:

(1) occupies more than thirty (30) acres of land; or

(2) encompasses more than three hundred thousand (300,000) square feet of gross floor area.

Specific Authority 380.06(2) FS. Law Implemented 380.06, 380.10 FS. History—New 7-1-73, Formerly 22F-2.07.

27F-2.08 Petroleum Storage Facilities.

(1) The following developments shall be presumed to be developments of regional impact and subject to the requirements of Chapter 380, Florida Statutes:

(a) Any proposed facility or combination of facilities located within one thousand (1,000) feet of any navigable water for the storage of any petroleum product with a storage capacity of over fifty thousand (50,000) barrels.

(b) Any other proposed facility or combination of facilities for the storage of any petroleum products with a storage capacity of over two hundred thousand (200,000) barrels.

(2) For the purpose of this section, "barrel" shall mean forty-two (42) U. S. Gallons.

Specific Authority 380.06(2) FS. Law Implemented 380.06, 380.10 FS. History—New 7-1-73, Formerly 22F-2.08.

Library References: Juergensmeyer & Wadley, Fla. Zoning — Specific Uses (The Harrison Company), § 3-42.

27F-2.09 Port Facilities. The following development shall be presumed to be a development of regional impact and subject to the requirements of Chapter 380, Florida Statutes:

The proposed construction of any water port, except those designed primarily for the mooring or storage of watercraft used exclusively for sport or pleasure of less than one hundred (100) slips for moorings.

Specific Authority 380.06(2) FS. Law Implemented 380.06, 380.10 FS. History—New 7-1-73, Formerly 22F-2.09.

27F-2.10 Residential Developments.

(1) The following developments shall be presumed to be developments of regional impact and subject to the requirements of Chapter 380, Florida Statutes:

Any proposed residential development that is planned to create or accommodate more than the following number of dwelling units:

(a) In counties with a population of less than 25,000 — 250 dwelling units

(b) In counties with a population between 25,000 and 50,000 — 500 dwelling units

(c) In counties with a population between 50,001 and 100,000 — 750 dwelling units

(d) In counties with a population between 100,001 and 250,000 — 1,000 dwelling units

(e) In counties with a population between 250,001 and 500,000 — 2,000 dwelling units

(f) In counties with a population in excess of 500,000 — 3,000 dwelling units.

Provided, however, that any residential development located within two (2) miles of a county line shall be treated as if it were located in the less populous county.

(2) As used in this section, the term "residential development" shall include, but not be limited to:

(a) the subdivision of any land attributable to common ownership into lots, parcels, units or interests, or

(b) land or dwelling units which are part of a common plan of rental, advertising, or sale, or

(c) the construction of residential structures, or

(d) the establishment of mobile home parks.

(3) As used in this section, the term "dwelling unit" shall mean a single room or unified combination of rooms, regardless of form of ownership, that is designed for residential use by a single family. This definition shall include, but not be limited to, condominium units, individual apartments and individual houses.

(4) For the purpose of this section, the population of the county shall be the most recent estimate for that county, at the time of the application for a development permit. The most recent estimate shall be that determined by the Executive Office of the Governor pursuant to Section 23.019, Florida Statutes.

Specific Authority 380.06(2) FS. Law Implemented 380.06, 380.10 FS. History—New 7-1-73, Formerly 22F-2.10.

27F-2.11 Schools.

(1) The following development shall be presumed to be a development of regional impact and subject to the requirements of Chapter 380, Florida Statutes:

The proposed construction of any public, private or proprietary post-secondary educational campus which provides for a design population of more than th[illegible]housand (3,000) full-time equivalent stu[illegible]or the proposed physical expansion of an[illegible]blic, private or proprietary post-secondary educational campus having such a design population, by at least twenty percent (20%) of the design population.

(2) As used in this section, the term "full-time equivalent student" shall mean enrollment for fifteen (15) quarter hours during a single academic semester. In area vocational schools or other institutions which do not employ semester hours or quarter hours in accounting for student participation, enrollment for eighteen (18) contact hours shall be considered equivalent to one (1) quarter hour and enrollment for twenty-seven (27) contact hours shall be considered equivalent to one (1) semester hour.

Specific Authority 380.06(2) FS. Law Implemented 380.06, 380.10 FS. History—New 7-1-73, Formerly 22F-2.11.

27F-2.12 Shopping Centers. The following development shall be presumed to be a development of regional impact and subject to the requirements of Chapter 380, Florida Statutes:

Any proposed retail or wholesale business establishment or group of establishments operated under one common property ownership or management, such as a shopping center or trade center, that:

(1) occupies more than forty (40) acres of land; or

(2) encompasses more than four hundred thousand (400,000) square feet of gross floor area; or

(3) provides parking spaces for more than two thousand five hundred (2,500) cars.

Specific Authority 380.06(2) FS. Law Implemented 380.06, 380.10 FS. History—New 7-1-73, Formerly 22F-2.12.

CHAPTER 27F-3
LAND PLANNING
PART III
BOUNDARY AND REGULATIONS FOR BIG CYPRESS AREA OF CRITICAL STATE CONCERN
(Formerly 22F-3)

27F-3.01	Boundary.
27F-3.02	Purpose.
27F-3.03	Definitions.
27F-3.04	Agricultural Exemption.
27F-3.05	Vested Rights in Property.
27F-3.06	Site Alteration.
27F-3.07	Drainage.
27F-3.08	Transportation.
27F-3.09	Structure Installation.
27F-3.10	Enforcement.
27F-3.11	Variances.
27F-3.12	Appeals.
27F-3.13	Relation to Local Codes.
27F-3.14	Local Plans and Code Conformity.
27F-3.15	Amendments.
27F-3.16	Separability.

27F-3.01 Boundary. All that certain lot, piece or parcel of land situated lying and being in Collier, Dade and Monroe Counties in the State of Florida being more particularly bounded and described as follows:

Beginning at a point in the Northerly right-of-way line of State Road 84 (Alligator Alley), which point is the Southwest corner of Section 36 in Township 49 South, Range 28 East and running thence

(1) Turning and running North along the West line of Sections 36, 25, 24 and 13 in Township 49 South, Range 28 East, a distance of four miles; thence

(2) Turning and running East along the Northerly line of Section 13, Township 49 South, Range 28 East and Section 18, Township 49 South, Range 29 East, a distance of two miles; thence

(3) Turning and running North along the Westerly line of Sections 8 and 5 in Township 49 South, Range 29 East, a distance of two miles; thence

(4) Turning and running East along the Northerly line of Sections 5, 4 and 3 in Township 49 South, Range 29 East, a distance of three miles; thence

(5) Turning and running North along the West line of Sections 35 and 26 in Township 48 South, Range 29 East, a distance of two miles; thence

(6) Turning and running East along the North line of Sections 26 and 25 in Township 48 South, Range 29 East and continuing East along the North line of Sections 30 and 29 in Township 48 South, Range 30 East to the point of intersection with the Easterly right-of-way line of State Road 29; thence

(7) Turning and running North along the East right-of-way line of State Road 29 to a point which point is the Northwest corner of Section 29 in Township 47 South, Range 30 East; thence

(8) Continuing North along the West line of Sections 20, 17, 8 and 5 in Township 47 South, Range 30 East, and still North along the West line of Sections 32, 29, 20, 17 and 8 in Township 46 South, Range 30 East, a distance of nine miles; thence

(9) Turning and running East along the North line of Sections 8, 9, 10, 11 and 12 in Township 46 South, Range 30 East, a distance of five miles to the Hendry County line; thence

(10) Turning and running South along the boundary line between Hendry and Collier counties which line is also the boundary line between Ranges 30 and 31 East, a distance of seventeen miles; thence

(11) Turning and running East along the Hendry and Collier County boundary line, which line is also the boundary line between Townships 48 and 49 South, Range 31 East, a distance of four miles; thence

(12) Turning and running South along the East line of Sections 3 and 10 in Township 49 South, Range 31 East, a distance of two miles; thence

(13) Turning and running East along the North line of Section 14 in Township 49 South, Range 31 East, a distance of one mile; thence

(14) Turning and running South along the East line of Section 14 in Township 49 South, Range 31 East, a distance of one mile; thence

(15) Turning and running East along the North line of Section 24 in Township 49 South, Range 31 East and Section 19 in Township 49 South, Range 32 East, a distance of two miles; thence

(16) Turning and running South along the East line of Sections 19, 30 and 31 in Township 49 South, Range 32 East to the point of intersection with the Southerly right-of-way line of State Road 84 (Alligator Alley); thence

(17) Turning and running East along the Southerly right-of-way line of State Road 84 (Alligator Alley) to its point of intersection with the Westerly right-of-way line of Canal L-28, a distance of sixteen miles more or less; thence

(18) Turning and running Southeasterly along the Southerly right-of-way line of Canal L-28 to its point of intersection with the boundary line between Collier and Broward Counties; thence

(19) Turning and running South along the Collier and Broward Counties line to a point which point is the point of intersection of Broward, Collier and Dade Counties on the boundary line between Townships 51 and 52 South, a distance of eleven miles; thence

(20) Turning and running East along the Broward and Dade Counties boundary line, which line is also the boundary line between Townships 51 and 52 South to the point of intersection with the Westerly right-of-way line of the Central and Southern Florida Flood Control District Levee L-28; thence

(21) Turning and running South in Dade County along the Westerly right-of-way line of Levee L-28 to its point of intersection with the Southerly right-of-way line of Tamiami Trail (U. S. Route 41, State Road 90); thence

(22) Along the Southerly right-of-way line of Tamiami Trail (U. S. 41, State Road 90) in a Southeasterly direction to its point of intersection with the North right-of-way line of State Road 94; thence

(23) Turning and running West along State Road 94 to its point of intersection with the Northwest corner of Everglades National Park in Dade County which point is in the Northwest corner of Section 20 in Township 54 South, Range 35 East; thence

(24) In a Southerly, Westerly and Northerly direction along the boundary of Everglades National Park to the point which is the Western most point of the Ev[illegible]les National Park adjacent to Round Ke[illegible]e Ten Thousand Islands in Gullivan Bay[illegible]ice

(25) On a line in a Westerly direction one mile

seaward of the most Southerly of the Ten Thousand Islands to a point, which point is the Southeastern tip of Cape Romano; in Section 15, Township 53 South, Range 26 East; thence

(26) Turning and running Northwesterly along the West shore of Morgan Beach to a point in the South side of Caxambas Pass, which point is the Northeast corner of Section 32 in Township 52 South, Range 26 East; thence

(27) In an easterly direction across Caxambas Pass and Caxambas Bay to a point, which point is the most Southwest land portion of Horr Island and continuing Easterly and Northerly along the mean high water line of Horr Island to a point, which point is the most East Northeast land portion of Horr Island and continuing in a Northerly direction to a point in the mean high water line at Goodland on Marco Island, which ·t is the Southeast corner of Section 24 in ·ship 52 South, Range 26 East, and ·ng along the mean high water line of the ·d East shore of Goodland to a point, ·t is the point of intersection of the South ·-way line of State Road 92 with the East e of Marco Island; thence

(28) In a Northeasterly direction along the South right-of-way line of State Road 92 to its point of intersection with the West line of Section 33 in Township 51 South, Range 27 East; thence

(29) Turning and running South along the West line of Section 33 in Township 51 South, Range 27 East; thence

(30) Still South along the West line of Sections 4, 9 and 16 in Township 52 South, Range 27 East, a distance of three miles; thence

(31) Turning and running East along the South line of Section 16 in Township 52 South, Range 27 East, a distance of one mile; thence

(32) Turning and running North along the East line of Section 16 in Township 52 South, Range 27 East, a distance of one mile; thence

(33) Turning and running East along the South line of Section 10 in Township 52 South, Range 27 East, a distance of one mile; thence

(34) Turning and running North along the West line of Sections 11 and 2 in Township 52 South, Range 27 East, a distance of two miles; thence

(35) Turning and running East along the boundary line between Townships 51 and 52 South which line is also the South line of Section 35, in Township 51 South, Range 27 East, a distance of one mile; thence

(36) Turning and running North along the East line of Sections 35 and 26 in Township 51 South, Range 27 East, a distance of two miles; thence

(37) Turning and running East along the North line of Section 25 in Township 51 South, Range 27 East and the North line of Sections 30, 29, 28, 27 and 26 in Township 51 South, Range 28 East, a distance of six miles; thence

(38) Turning and running North along the West line of Sections 24, 13, 12 and 1 in Township 51 South, Range 28 East and North along the West line of Sections 36, 25, 24, 13, 12 and 1 in Township 50 South, Range 28 East, a distance of ten miles to the point or place of beginning.

Specifically exempting herefrom the following described urban areas:

(a) The unincorporated areas of Ochopee being more particularly bounded and described as follows:

All that certain lot, piece or parcel of ground situate lying and being in Collier County, State of Florida, consisting of Sections 27, 28, 33 and 34 in Township 52 South, Range 30 East.

(b) The incorporated areas of Everglades City situate lying and being in Collier County, State of Florida, consisting of portions of Sections 11, 14, 15 and 23 in Township 53 South, Range 29 East.

Specific Authority 380 FS. Law Implemented Chapter 73-131, Laws of Florida. History—New 11-28-73, Formerly 22F-3.01.

27F-3.02 Purpose. Pursuant to Section 7, Article II, of the Florida Constitution, Section 380.05, Florida Statutes, and Chapter 73-131, Laws of Florida, it is the purpose of these regulations to conserve and protect the natural, environmental and economic resources and the scenic beauty of the Big Cypress Area, including the proposed Federal Big Cypress National Fresh Water Reserve, the Everglades National Park, and ecologically related wetlands, estuarine fisheries, and the fresh water aquifer, and ecologically related areas. It is the further purpose of these regulations to provide a land and water management system that will preserve water quality, provide for the optimum utilization of the limited water resources of the area, facilitate orderly and well-planned development, and protect the health, welfare, safety and quality of life of the residents of the state. To effectively and equitably accomplish such purposes these regulations should be implemented by local governments through existing administrative processes and all existing rights of private property should be preserved in accordance with the constitutions of the State of Florida and the United States.

Specific Authority 380 FS. Law Implemented Chapter 73-131, Laws. of Florida. History—New 11-28-73, Formerly 22F-3.02.

27F-3.03 Definitions. All terms defined in Section 380.01, Florida Statutes, shall have the meanings ascribed to them by that section. In addition, as used in these regulations:

(1) "Coastal Waters" means the waters of the state where either tidal influence exists or where saline water occurs.

(2) "Development" shall have the meaning ascribed to it in Section 380.04, Florida Statutes.

(3) "Drainage Facilities" means any canal, ditch, culvert, dike or other facility which lowers the ground water table, acts as a conduit, diverts or directs the flow of water or otherwise affects the natural flow regime.

(4) "Finger Canals" means modification or construction of a lake or pond so that the square of 15% of the shoreline measured in feet, exceeds the surface area measured in square feet for the same measuring period.

(5) "Hydro-period" means that portion of the annual hydrologic cycle during which water is at or on the soil surface.

(6) "Natural Flow Regime" means the velocity, volume and direction of the surface or ground water flow occurring at any given point in the current hydro-period or any given portion of the Area of Critical State Concern.

(7) "Site Alteration, Alteration or Altered" means development including, but not limited to, removal of, or damage to, vegetation, burning, filling, ditching, dredging, draining, excavation, earth moving, water containment and changes in the natural flow regime, or the effects of such actions.

(8) "Total Site" means land which is under common ownership or is part of a common plan of development, rental, advertising or sale.

(9) "Transportation Facilities" means public and private roadways, roadbeds, waterways, aqueducts, pipelines, transmission lines, public and private airports, and facilities necessary for their maintenance and use, including, but not limited to, borrow pits and drainage works.

Specific Authority 380 FS. Law Implemented Chapter 73-131, Laws of Florida. History—New 11-28-73, Formerly 22F-3.03.

27F-3.04 Agricultural Exemption. The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products, raising livestock or for other purposes directly related to all such uses are exempt from these regulations. Lands lying fallow are deemed to be used for agricultural purposes. However, whenever any person carries out any activity defined in Section 380, Florida Statutes, as development or applies for a development permit, as defined in Section 380, Florida Statutes, to develop exempted land, these regulations shall apply to such application and to such land.

Specific Authority 380 FS. Law Implemented Chapter 73-131, Laws of Florida. History—New 11-28-73, Formerly 22F-3.04.

27F-3.05 Vested Rights in Property. Where vested rights in property exist pursuant to Section 380.05(15), Florida Statutes, these regulations shall not abridge them.

Specific Authority 380 FS. Law Implemented Chapter 73-131, Laws of Florida. History—New 11-28-73, Formerly 22F-3.05

27F-3.06 Site Alteration.

(1) Site alteration shall be limited to 10% of the total site size, and installation of nonpermeable surfaces shall not exceed 50% of any such area. However, a minimum of 2,500 square feet may be altered on any permitted site.

(2) Except for roads, any nonpermeable surface greater than 20,000 square feet shall provide for release of surface run off, collected or uncollected, in a manner approximating the natural surface water flow regime of the area.

(3) Soils exposed during site alteration shall be stabilized and retention ponds or performance equivalent structures or systems maintained in order to retain run off and siltation on the construction site. Restoration of vegetation to site alteration areas shall be substantially completed within 180 days following completion of a development. Revegetation shall be accomplished with pre-existing species or other suitable species except that undesirable exotic species (see list below) shall not be replanted or propagated.

Australian pine — Casuarina equisetifolia
Bishopwood — Bischofia javanica
Brazilian pepper (holly) — Shinus terebinthfolius
Castor bean — Ricinus communis
Common papaya — Carica papaya
Common snakeplant — Sanseviera trifasciata
Day jessamine — Cestrum diurnum
Hunters robe — Raphidophora aurea
Melaleuca (cajeput) — Melaleuca leucadendra
Queensland umbrella tree — Schefflera actinophylla
Trailing wedelia — Wedelia trilobata

(4) No mangrove trees or salt marsh grasses shall be destroyed or otherwise altered. Plants specifically protected in this regulation include:

Red mangrove — Rhizophora mangle
Black mangrove — Avicennia nitida
White mangrove — Laguncularia racemosa
Needlerush — Juncus roemerianus
Salt cordgrasses — Spartina alterniflora, S. patens, S. cynosuroides, S. spartinae
Seashore saltgrass — Distichlis spicata

(5) Fill areas and related dredge or borrow ponds shall be aligned substantially in the direction of local surface water flows and shall be separated from other fill areas and ponds by unaltered areas of vegetation of comparable size. Dredge or borrow ponds shall provide for the release of storm waters as sheet flow from their downstream end into unaltered areas of vegetation. Access roads to and between fill areas shall provide for the passage of water in a manner approximately the natural flow regime and designed to accommodate the 50 year storm. Fill areas and related ponds shall not substantially retain or divert the total flow in or to a slough or strand or significantly impeded tidal action in any portion of the estuarine zone.

(6) Man-made lakes, ponds, or other containment works shall be constructed with a maximum slope of 30 degrees to a depth of six feet of water. Whenever mineral extraction is completed in new quarrying lakes, shoreline sloping, revegetation and disposal of spoils or tailings shall be completed before abandonment. Existing quarrying lakes are exempt from this provision, except that whenever any person carries out any activity defined in Section 380.04, Florida Statutes, as development or applies for a

development permit as defined in Section 380.031, Florida Statutes, to develop any existing quarrying lake area, these regulations shall apply.

(7) Finger canals shall not be constructed in the Critical Area.

(8) This rule shall not apply to site alterations undertaken in connection with the agricultural use of land or for the conversion of land to agricultural use.

Specific Authority 380 FS. Law Implemented Chapter 73-131, Laws of Florida. History—New 11-28-73, Formerly 22F-3.06.

27F-3.07 Drainage.

(1) Existing drainage facilities shall not be modified so as to discharge water to any coastal waters, either directly or through existing drainage facilities. Existing drainage facilities shall not be expanded in capacity or length except [illegible] formance with paragraph (2) below; [illegible] modifications may be made to existing [illegible] will raise the ground water table or [illegible] er intrusion.

(2) New [illegible] ainage facilities shall release water [illegible] a manner approximating the natural local [illegible] face flow regime, through a spreader pond or [illegible] formance equivalent structure or system, either on site or to a natural retention, or natural filtration and flow area. New drainage facilities shall also maintain a ground water level sufficient to protect wetland vegetation through the use of weirs or performance equivalent structure or systems. Said facilities shall not retain, divert, or otherwise block or channel the naturally occurring flows in a strand, slough, or estuarine area.

(3) New drainage facilities shall not discharge water to any coastal waters either directly or through existing drainage facilities.

(4) This rule shall not apply to drainage facilities modified or constructed in order to use land for agricultural purposes or to convert land to such use.

Specific Authority 380 FS. Law Implemented Chapter 73-131, Laws of Florida. History—New 11-28-73, Formerly 22F-3.07.

27F-3.08 Transportation.

(1) Transportation facilities which would retain, divert or otherwise block surface water flows shall provide for the re-establishment of sheet flow through the use of interceptor spreader systems or performance equivalent structures and shall provide for passage of stream, strand or slough waters through the use of bridges, culverts, piling construction or performance equivalent structures or systems. Channelization of such areas shall be the minimum length necessary to maintain reasonable flow and prevent weed blockage.

(2) Transportation facilities, constructed substantially parallel to the local surface flow, shall maintai[illegible] ound water level sufficient to protect wetl[illegible] getation through the use of weirs or performance equivalent structures or systems and as feasible, the flows in such works shall be released to natural retention filtration and flow areas.

(3) Transportation facility construction sites shall provide for siltation and runoff control through the use of settling ponds, soil fixing or performance equivalent structures or systems.

Specific Authority 380 FS. Law Implemented Chapter 73-131, Laws of Florida. History—New 11-28-73, Formerly 22F-3.08.

27F-3.09 Structure Installation.

(1) Placement of structures shall be accomplished in a manner that will not adversely affect surface water flow or tidal action.

(2) Minimum lowest floor elevation permitted for structures shall be at or above the 100 year flood level, as established by the Administrator of the Federal Flood Insurance Administration. The construction of any structure shall meet additional Federal Flood Insurance Land Management and Use Criteria (24 CFR 1910), as administered by the appropriate local agency.

(3) This rule shall not apply to structures used or intended for use in connection with the agricultural use of the land.

Specific Authority 380 FS. Law Implemented Chapter 73-131, Laws of Florida. History—New 11-28-73, Formerly 22F-3.09.

27F-3.10 Enforcement. All land development regulations adopted by the Administration Commission under Section 380.05, Florida Statutes, and Chapter 73-131, Laws of Florida, shall be administered by the local government as if the regulations constitute or are a part of the local land development regulations.

Specific Authority 380 FS. Law Implemented Chapter 73-131, Laws of Florida. History—New 11-28-73, Formerly 22F-3.10.

27F-3.11 Variances. Variance procedures provided in local ordinances shall apply to the Area of Critical State Concern. However, in addition to the standards provided in such ordinances, no variance shall be granted for any development within the Critical Area unless such development is designed, consistent with Critical Area regulations, to have minimum adverse impact on the Area's water storage capacity, surface water and estuarine fisheries. The applicant shall have the affirmative burden of establishing that the development will not have an adverse impact on such resources.

Specific Authority 380 FS. Law Implemented Chapter 73-131, Laws of Florida. History—New 11-28-73, Formerly 22F-3.11.

27F-3.12 Appeals. Appeals from a local government's decision on development orders in the Area of Critical State Concern shall be made to the Florida Land and Water Adjudicatory Commission by filing a notice of appeal with the Commission in accordance with Section 380.07, Florida Statutes.

Specific Authority 380 FS. Law Implemented Chapter 73-131, Laws of Florida. History—New 11-28-73, Formerly 22F-3.12.

27F-3.13 Relation to Local Codes. In case of a conflict between Big Cypress Critical Area regulations and other regulations which are a proper exercise of authority of a governmental jurisdiction, the more restrictive of the provisions shall govern.

Specific Authority 380 FS. Law Implemented Chapter 73-131, Laws of Florida. History—New 11-28-73, Formerly 22F-3.13.

27F-3.14 Local Plans and Code Conformity. Comprehensive plans, comprehensive plan elements, and functional plans and development codes affecting the Critical Area shall support the achievement of the Big Cypress Critical Area objectives and regulations.

Specific Authority 380 FS. Law Implemented Chapter 73-131, Laws of Florida. History—New 11-28-73, Formerly 22F-3.14.

27F-3.15 Amendments. Upon adoption by the County Commission of any land development regulations which would apply to the Critical Area, such regulations shall be transmitted to the Bureau of Land and Water Management, Department of Community Affairs for review. If the Bureau finds that such regulations comply with the principles for guiding development specified in the regulations adopted by the Administration Commission pursuant to Chapter 73-131, Laws of Florida, the Bureau by rule shall approve the submitted regulations. Approved regulations shall supersede any regulations previously adopted for the Critical Area.

Specific Authority 380 FS. Law Implemented Chapter 73-131, Laws of Florida. History—New 11-28-73, Formerly 22F-3.15.

27F-3.16 Separability. If any one or more of the provisions of these regulations or the application of such provisions to any situation, circumstance or person shall for any reason be held invalid, such invalidity shall not affect any other provision of these regulations or the application of such regulations to any other situation, circumstance or person.

Specific Authority 380 FS. Law Implemented Chapter 73-131, Laws of Florida. History—New 11-28-73, Formerly 22F-3.16.

CHAPTER 27F-4
RESERVED

CHAPTER 27F-5
LAND PLANNING
PART V
BOUNDARY AND PRINCIPLES FOR GUIDING DEVELOPMENT FOR THE GREEN SWAMP AREA OF CRITICAL STATE CONCERN
(Formerly 22F-5)

27F-5.01 Purpose.
27F-5.02 Boundary.
27F-5.03 Principles for Guiding Development
27F-5.04 Administration.
27F-5.05 Technical Assistance.
27F-5.06 Effective Date.

27F-5.01 Purpose. Pursuant to Section 7, Article II, of the Florida Constitution, and Section 380.05, Florida Statutes, it is the purpose of these rules to define the boundary of the Green Swamp Area of Critical State Concern and to provide principles for guiding development within the critical area in order to conserve and protect the natural environmental and economic resources and public facilities within the Green Swamp Critical Area and ecologically linked areas.

Specific Authority 380.05(1) FS. Law Implemented 380.05 FS. History—New 7-25-74, Formerly 22F-5.01.

27F-5.02 Boundary. The following area is hereby designated as the Green Swamp Area of Critical State Concern:

All that certain lot, piece or parcel of land situated, lying and being in Lake and Polk Counties in the State of Florida being more particularly bounded and described as follows:

Beginning at a point in Polk County in Section 12, Township 27 South, Range 23 East, which point is the point of intersection of the south boundary line of the northernmost quarter-section of said Section 12 and the east, right-of-way line of United States Route 98 (State Road 700), and running thence:

(1) In a northerly direction along the easterly right-of-way line of United States Route 98, a distance of approximately 7.65 miles, to the point of intersection of United States Route 98 with the west boundary line of Section 16 in Township 26 South, Range 23 East; thence

(2) North along the west boundary of Sections 16, 9 and 4 in Township 26 South, Range 23 East a distance of 2.75 miles more or less; thence

(3) North along the west boundary of Sections 33, 28, 21, 16 and 9 in Township 25 South, Range 23 East to a point in the thread of the Withlacoochee River, which point is the boundary between Polk County and Sumter County, a distance of 4.5 miles more or less; thence

(4) In an easterly direction along the thread of the Withlacoochee River to a point, which point is the point of intersection of the thread of the Withlacoochee River and the north boundary line of Section 18, Township 25 South, Range 24 East; thence

(5) East along the north boundary line of Sections 18, 17 and 16 in Township 25 South, Range 24 East, a distance of 2.75 miles more or less; thence

(6) North along the west boundary line of Sections 10 and 3 in Township 25 South, Range 24 East, a distance of two miles, to a point of intersection of the north boundary of Polk County and the south boundary o[illegible]ke County; thence

(7) In Lake County, s[illegible]h along the west boundary line of Sectio[illegible], 27 and 22 in

Township 24 South, Range 24 East, a distance of three (3) miles; thence

(8) Turning and running east along the north boundary line of Section 22 in Township 24 South, Range 24 East, to the point of intersection of the north boundary line of said Section 22 and the westerly right-of-way line of the Seaboard Coast Line Railroad; thence

(9) Northwesterly along the westerly right-of-way line of the Seabord Coast Line Railroad to a point in the north boundary line of Section 4, in Township 24 South, Range 24 East, a distance of 3.5 miles, more or less; thence

(10) Turning and running west along the boundary between Townships 23 and 24 South, which boundary is the south boundary line of Sections 33 and 32 in Township 23 South, Range 24 East; thence

(11) Turning and running north along the boundary of Section 32 in Township 23 South, Range 24 East, a distance of one mile;

(12) Turning and running east along the north boundary line of Sections 32 and 33 in Township 23 South, Range 24 East to a point in the westerly right-of-way line of the Seabord Coast Line Railroad; thence

(13) Turning and running northwesterly along the westerly right-of-way line of Seaboard Coast Line Railroad to a point, which point is in the boundary between Ranges 23 East and 24 East, which point is also in the west boundary of Section 31 in Township 22 South, Range 24 East, a distance of six miles more or less; thence

(14) Turning and running north along the boundary between Range 23 East and Range 24 East to a point in the southerly right-of-way line of the Seabord Coast Line Railroad, a distance of 3.25 miles, more or less; thence

(15) Turning and running east along the south right-of-way line of said Seaboard Coast Line Railroad to a point in the east boundary line of Section 16 in Township 22 South, Range 24 East; thence

(16) Turning and running south along the east boundary line of Section 16, in Township 22 South, Range 24 East, a distance of one-half mile, more or less; thence

(17) Turning and running east along the north boundary line of Section 22 in Township 22 South, Range 24 East, a distance of one mile; thence

(18) Turning and running south along the east boundary line of Section 22 in Township 22 South, Range 24 East, a distance of one mile; thence

(19) Turning and running east along the north boundary line of Sections 26 and 25 in Township 22 South, Range 24 East and Section 30 in Township 22 South, Range 25 East, a distance of three miles; thence

(20) Turning and running north along the west boundary of Section 20, Township 22 South, Range 25 East to a point in the south right-of-way line of State Road 50, a distance of one-half mile, more or less; thence

(21) Turning and running east along the south right-of-way line of State Road 50 to a point in Section 23, Township 22 South, Range 25 East, which point is the point of intersection of State Road 50 and the east boundary of the canal which connects Lake Minnehaha and Lake Minneola; thence

(22) Turning and running south along the eastern bank of said canal and continuing south along the eastern shore of Lake Palatlakaha to a point in the westerly right-of-way line of State Road 561, a distance of one-half mile, more or less; thence

(23) Southerly along the westerly right-of-way line of State Road 561 to a point in Section 11, Township 23 South, Range 25 East, which point is the point of intersection of State Road 561 and State Road 565B, a distance of 3.5 miles more or less; thence

(24) Turning and running west along the north right-of-way line of State Road 565B to a point in the west boundary line of Section 11 in Township 23 South, Range 25 East, a distance of one-quarter mile, more or less; thence

(25) South along the west boundary line of Sections 11 and 14 Township 23 South, Range 25 East, a distance of 1.5 miles, more or less; thence

(26) East along the south boundary line of Sections 14 and 13 in Township 23 South, Range 25 East, a distance of two miles; thence

(27) North along the west boundary line of Sections 18 and 7 in Township 23 South, Range 26 East, to a point in the north right-of-way line of Hull Road, which is depicted on the February 1969 edition of the Florida State Road Department General Highway Map of Lake County as a graded and drained road skirting the south end of Lake Susan while running approximately along the north boundary line of Section 12 in Township 23 South, Range 25 East; thence

(28) Turning and running west along the north right-of-way line of Hull Road a distance of one-half mile, more or less, to a point in Section 12, Township 23 South, Range 25 East, which point is the intersection of the north right-of-way line of Hull Road with the East right-of-way line of Lake Shore Road, which is depicted on the February 1969 edition of the Florida State Road Department General Highway map of Lake County as a paved road running west and then north of Lake Susan; thence

(29) Turning and running north, then easterly, along the easterly, then southerly, right-of-way line of Lake Shore Road a distance of 1.5 miles, more or less, to a point in Section 6, Township 23 South, Range 26 East, which point is the intersection of the southerly right-of-way line of Lake Shore Road with the west right-of-way line of Lake Louisa Road, which is depicted on the February 1969 edition of the Florida State Road Department General Highway Map of Lake County as a bituminous road running in a north-south direction to the east of Lake Susan and skirting the northeast shoreline of Lake Louisa; thence

(30) Turning and running south, then southeasterly, along the westerly right-of-way line of Lake Louisa Road to a point in Section 16, Township 23 South, Range 26 East, which point is the intersection of the westerly right-of-way line of Lake Louisa Road with the west right-of-way line of United States Route 27 (State Road 25), a distance of four miles, more or less; thence

(31) South along the west right-of-way line of United States Route 27 in Lake and Polk Counties to a point in the south boundary line of Section 8 in Township 27 South, Range 27 East, a distance of approximately 26 miles; thence

(32) Turning and running west along the south boundary line of Sections 8 and 7 in Township 27 South, Range 27 East, a distance of 1.25 miles, more or less; thence

(33) West along the south boundary line of Section 12 in Township 27 South, Range 26 East, to a point, which point is the southwest corner of the aforesaid Section 12; thence

(34) Turning and running south along the west boundary line of Section 13 in Township 27 South, Range 26 East, to the point of intersection of the west boundary line of Section 13 in Township 27 South, Range 26 East and the north shoreline of Lake Lowery; thence

(35) Turning and running east, south and west long the shoreline of Lake Lowery to its point of intersection with the east boundary line of Section 23 in Township 27 South, Range 26 East; thence

(36) Turning and running south along the east boundary line of Section 23 in Township 27 South, Range 26 East to the southeast corner of the aforesaid Section 23; thence

(37) Turning and running west from the southeast corner of Section 23 in Township 27 South, Range 26 East, along the south boundary lines of Sections 23, 22, 21, 20 and 19 and continuing to a point on the southern boundary line of Section 24 in Township 27 South, Range 25 East, which is one-half mile west of the southeastern corner of said Section 24, a distance of 5.5 miles; thence

(38) North along the west boundary line of the east half-section of Section 24 in Township 27 South, Range 25 East, a distance of one-half mile; thence.

(39) West along the north boundary line of the south half-section of Section 24 in Township 27 South, Range 25 East, a distance of one-half mile; thence

(40) North along the west boundary line of Section 24 in Township 27 South, Range 25 East, a distance of one-half mile; thence

(41) West along the north boundary line of Sections 23 and 22 in Township 27 South, Range 25 East, to a point where said boundary line intersects the northeasterly right-of-way line of State Road 559, a distance of 1.2 miles, more or less; thence

(42) West, then north, along the north, then east, right-of-way line of State Road 559 to a point in Section 10, Township 27 South, Range 25 East, which point is the intersection of the east right-of-way line of State Road 559 and the east right-of-way line of State Road 559A, a distance of 1.6 miles, more or less; thence

(43) Northerly along the east right-of-way line of State Road 559A to a point in Section 3, Township 27 South, Range 25 East, which point is the intersection of the east right-of-way line of State Road 559A and the north right-of-way line of Interstate Highway 4 (State Road 400), a distance of one mile, more or less; thence

(44) Turning and running west, then southwesterly, along the north right-of-way line of Interstate Highway 4 to a point where said right-of-way intersects the south boundary line of Section 10 in Township 27 South, Range 24 East, a distance of 5.8 miles, more or less; thence

(45) West along the south boundary line of Sections 10, 9, and 8, in Township 27 South, Range 24 East, a distance of 2.7 miles, more or less; thence

(46) South along the east boundary line of Section 18 in Township 27 South, Range 24 East, a distance of one mile; thence

(47) West along the south boundary line of Section 18 in Township 27 South, Range 24 East, a distance of one mile; thence

(48) North along the east boundary line of Sections 13 and 12 in Township 27 South, Range 23 East, to the southeastern corner of the northern one-half of the northeastern quarter-section of said Section 12, a distance of 1.75 miles; thence

(49) West along the south boundary line of the northern halves of the northeastern and northwestern quarter-sections of Section 12 in Township 27 South, Range 23 East, to the point of beginning.

Specifically excluding and exempting herefrom the following:

(1) Lake Louisa State Park

(2) The south half of Sections 28 and 29 and all of Sections 32 and 33 in Township 26 South, Range 25 East.

Specific Authority 380.05(1), (12), 380.055(1) FS. Law Implemented 380.05 FS. History—New 7-25-74, Formerly 22F-5.02, Amended 11-18-79.

27F-5.03 Principles for Guiding Development.

(1) Objectives To Be Achieved

(a) Minimize the adverse impacts of development on resources of the Floridan Aquifer, wetlands, and flood-detention areas.

(b) Protect the normal quantity, quality and flow of ground water and surface water which are necessary for the protection of resources of state and regional concern.

(c) Protect the water available for aquifer recharge.

(d) Protect the functions of the Green Swamp

Potentiometric High of the Floridan Aquifer.

(e) Protect the normal supply of ground and surface water.

(f) Prevent further salt-water intrusion into the Floridan Aquifer.

(g) Protect or improve existing ground and surface-water quality.

(h) Protect the water-retention capabilities of wetlands.

(i) Protect the biological-filtering capabilities of wetlands.

(j) Protect the natural flow regime of drainage basins.

(k) Protect the design capacity of [illegible]n areas and the water-management [illegible] these areas through the maintenance [illegible]ic characteristics of drainage basins.

[illegible]ments

[illegible]equiring Regulation	Regulatory Guidelines
[illegible] Site Platting	The platting of land should be permitted only when such platting commits development to a pattern which will not result in the alteration of the natural surface water flow regime and which will not reduce the natural recharge rate of the platted site.
(b) Site Alteration	Site alteration should be permitted only when such alteration will not adversely affect the natural surface-water flow regime or natural recharge capabilities of the site. Site alteration should be permitted only when such alteration will not cause siltation of wetlands or reduce the natural retention and filtering capabilities of wetlands. All site alteration activities should provide for water retention and settling facilities; should maintain an overall site runoff equivalent to the natural flow regime prior to alteration and should maintain a runoff rate which does not cause erosion.
(c) Soils	All soil exposed as a result of site alteration or development activities should be located and stabilized in a manner to prevent the alteration of the natural flow regime. All soil exposed as a result of site alteration or development activities should be restored with suitable vegetation.
(d) Ground Water	Ground water withdrawal should not exceed the safe yield per acre as determined by the Southwest Florida Water Management District, or its successor agency.
(e) Storm-Water	Storm-water runoff should be released into the wetlands in a manner approximating the natural flow regime.
(f) Solid Waste	Solid waste disposal facilities should be located in areas and operated in a manner that will not adversely affect the ground-water system.
(g) Structures	Structures should be placed in a manner that will not adversely affect the natural flow regime and which will not reduce the recharge capabilities. Placement of structures should be consistent with sound flood plain management practices such as compliance with the Flood Disaster Protection Act of 1973.

Specific Authority 380 FS. Law Implemented 380.05 FS. History—New 7-25-74, Formerly 22F-5.03.

27F-5.04 Administration.

(1) All land-development regulations adopted pursuant to these guidelines should be administered by the local government.

(2) To the extent possible, local regulations, as required by Subsection 380.505(5), Florida Statutes, should be performance oriented, and should differentiate between the natural development suitability of the wetlands, flatwoods and uplands.

Specific Authority 380.05(1) FS. Law Implemented 380.05 FS. History—New 7-25-74, Formerly 22F-5.04.

27F-5.05 Technical Assistance. In developing appropriate regulations for the Green Swamp Critical Area, pursuant to Subsection 380.05(5), Florida Statutes, the Southwest Florida Water Management District and the Bureau of Land and Water Management, Department of Community Affairs are hereby directed to assist the counties of Lake and Polk.

Specific Authority 380.05(1) FS. Law Implemented 380.05 FS. History—New 7-25-74, Formerly 22F-5.05.

27F-5.06 Effective Date. Commencing fifteen (15) days after adoption by the Administration Commission, the principles for guiding development contained herein shall apply to all development undertaken in the critical area.

Specific Authority 380.05(1) FS. Law Implemented 380.05 FS. History—New 7-25-74, Formerly 22F-5.06.

CHAPTER 27F-6
LAND PLANNING
PART VI
BOUNDARY AND REGULATIONS FOR THE GREEN SWAMP AREA OF CRITICAL STATE CONCERN POLK COUNTY
(Formerly 22F-6)

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27F-6.01 Short Title. This chapter shall be known as the Polk County Green Swamp Development Code.

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-6.01.

27F-6.02 Purpose and Intent. Pursuant to Section 7, Article II, of the Florida Constitution and Section 380.05, Florida Statutes, it is the purpose of these regulations to conserve and protect the environmental and economic resources of the Green Swamp Area of Critical State concern and to provide a land and water management system to protect such resources and facilitate orderly and well planned growth. To effectively and equitably accomplish such purposes, these regulations should be implemented by the local government through existing administrative procedures and pursuant to Chapter 27F-5, Florida Administrative Code, to achieve the following objectives:

(1) Minimize the adverse impacts of development on resources of the Floridan Aquifer, wetlands and flood-detention areas.

(2) Protect the normal quantity, quality and flow of ground water and surface water which are necessary for the protection of resources of state and regional concern.

(3) Protect the water available for aquifer recharge.

(4) Protect the functions of the Green Swamp Potentiometric High of the Floridan Aquifer.

(5) Protect the normal supply of ground and surface water.

(6) Prevent further salt-water intrusion into the Floridan Aquifer.

(7) Protect or improve existing ground and surface-water quality.

(8) Protect the water-retention capabilities of wetlands.

(9) Protect the biological-filtering capabilities of wetlands.

(10) Protect the natural flow regime of drainage basins.

(11) Protect the design capacity of flood-detention areas and the water-management objectives of these areas through the maintenance of hydrological characteristics of drainage basins.

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-6.02.

27F-6.03 Agricultural Exemption. The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products; raising livestock; or for other purposes directly related to all such uses are exempt from these regulations, for example, but not limited to, wells, access roads, utilities, and utility lines. Lands lying fallow are deemed to be used for agricultural purposes. However, whenever any person carries out any activity defined herein, as development or applies for a development permit, as defined herein, to develop exempted land, these regulations shall apply to such application and to such land.

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05 FS. History—New 7-20-75, Formerly 22F-6.03.

27F-6.04 Vested Rights in Property. Where vested rights in property exist pursuant to Subsection 380.05(15), Florida Statutes, these regulations shall not abr[illegible] them. Any person whose rights may ha[illegible]ed pursuant to Subsection 380.05(15), [illegible]S., may seek a determination from the local government having

jurisdiction over development or the Bureau of Land and Water Management, Department of Community Affairs. Request for vested rights determination from the Bureau of Land and Water Management, Department of Community Affairs shall be submitted as a petition for a declaratory statement pursuant to Subsection 120.56, F. S., and upon a form as prescribed by the Bureau.

Specific Authority 380.05, 120.56 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 1-20-75, Formerly 22F-6.04.

27F-6.05 Definitions.

(1) "Administration commission" or "commission" means the Governor and the Cabinet and for purposes of this chapter, the commission shall act on a simple majority.

(2) "Aquifer" means an underground formation, or group of formations, or part of a formation, that is permeable enough to transmit and store usable quantities of water.

(3) "Artesian Aquifer" means an aquifer that contains artesian water.

(4) "Artesian Water" means ground water that is under sufficient pressure to rise above the level at which it is encountered by a well, but which does not necessarily rise to or above the surface of the ground.

(5) "Board" means the Polk County Board of County Commissioners.

(6) "Development," see definition (46)

(7) "Development order" means any order granting, denying, or granting with conditions an application for a development permit.

(8) A "development permit" includes any building permit, zoning permit, plat approval, or rezoning, certification, variance, or other action having the effect of permitting development as defined in this chapter.

(9) "Developer" means any person, including a governmental agency, undertaking any development as defined in this chapter.

(10) "Discharge" means the outflow of water from a site, aquifer, or drainage basin.

(11) "Drainage Facilities" means any canal, ditch, culvert, dike or other facility which lowers the surface or ground water table, acts as a conduit, diverts or directs the flow of water or otherwise affects the natural flow regime.

(12) "Effective Precipitation" means that part of the precipitation (rainfall) which contributes to direct surface runoff.

(13) "Flood Frequency" means the statistically determined average for how often a specific flood level of discharge may be equaled or exceeded.

(14) "Floridan Aquifer" means the aquifer which consists of a series of limestone formations which range from middle Eocene to Miocene in age and that underlies most of Florida and is a major source of ground water for the state.

(15) "Governmental agency" means:

(a) The United States or any department, commission, agency, or other instrumentality thereof;

(b) This state or any department, commission, agency, or other instrumentality thereof;

(c) Any local government, as defined in this chapter, or any department, commission, agency, or other instrumentality thereof;

(d) Any school board or other special district, authority, or other governmental entity.

(16) "Green Swamp" means those lands within Polk County which lie within the boundaries delineated by the legal description in 27F-5.02, Florida Administrative Code.

(17) "Ground Water" means water beneath the surface of the ground, whether or not flowing through known and definite channels.

(18) "Hydroperiod" means that portion of the hydrologic cycle during which water is at or on the soil surface.

(19) "Land" means the earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

(20) "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land.

(21) "Land use" means the development that has occurred on land.

(22) "Local government" means any county or municipality and, where relevant, any joint airport zoning board.

(23) "Major public facility" means any publicly owned facility of more than local significance.

(24) "Natural Flow Regime" means the velocity, volume, and direction of the surface or ground water flow presently occurring for any given portion of the Area of Critical State Concern.

(25) "Parcel of land" means any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

(26) "Peak Surface — Water Discharge" means the maximum discharge rate subsequent to an occurrence of effective precipitation.

(27) "Person" means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

(28) "Pine Flatwoods" means those discrete areas which have one or more of the following naturally occurring soils, or any other soil classified by the U. S. Soil Conservation Service as indicative of a pine flatwood:

Bushnell	Broward
Immokalee	Eureka
Ona	Myakka (Leon)
Scranton	Panasoffkee
Wabasso (Leon loamy substrata)	St. Johns

Pompano Sand, acid	Wauchula (Leon, heavy substrata)
Placid sand, slightly wet	

(29) "Potentiometric Surface" means the imaginary surface coinciding with levels of artesian pressure.

(30) "Recharge" means the downward percolation of surface water into any underground formation.

(31) "Regional planning agency" means the agency designated by the state land planning agency to exercise responsibilities under this chapter in a particular region of the state.

(32) "Regulatory Flood Level" means the level of the flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur on a particular stream. The Regulatory Flood generally has a flood frequency of approximately 100 years as determined from an analysis of floods in a particular area.

(33) "Rule" means a rule adopted under Chapter 120.

(34) "Rural Residence" means a single family residence which is to be a dwelling for the property owner.

(35) "Site Alteration" means a development including, but not limited to, removal of, or damage to, vegetation; by filling, ditching, dredging, draining, excavation, earth moving, water containment and changes in the natural flow regime, or the effects of such actions.

(36) "State land development plan" means a comprehensive statewide plan or any portion thereof setting forth state land development policies.

(37) "State land planning agency" means the agency designated by law to undertake statewide comprehensive planning.

(38) "Structure" means anything constructed, installed, or portable, the use of which requires a location on a parcel of land. It includes a movable structure while it is located on land which can be used for housing, business, commercial, agricultural, or office purposes either temporarily or permanently. Structure also includes fences, billboards, swimming pools, poles, pipelines, transmission lines, tracks, and advertising signs.

(39) "Surface Water" means water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs or wells shall be classified as surface water when it exits from the spring or well onto the earth's surface.

(40) "Total Site" means land which is part of common plan of development, rental, advertising or sale.

(41) "Total Surface-Water Discharge" means the total volume of surface water discharged subsequent to the occurrence of effective precipitation.

(42) "Underground Formation" means any geological unit, part of a unit, or group of units lying beneath the surface of the ground.

(43) "Uplands" means discrete areas which have one or more of the following naturally occurring soils, or any other soil classified by the U. S. Soil Conservation Service as indicative.

Lake	Astatula (Lakeland)
Apopka (Blanton)	Cassia
Lucy	Orlando
Paola (Lakewood)	Pomello
St. Lucie	Tavares
Vaucluse	

(44) "Water Quality" means the chemical, physical and bacteriological composition of water determined by the measurements of appropriate tests as cited in 40 Code of Federal Regulations 136, and Chapter 17-19, Florida Administrative Code.

(45) "Wetlands" means discrete areas which have one or more of the following naturally occurring soils, or any other soil classified by the U. S. Soil Conservation Service as indicative of a wetland:

Anclote	Pamlica
Basinger (Plummer)	Placid (Rutlege)
Iberia	Iberia & Manatee
Oklawaha	Fellowship
Pelham	Emeralda
Pompano	Feldo
Anclote & Myakka	Ocoee
Placid & Myakka	Peace River Soils
Brighton	Swamp
Manatee	Myakka & Placid

(46)(a) "Development" means the carrying out of any building or mining operation or the making of any material change in the use or appearance of any structure or land and the dividing of land into three or more parcels.

(b) The following activities or uses shall be taken for the purposes of this chapter to involve development, as defined in this section:

1. A reconstruction, alteration of the size, or material change in the external appearance, of a structure on land.

2. A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, of dwelling units in a structure or on land.

3. Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any coastal construction as defined in Subsection 161.021.

4. Commencement of drilling (except to obtain soil samples) mining, or excavation on a parcel of land.

5. Demolition of a structure.

6. Clearing of land as an adjunct of construction.

7. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

(c) The following operations or uses shall not be taken for the purpose of this chapter to involve development as defined in this section:

1. Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the rights-of-way.

2. Work by any utility and other persons engaged in the distribution or transmission of gas or water, for the purpose of inspecting, repairing, renewing, or constructing on established rights-of-way any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like.

3. Work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.

4. The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling.

The use of any land for the purpose of [illegible]nts, crops, trees, and other [illegible] forestry products; raising livestock; [illegible]gricultural purposes.

A change in use of land or structure from a [illegible] within a class specified in an ordinance or rule [illegible] another use in the same class.

A change in the ownership or form of ownership of any parcel or structure.

8. The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land or other rights in land.

(d) "Development," as designated in an ordinance, rule, or development permit includes all other development customarily associated with it unless otherwise specified. When appropriate to the context, development refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of subsection (1).

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-6.05.

27F-6.06 Boundary. These rules shall apply to the Polk County portion of the Green Swamp Area of Critical State Concern as designated by Chapter 27F-5.02, Florida Administrative Code.

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-6.06.

27F-6.07 Applicability. The regulations set forth in this Code shall only apply to that portion of Polk County within the Green Swamp Area of Critical State Concern. These regulations shall be construed as being supplementary and complementary [illegible] regulations imposed on the same lands b[illegible] County or any other governmental ju[illegible]ction.

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-6.07.

27F-6.08 General Minimum Standards. All development within the Green Swamp Area of Critical State Concern shall meet the following standards and criteria:

(1) The developer shall provide for the release of surface water runoff, collected or uncollected, in a manner approximating the natural, surface water flow regime of the area.

(2) The first floor or basement floor of all structures shall be constructed at least one (1) foot above the Regulatory Flood Level for the particular area.

(3) Treatment of storm-water runoff shall be provided by settling ponds, soil fixatives, control of non-point chemical pollutants, or the performance equivalent structures or systems when such runoff may contaminate surface or ground water resources.

(4)(a) Except as provided for in paragraph (b) of this standard, site alternation shall be limited in accordance with the natural drainage capabilities of the major soil associations. The amount of site alteration shall be limited to the following percentages of the area of each association within any given total site:

Upland association	60%
Pine Flatwood association	25%
Wetland association	10%

The installation of non-permeable surfaces shall be limited to 50% of any altered site. However, a minimum of 2,500 square feet may be covered with non-permeable surfaces on any permitted site.

(b) For the public and quasi-public uses listed below the site alteration shall be limited to 60% of the total site size provided the site is located on an upland or a pine flatwood soil association. Except for recreational purposes, these uses shall be excluded from the wetlands:

1. Public education facilities;

2. Governmental structures which provide tax-supported services to the residents of Polk County

3. Public utilities or municipal or other governmental agencies' generation systems for gas, electricity, or steam.

(c) It shall be the responsibility of the developer to provide the information which will allow satisfactory determination of whether such lands lie within the uplands associations, pine flatwood associations, wetland associations, or any combination thereof. This determination shall be made in accordance with Section 27F-6.09(2)(b), Florida Administrative Code.

(5) Except for roads, any nonpermeable surface greater than 20,000 square feet shall provide for release of surface runoff, collected or uncollected, in a manner approximating the natural surface water flow regime of the area.

(6) Soils exposed during site alteration shall be stabilized and retention ponds or performance equivalent structures or systems maintained in order to retain runoff and siltation on the construction site.

(7) Any altered site shall be revegetated and such revegetation shall be subsequently completed within 180 days following completion of a development. Revegetation shall be accomplished with pre-existing species or other suitable species except that undesirable exotic species shall not be replanted or propagated.

(8) Fill areas and related dredge or borrow ponds shall be aligned substantially in the direction of local surface water flows and shall be separated from other fill areas and ponds by areas of vegetation of comparable size. Dredge or borrow ponds shall provide for the release of storm waters as sheet flow from their downstream end and into areas of vegetation. Access roads to and between fill areas shall provide for the passage of water in a manner approximating the natural flow regime and designed to accommodate the 50 year storm. Fill areas and related ponds shall not substantially retain or divert the total flow.

(9) Man-made lakes, ponds, or other containment works shall be constructed with a maximum slope of 30 degrees to a depth of six feet of water. Whenever mineral extraction is completed in new quarries, shoreline sloping, revegetation, and contouring of soils or tailings shall be completed before abandonment. Existing quarry lakes shall be exempt from this provision, except that whenever any person carries out any activity defined as development or applies for a development permit, as defined herein, to develop any existing quarry lake area, these regulations shall apply.

(10) Development shall not detrimentally change the quantity of ground and surface water available for recharge to the Floridan Aquifer. A developer shall not cause storm water from the site to discharge or runoff into an existing sinkhole.

(11) The development shall not impair the water retention and filtering capacity of wetlands soils or vegetation.

(12) New drainage facilities shall release water in a manner approximating the natural local surface flow regime, through a spreader pond or performance equivalent structure or system, either on site or to a natural retention or natural filtration and flow area. New drainage facilities shall also maintain a ground water level sufficient to protect wetland vegetation through the use of weirs or performance equivalent structures or systems. Said facilities shall not retain, divert, or otherwise block or channel the naturally occurring flows in a strand or slough.

(13) Solid waste disposal sites shall meet all the requirements of this Code.

(14) Site alteration shall be permitted only when such alteration will not cause siltation of wetlands or reduce the natural retention and filtering capabilities of wetlands.

(15) Ground water withdrawal shall comply with the standards and regulations of the Southwest Florida Water Management District or its successor agency.

(16) Placement of structures shall be consistent with sound floodplain management practices such as compliance with Flood District Disaster Protection Act of 1973.

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-6.08.

27F-6.09 Permit Requirements.

(1) Any development as defined herein undertaken in the Green Swamp Area of Critical State Concern shall require a development permit. Development permits for any change in zoning, plat approvals or vacancies shall be issued in the form of a development order as defined in these regulations. An application for a development permit shall be submitted to the Polk County Planning Department, or the Polk County Building and Zoning Codes Department, whichever shall be designated by the Board, together with any reasonable fee set by the Board.

(2) Prior to issuance of any development permit, an applicant shall submit a development plan to the county agency designated by the Board pursuant to subsection (1) of this rule. The development plan shall affirmatively demonstrate that the proposed development meets or exceeds the requirements of this Code. No permit shall be issued until the requirements of this Code are met. The development plan shall include the description and scope of the proposed project in report form. The development plan shall include, but not be limited to, the following documents and information:

(a) A certified survey of the site showing topography in no more than one (1) foot contours in the wetlands and the pine flatwoods and two (2) foot contours in the uplands by a land surveyor registered in the State of Florida.

(b) A soil analysis prepared by a registered professional engineer or the U. S. Soil Conservation Service which will be detailed and accurate enough to allow for the soils determination required in Section 27F-6.08(4)(a), of this Code.

(c) A statement by a registered professional engineer indicating expected changes in surface and ground water quality discharge, and artesian aquifer recharge characteristics of the site before, during, and after development and specifying any measures necessary to approximate existing quality and quantity in surface and ground waters.

(d) A vegetation map of the site.

(e) A development implementation schedule.

(f) A site plan indicating any proposed alteration or development.

(g) A Impact Asses[illegible] Statement as required by zoning chan[illegible]edures.

(3) A development pla[illegible] not be required in the following three (3) instances unless

specifically requested by a county agency:

(a) The modification of any single-family residential structure for the uses of a single family.

(b) The construction of any rural residence, as referred to in this Code, shall require only the site plan and certified soil analysis.

(c) The four laning of U. S. 98 by the Florida Department of Transportation between I-4 and the Polk County Line, and any construction or alteration caused by acquiring the right-of-way needed for this facility.

(4) A development permit shall not be required by this chapter in the following two (2) instances unless otherwise required by these applicable county ordinances or regulations:

(a) The modification of any existing ·lential structure that does not exceed ten (10) of the square footage of its original

ne residential accessory structure may be ..., not to exceed six hundred (600) square feet, ovided such structure does not exceed the site coverage stipulated in 27F-6.08(4)(a) of this chapter.

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Amended 4-19-77, Formerly 22F-6.09.

27F-6.10 Minimum Requirements. The provisions of this Code shall be considered to be minimum requirements for the protection and promotion of the public health, safety, or general welfare. Whenever the requirements of this Code are at variance with the requirements of any other rules, regulations or codes, which are a proper exercise of authority of a governmental jurisdiction, the more restrictive standards shall govern.

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-6.10.

27F-6.11 Appeals and Notification. Appeals from a local government's decision on development orders in the Green Swamp Area of Critical State Concern shall be made to the Florida Land and Water Adjudicatory Commission by filing a notice of appeal with the Commission in accordance with Section 380.07, Florida Statutes. A copy of each development order issued in the Green Swamp Area of Critical State Concern shall be transmitted to the Bureau of Land and Water Management, Department of Community Affairs and to the developer or owner of the property affected by such decision.

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-6.11.

27F-6.12 Variances. Variance procedures provided in local ordinances shall apply to the Green Swamp Area of Critical State Concern. However, in addition to the standards provided in such ordinances, no variance shall be granted for any development within the critical area unless such development is designed consistent with critical area regulations to have minimum adverse impact on the area's water storage capacity, surface water flow and wetlands. The applicant shall have the affirmative burden of establishing that the development will have a minimum adverse impact on such resources.

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-6.12.

27F-6.13 Amendments. Upon adoption by the County Commission of any land development regulations which would apply solely to the Green Swamp Area of Critical State Concern, such regulations shall be transmitted to the Bureau of Land and Water Management, Department of Community Affairs. If the Bureau finds that such regulations comply with the principles for guiding development specified in Chapter 27F-5, Florida Administrative Code, adopted by the Administration Commission pursuant to Chapter 380, Florida Statutes, the Bureau shall by rule, approve the submitted regulations. Approved regulations shall supersede any regulations previously adopted for the Green Swamp Area of Critical State Concern.

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-6.13.

27F-6.14 Enforcement. Pursuant to Section 380.05(8), Florida Statutes, this Code shall be administered by the local government as if the regulations constitute or are a part of the local land development regulations.

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-6.14.

27F-6.15 Severability. If any one or more of the provisions of these regulations or the application of such provisions to any situation, circumstance or person shall for any reason be held invalid, such invalidity shall not affect any other provision of these regulations or the application of such regulations to any other situation, circumstance or person.

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-6.15.

CHAPTER 27F-7
LAND PLANNING
PART VII
BOUNDARY AND REGULATIONS FOR THE GREEN SWAMP AREA OF CRITICAL STATE CONCERN LAKE COUNTY
(Formerly 22F-7)

27F-7.01 Short Title.
27F-7.02 Purpose and Intent.
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27F-7.06 Boundary.
27F-7.07 Master Land Use Plan.
27F-7.08 Performance Criteria.
27F-7.09 General Provisions.
27F-7.10 Minimum Requirements.
27F-7.11 Enforcement.
27F-7.12 Variances.
27F-7.13 Appeals.
27F-7.14 Amendments.
27F-7.15 Severability.

27F-7.01 Short Title. This chapter shall be known as the Lake County Green Swamp Development Code.

Specific Authority 380.05 FS, Chapter 27F-5, F. A. C. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-7.01.

27F-7.02 Purpose and Intent. Pursuant to Section 7, Article II, of the Florida Constitution and Section 380.05, Florida Statutes, it is the purpose of these regulations to conserve and protect the environmental and economic resources of the Green Swamp Area of Critical State Concern, and to provide a land and water management system to protect such resources and to facilitate orderly and well-planned growth. To effectively and equitably accomplish such purposes, these regulations should be implemented by the local government through existing administrative procedures, and pursuant to Chapter 27F-5, Florida Administrative Code, achieve the following objectives:

(1) Minimize the adverse impacts of development on resources of the Floridan Aquifer, wetlands and flood-detention areas.

(2) Protect the normal quantity, quality and flow of ground water and surface water which are necessary for the protection of resources of state and regional concern.

(3) Protect the water available for aquifer recharge.

(4) Protect the functions of the Green Swamp Potentiometric High of the Floridan Aquifer.

(5) Protect the normal supply of ground and surface water.

(6) Prevent further salt-water intrusion into the Floridan Aquifer.

(7) Protect or improve existing ground and surface water quality.

(8) Protect the water-retention capabilities of wetlands.

(9) Protect the biological-filtering capabilities of wetlands.

(10) Protect the natural flow regime of drainage basins.

(11) Protect the design capacity of flood-detention areas and the water-management objectives of these areas through the maintenance of hydrologic characteristics of drainage basins.

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-7.02.

27F-7.03 Agricultural Exemption. The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products; raising livestock; or for other purposes directly related to all such uses are exempt from these regulations, for example, but not limited to, wells, access roads, utilities, and utility lines. Lands lying fallow are deemed to be used for agricultural purposes. However, whenever any person carries out any activity defined herein, as development or applies for a development permit, as defined herein, to develop exempted land, these regulations shall apply to such application and to such land.

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-7.03.

27F-7.04 Vested Rights in Property. Where vested rights in property exist pursuant to Section 380.05(15), Florida Statutes, these regulations shall not abridge them. Any person whose rights may have vested pursuant to Section 380.05(15), F. S., may seek a determination from the local government having jurisdiction over development or from the Bureau of Land and Water Management, Department of Community Affairs. Request for vested rights determination from the Bureau shall be submitted as a petition for a declaratory statement pursuant to Section 120.56, F. S., and upon a form as prescribed by the Bureau.

Specific Authority 380.05, 120.56 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-7.04.

27F-7.05 Definitions.

(1) "Administration Commission" or "Commission" means the Governor and the Cabinet, and for purposes of this chapter the Commission shall act on a simple majority.

(2) "Aquifer" means an underground formation or group of formations that are permeable enough to transmit and store usable quantities of water.

(3) "Artesian Aquifer" means an aquifer in which water is confined so that its surface is not free to rise.

(4) "Artesian Water" means ground water that is under sufficient pressure to rise above the level at which it is encountered by a well, but which does not necessarily rise to or above the surface of the ground.

(5) "Development," see definition (44).

(6) "Development Order" means any order granting, denying, or granting with conditions an application for a development permit.

(7) A "Development Permit" includes any building permit, zoning permit, plat approval, or rezoning, certification, variance, or other action having the effect of permitting development as defined in this chapter.

(8) "Developer" means any person, including a governmental agency, undertaking any development as defined in this chapter.

(9) "Discharge" means the outflow of water from a site, aquifer, or drainage basin.

(10) "Drainage Basin" means a drainage system consisting of surface streams or bodies of impounded surface water together with all tributary surface streams and bodies of impounded water.

(11) "Drainage Facilities" means any canal, ditch, culvert, dike or other facility which lowers the surface or ground water table, acts as a conduit, diverts or directs the flow of water or otherwise affects the natural flow regime.

(12) "Effective Precipitation" means that part of the precipitation (rainfall) which contributes to direct surface runoff.

(13) "Flood or Flooding" means a temporary rise in water levels that results in inundation of normally dry land areas from the overflow of streams or other inland waters or from a rise in coastal waters.

"Flood-Prone Area" means any area s at or below the water surface elevation tory flood level."

idan Aquifer" means the aquifer of a series of limestone formations range from middle Eocene to Miocene in nd which underlies most of Florida and is a r source of ground water for the state.

6) "Governmental Agency" means:

(a) The United States or any department, commission, agency, or other instrumentality thereof;

(b) This state or any department, commission, agency, or other instrumentality thereof;

(c) Any local government as defined in this chapter, or any department, commission, agency, instrumentality thereof;

(d) Any school board or other special district, authority, or other governmental entity.

(17) "Green Swamp" means those lands within Lake County which lie within the boundaries delineated by the legal description in 27F-5.02, Florida Administrative Code.

(18) "Ground Water" means water beneath the surface of the ground, whether or not flowing through known and definite channels.

(19) "Hydroperiod" means that portion of the hydrologic cycle during which water is at or on the soil surface.

(20) "Land" means the earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

(21) "Land Development Regulations" include local zoning, subdivision, building, and other regulations controlling the development of land.

(22) "Land Use" means the development that has occurred on land.

(23) "Local Government" means any county or municipality [illegible] where relevant, any joint airport zoning b[illegible]

(24) "Major Public Facility" means any publicly owned facility of more than local significance.

(25) "Natural Flow Regime" means the velocity, volume, and direction of the surface or ground water flow presently occurring for any given portion of the Green Swamp Area of Critical State Concern.

(26) "Parcel of Land" means any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit.

(27) "Person" means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

(28) "Pine Flatwoods" means those general discrete areas which have one or more of the following naturally occurring soils.

Soils

Albany	Wauchula
Pompano sand, acid	Eureka
Immokalee	Myakka
Ona	Placid sand,
Wabasso	slightly wet

(29) "Potentiometric Surface" means the imaginary surface coinciding with levels of artesian pressure.

(30) "Recharge" means the downward percolation of surface water into any underground formation.

(31) "Regional Planning Agency" means the agency designated by the state land planning agency to exercise responsibilities under this chapter in a particular region of the state.

(32) "Regulatory Flood Level" means the level of the flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur on a particular stream. The Regulatory Flood generally has a flood frequency of approximately 100 years as determined from an analysis of floods on a particular area.

(33) "Rule" means a rule adopted under Chapter 120.

(34) "Site Alteration" means development including, but not limited to, removal of, or damage to, vegetation; by filling, ditching, dredging, draining, excavation, earth moving, water containment and changes in the natural flow regime, or the effects of such actions. For the purposes of this ordinance, this shall not apply to agricultural activities.

(35) "State Land Development Plan" means a comprehensive statewide plan or any portion thereof setting forth state land development policies.

(36) "State Land Planning Agency" means the agency designated by law to undertake statewide comprehensive planning.

(37) "Structure" means anything constructed, installed, or portable, the use of which requires a location on a parcel of land. It includes a movable structure while it is located on land which can be used for housing, business, commercial, agricultural, or office purposes either temporarily or permanently. Structure also includes fences, billboards, swimming pools, poles, pipelines, transmission lines, tracks, and advertising signs.

(38) "Surface Water" means water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs or wells shall be classified as surface water when it exits from the spring or well onto the earth's surface.

(39) "Total Site" means land which is part of a common plan of development, rental, advertising or sale.

(40) "Underground Formation" means any geological unit, part of a unit, or group of units lying beneath the surface of the ground.

(41) "Uplands" means those general discrete areas which have any of the following naturally occurring soils.

Soils

Apopka	Astatula
Ocilla	Lake
Lucy	Orlando
Paola	Pomello
St. Lucie	Tavares
Vaucluse	Cassia

(42) "Water Quality" means the chemical, physical, and biological composition of water as determined by the measurements of appropriate tests as cited in 40 Code of Federal Regulations 136 and Chapter 17-19, Florida Administrative Code.

(43) "Wetlands" means those general discrete areas which have any of the following occurring soils.

Soils

Anclote	Manatee
Iberia	Felda
Oklawaha	Placid
Pelham	Ocoee
Pompano	Iberia & Manatee
Anclote & Myakka	Swamp
Placid & Myakka	Emeralda
Myakka & Placid	Fellowship
Brighton	Montverde

(44)(a) "Development" means the carrying out of any building or mining operation or the making of any material change in the use or appearance of any structure or appearance of any structure or land and the dividing of land into three or more parcels.

(b) The following activities or uses shall be taken for the purposes of this chapter to involve development as defined in this section:

1. A reconstruction, alteration of the size, or material change in the external appearance of a structure on land.

2. A change in the intensity of use of land, such as an increase in the number of manufacturing establishments, offices, or dwelling units in a structure or on land.

3. Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any coastal construction as defined in Section 161.021, Florida Statutes.

4. Commencement of drilling (except to obtain soil samples) mining, or excavation on a parcel of land.

5. Demolition of a structure.

6. Clearing of land as an adjunct of construction.

7. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

(c) The following operations or uses shall not be taken for the purpose of this chapter to involve development as defined in this section:

1. Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way.

2. Work by any utility and other persons engaged in the distribution or transmission of gas or water, for the purpose of inspecting, repairing, renewing, or constructing on established rights-of-way any sewers, mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like.

3. Work for the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.

4. The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling.

5. The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products; raising livestock; or for other agricultural purposes.

6. A change in use of land or structure from a use within a class specified in an ordinance or rule or another use in the same class.

7. A change in the ownership or form of ownership of any parcel or structure.

8. The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land.

(d) "Development," as designated in an ordinance, rule or development permit includes all other development customarily associated with it unless otherwise specified. When appropriate to the context, development refers to the act of developing or to the result of development. Reference to any specific op[illegible]on is not intended to mean that the operation [illegible]ity, when part of other operations or activit[illegible]not development. Reference to particular operations is not intended

Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-7.05.

27F-7.06 Boundary. These regulations shall apply to the Lake County portion of the Green Swamp Area of Critical State Concern as designated by Chapter 27F-5.02, Florida Administrative Code.
Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-7.06.

27F-7.07 Master Land Use Plan.

(1) Any development as defined in Section 380.04, Florida Statutes, undertaken in the Lake County portion of the Green Swamp Area of Critical State Concern shall require a development permit. Development permits for any change in zoning, plat approval, variances to these regulations, and conditional use shall be issued in the form of development order as defined in Section 380.031, Florida Statutes.

(2) The applicant for a development permit shall submit, at least ten (10) working days prior to issuance of said permit, a Master Land Use Plan as defined herein. The applicant for a development permit shall have the affirmative burden of establishing that the proposed project and supporting data shall meet the requirements and objectives of this Code.

(3) Master Land Use Plan Requirements. For all applicants for permits, except those exempted herein, a Master Land Use Plan shall be required. The Master Land Use Plan shall include, but not be limited to, the following:

(a) A description of the scope of the proposed development which shall include:

1. The planning and engineering considerations to be used in achieving the objectives of this Code.

2. The number of dwelling units, the total lot coverage, and the percentage of open space to be preserved.

3. An implementation and phasing schedule.

4. A concept site plan.

5. A site restoration plan.

(b) Certified maps of the site from a registered professional engineer or soil conservation survey which shall include:

1. A soil analysis prepared by a professional engineer registered in the State of Florida or the U. S. Soil Conservation Service which is sufficient in detail to meet the requirements of this Code.

2. The topography in no more than one (1) foot contours in the wetlands and flatwoods and two (2) foot contours in the uplands.

3. The flood prone areas of the particular site.

(c) A statement by a registered professional engineer indicating expected changes in the quality and quantity of ground water discharge and artesian aquifer recharge of the site before, during, and after development and specifying any measure necessary to approximate existing quality and quantity in surface and ground waters.

(d) A statement or assessment by a registered professional engineer that drainage facilities shall release water in a manner approximating the natural local surface flow regime, through a spreader pond or performance equivalent structure or system, either on site or to a natural retention or natural filtration and flow area.

(4) Exemptions.

A Master Land Use Plan shall not be required in the following two (2) instances, unless specifically requested by the County Planning Department or other county agency:

(a) The modification of an existing single family residential structure.

(b) Construction of a single family dwelling that is not part of a common plan of development.
Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-7.07.

27F-7.08 Performance Criteria.

(1) All development in flood prone areas shall meet the following standards:

(a) Structures that are built in a flood prone area shall have a minimum basement or first floor level of 12 inches above the regulatory flood level.

(b) Development shall not adversely affect the natural flow regime or reduce the recharge capabilities of the area.

(c) All development shall be consistent with sound flood plain management practices and comply with the Flood Disaster Act of 1973 (PL 93-234) and Federal Insurance regulations applicable in flood prone areas.

(2) Development in the uplands shall not significantly reduce the on site percolation rate of rain water back into the ground from that which existed when the land was in its undisturbed state.

(3) All drainage facilities shall include engineering design features to remove suspended solids and other contaminants and pollutants in storm water runoff to meet Lake County Pollution Control Board Water Control Standards.

(4) Sites shall be developed to maximize the amount of natural rainfall which is percolated into the soil and to minimize direct overland runoff into adjoining streets and water courses to the extent feasible. Storm water runoff from roofs and other nonpermeable surfaces shall be diverted into swales or terraces on the site. Whenever land lying within 200 feet of a lake and which slopes toward said lake is developed, the following methods shall be provided to minimize storm water runoff into the lake:

(a) Construction of terraces which slope in the direction away from the lake, and

(b) Erection of a tree line or performance equivalent structures to reduce or divert runoff.

(5) Street drainage by grassed swales shall be utilized except where flow velocities in excess of two feet per second are anticipated, in which case curbs and gutters or other engineering techniques may be required. The overflow from these swales and other drainage facilities shall be diverted to natural percolation areas or artificial seepage basins of at least sufficient capacity to retain the storm water runoff from each drainage area for a fifty (50) year storm. Natural lakes shall not be used as retention areas for the increased runoff generated by development. Drainage facilities shall be provided for all percolation, seepage basins and detention areas to handle the runoff from storms which exceed the fifty (50) year storm in duration and severity.

(6) Storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. Such systems shall ensure drainage at all points along streets and provide positive drainage away from buildings and on-site waste disposal sites.

(7) Site Alteration.

(a) Except as provided for in subparagraph (b) of this standard, site alteration shall be limited in accordance with the natural drainage capabilities of the major soil associations. The amount of site alteration shall be limited to the following percentages of the area of each association within any given total site:

Upland association	60%
Pine flatwood association	25%
Wetland association	10%

The installation of nonpermeable surfaces shall be limited to 50% of any altered site. However, a minimum of 2,500 square feet may be covered with nonpermeable surfaces on any permitted site.

(b) For the public and quasi-public uses listed below, site alternation shall be limited to 60% of the total site size provided the site is located on an upland or pine flatwood soil association. Except for recreational purposes, these uses shall be excluded from the wetlands:

1. Public education facilities;

2. Governmental structures which provide tax supported services;

3. Public utilities or municipal or other governmental agencies' generation systems for gas, electricity, steam or water.

(c) It shall be the responsibility of the developer to provide all required information which will allow satisfactory determination of whether such lands lie within the uplands associations, or any combination thereof. This determination shall be made in accordance with 27F-7.07(3)(b)1, of this Code.

(d) Soils exposed during site alteration shall be stabilized and retention ponds or performance equivalent structures or systems maintained. Restoration of vegetation to site alteration areas shall be substantially completed within 180 days following completion of each phase of development.

(e) It is the responsibility of the applicants to demonstrate that the plans achieve the following objectives:

1. That the site alteration shall not adversely affect the natural surface flow regime or natural recharge capabilities of the site.

2. That site alteration shall not cause siltation of wetlands or reduce the natural retention of filtering capabilities of the wetlands.

3. That all site alteration activities shall provide for water retention and settling facilities, shall maintain an overall site runoff approximating the natural flow regime prior to such alterations and shall maintain a runoff rate that does not cause erosion.

(8) Fill Areas, Borrow Pits and Mines.

(a) Fill areas and related dredge and borrow pits shall be aligned substantially in the direction of local surface water flows and shall be separated from other fill areas and ponds by unaltered areas of vegetation of comparable size. Dredge or borrow pits shall provide for the release of storm waters as sheet flow from their downstream end into unaltered areas of vegetation. Access roads to and between fill areas shall provide for the passage of water in a manner approximating the natural flow regime and designed to accommodate the 50 year storm. Fill areas and related ponds shall not substantially retain or divert the total flow.

(b) Man-made lakes, ponds or other containment works shall be constructed with maximum slope of 30 degrees to a depth of six feet of water.

(c) Mining operations shall be completely self-contained and shall retain any waste materials or water generated by the process of mining on the premises. The operation shall not utilize any surface water from lakes or ponds which are not entirely on the property.

(d) Any unusable soil or other debris shall be reasonably contoured as it is removed from the mine area, with the exception of the settling area and the dikes which shall be contoured upon termination of their use.

(e) All mines, borrow pits, fill areas and related dredge operations shall meet all the requirements of this Code, except that the requirements of 27F-7.08(8)(a) do not apply to mines.

(9) Solid Waste. Solid waste disposal sites shall meet all the requirements of this Code.

(10) Ground water withdrawal shall comply with the standards and regulations of the Southwest Florida Water Management District or its successor agency.
Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-7.08.

27F-7.09 General Provisions. A copy of any Master Land Use Plan submitted in support of a request for zoning, plat approval, and conditional use permit, pursuant to the requirements of 27F-7.07 of this Code, shall be sent to the Bureau of Land and Water Management, Department of Community Affairs, within three (3) working days of the issuance of the development order.
Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-7.09.

27F-7.10 Minimum Requirements. The provisions of this Code shall be considered to be minimum requirements for the protection and promotion of the public health, safety, morals and general welfare. Whenever the requirements of this Code are at variance with the requirements of any other rules, regulations, or codes, which are a proper exercise of authority of a governmental jurisdiction, the more restrictive standards shall govern.
Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-7.10.

27F-7.11 Enforcement. Pursuant to Section 380.05(8), Florida Statutes, this Code shall be administered by the local government as if the regulations constitute or are a part of the local land development regulations.
Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-7.11.

27F-7.12 Variances. Variance procedures provided in local ordinances shall apply to the Green Swamp Area of Critical State Concern. However, in addition to the standards provided in such ordinances, no variance shall be granted for any development within the critical area unless such development is designed, consistent with critical area regulations, to have minimum adverse impact on the area's water storage capacity, surface water flow and wetlands. The applicant shall have the affirmative burden of establishing that the development will have a minimum adverse impact on such resources.
Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-7.12.

27F-7.13 Appeals. Appeals from a local government's decision on development orders in the Green Swamp Area of Critical State Concern shall be made to the Florida Land and Water Adjudicatory Commission by filing a notice of appeal with the Commission in accordance with Section 380.07, Florida Statutes.
Specific Authority 380.05, 380.07 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-7.13.

27F-7.14 Amendments. Upon adoption by the County Commission of any land development regulations which would apply solely to the Green Swamp Area of Critical State Concern, such regulations shall be transmitted to the Bureau of Land and Water Management, Department of Community Affairs for review. If the Bureau finds that such regulations comply with the principles for guiding development specified in Chapter 27F-5, Florida Administrative Code, adopted by the Administration Commission pursuant to Chapter 380, Florida Statutes, the Bureau shall, by rule, approve the submitted regulations. Approved regulations shall supersede any regulations previously adopted for the Green Swamp Area of Critical State Concern.
Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-7.14.

27F-7.15 Severability. If any one or more of the provisions of these regulations or the application of such provisions to any situation, circumstance or person shall for any reason be held invalid, such invalidity shall not affect any other provision of these regulations or the application of such regulations to any other situation, circumstance or person.
Specific Authority 380.05 FS, Chapter 27F-5, FAC. Law Implemented 380.05(8) FS. History—New 7-20-75, Formerly 22F-7.15.

CHAPTER 27F-8
L[illegible] PLANNING
[illegible]RT VIII
BOUNDARY AND PRINCIPLES FOR GUIDING DEVELOPMENT FOR THE FLORIDA KEYS AREA OF CRITICAL STATE CONCERN
(Formerly 22F-8)

27F-8.01 Purpose. Pursuant to Section 7, Article II, of the Florida Constitution, and Section 380.05, Florida Statutes, it is the purpose of these rules to define the boundary of the Florida Keys Area of Critical State Concern and to provide principles for guiding development within the critical area in order to conserve and protect the natural, environmental, historical and economic resources, the scenic beauty, and the public facilities within the Area of Critical State Concern. It is the further purpose of these rules to provide a comprehensive plan and development regulations that will preserve water quality, provided for the optimum utilization of the limited water resources of the area, facilitate orderly and well-planned development, and protect the health, welfare, safety and quality of life of the residents of the state. To effectively and equitably accomplish such purposes these rules should be implemented by local governments through administrative processes consistent with the comprehensive plan. These processes shall be strengthened to the end that local government is able to achieve the purposes herein stated without the continuation of the designation of area of critical state concern. All existing rights of private property should be preserved in accordance with the constitution of the State of Florida and the United States.
Specific Authority 380.05, 380.0552(1) FS. Law Implemented 380.05, 380.0552(1) FS. History—New 5-16-75, Formerly 22F-8.01, Amended 8-23-84.

ANNOTATIONS

Standing
Promulgation of rule governing development of Florida Keys Area of Critical State Concern is "final agency action" within purview of F. S. A. § 120.68(1); City of Key West has standing to appeal agency action, under F. S. A. § 120.52(9)(a), as specifically named person whose substantial interest is being determined, and those individual petitioners who were allowed by agency to participate in hearings on proposed rule have standing to appeal agency action under F. S. A. § 120.52(9)(c). City of Key West v. Askew, App., (1st) 324 So. 2d 655 (1975).

Validity
Criteria provided in F. S. A. § 380.05(2)(a) and (b), were declared unconstitutional under nondelegation doctrine, since primary policy decision of area of critical state concern to be designated as well as principles for guiding development in that area were delegated to administrative body. Askew v. Cross Key Waterways, 372 So. 2d 913 (1979), aff'g App., (1st) 351 So. 2d 1062 (1977).

27F-8.02 Boundary. The following area is hereby designated as the Florida Keys Area of Critical State Concern:

All lands in Monroe County, except:

(1) that portion of Monroe County included within the designated exterior boundaries of the Everglades National Park and areas north of said Park;

(2) all lands seaward of mean high water that are owned by local, state, or federal governments;

(3) Federal properties; and

(4) area within the incorporated boundaries of the City of Key West.
Specific Authority 380.05, 380.0552(1) FS. Law Implemented 380.05, 380.0552(1) FS. History—New 5-16-75, Formerly 22F-8.02, Amended 8-23-84.

ANNOTATIONS

Standing
Promulgation of rule governing development of Florida Keys Area of Critical State Concern is "final agency action" within purview of F. S. A. § 120.68(1); City of Key West has standing to appeal agency action, under F. S. A. § 120.52(9)(a), as specifically named person whose substantial interest is being determined.

27F-8.03 Principles for Guiding Development.

(1) Definitions. Terms contained within this rule are defined as follows:

(a) "Local Government" means Monroe County and the incorporated cities within Monroe County with the exception of the City of Key West.

(b) "Objective" means general statement of purpose toward which efforts are to be directed.

(c) "Guideline" means specific policy to be embodied in the comprehensive plan.

(d) "Implementation" means specific regulatory requirement which elaborates upon the course of action identified in the guidelines.

(2) Objectives to be Achieved:

(a) Strengthen local government capabilities for managing land use and development so that local government is able to achieve these objectives without the continuation of the Area of Critical State Concern designation.

(b) Protect shoreline and marine resources including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife and their habitat.

(c) Protect upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hard-wood hammocks and pinelands), dune ridges and beaches, wildlife and their habitat.

(d) Ensure the maximum well-being of the Florida Keys and its citizens through sound economic development.

(e) Limit the adverse impacts of development on the quality of water throughout the Florida Keys.

(f) Enhance natural scenic resources, promote the aesthetic benefits of the natural environment and ensure that development is compatible with the unique historic character of the Florida Keys.

(g) Protect the historical heritage of the Florida Keys.

(h) Protect the value, efficiency, cost-effectiveness and amortized life of existing and proposed major public investments, including:

1. The Florida Keys Aqueduct and water supply facilities;
2. sewage collection and disposal facilities;
3. solid waste collection and disposal facilities;
4. Key West Naval Air Station and other military facilities;
5. transportation facilities;
6. Federal parks, wildlife refuges, and marine sanctuaries;
7. State parks, recreation facilities, aquatic preserves and other publicly owned properties;
8. city electric service and the Florida Keys Electric Co-op; and
9. other utilities, as appropriate.

(i) Limit the adverse impacts of public investments on the environmental resources of the Florida Keys.

(j) Make available adequate affordable housing for all sectors of the population of the Florida Keys.

(k) Provide adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a post-disaster reconstruction plan.

(l) Protect the public health, safety, and welfare of the citizens of the Florida Keys, and the maintenance of the Florida Keys as a unique Florida resource.

(3) First Objective: Strengthen local government capabilities for managing land use and development so that local government is able to achieve these objectives without the continuation of the Area of Critical State Concern designation.

(a) Guidelines:

1. Local government shall adopt land use maps that depict the existing and proposed allocation of density, land use types, transportation services and public facilities, and other land uses necessary to comply with these Principles for Guiding Development.

2. Local government shall ensure, to the maximum extent possible, that the comprehensive plan, including land use maps, and the development regulations are consistent with applicable federal and state regulatory standards and planned use of existing public lands and lands authorized for public acquisition.

3. Local government shall establish an ongoing comprehensive planning and development review process that will ensure citizen participation, be supported by an adequately funded professional staff, and be directed at the effective implementation of the comprehensive plan, development regulations, administrative procedures and the Principles for Guiding Development.

(b) Implementation:

1. The land use maps shall be in detail and on a scale to ensure that land development decisions by local government are consistent with the comprehensive plan.

2. The land use maps shall depict land uses, public facilities, and environmental features that include, at a minimum, shorelines, mangroves, transitional wetlands, freshwater wetlands, beach and dune ridge systems, tropical hardwood hammocks, cactus hammocks and pinelands.

3. Local government shall develop and maintain a process of coordination with federal and state agencies which have permitting jurisdiction, own land, or conduct programs in the Florida Keys.

4. The local government comprehensive planning process must reflect compatibility of plans with adjacent local governments and appropriate special districts.

5. Local government shall utilize mechanisms for ensuring citizen participation in the comprehensive planning and development review process, such as the use of task forces, advisory boards, newsletters, public workshops and other means.

6. Local government shall ensure that the record of each land development decision includes all materials submitted by the applicant and interested parties, any staff analysis, and all other documentation used by local government in reaching its decision.

The record shall show that the local government decision is consistent with the comprehensive plan as approved by the Department of Community Affairs and land development regulations adopted consistent with the Principles for Guiding Development. Prior to approval and implementation of the comprehensive plan and land development regulations, the record shall show that the local government decision is consistent with the Principles for Guiding Development. The information shall be accessible to the applicant, members of the public and the Department of Community Affairs before, during and after the land development decision.

7. Local government shall, to the maximum extent possible, embody all development regulations in a single unified development code.

8. Local government shall prepare a procedures manual outlining the zoning process and land development permit sequence necessary to receive approval from each appropriate local government agency (for example, building departments, planning and zoning departments, etc.).

9. Areas determined to be appropriate for preservation during the comprehensive planning or land development regulation process shall be maintained through restrictive covenant, easement or dedication to an appropriate public entity or private conservation organization capable of preserving the area in its natural or historical condition.

10. Local government comprehensive plans and development regulations shall be the primary means by which development is planned and controlled. The use of variances, special exceptions and other similar actions shall not be used to authorize development that would be inconsistent with the Principles for Guiding Development, comprehensive plans and development regulations.

11. Local government shall include in its comprehensive plan and development regulations techniques to promote energy conservation and energy efficient development.

(4) Second Objective: Protect shoreline and marine resources including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife and their habitat.

(a) Guidelines:

1. Prohibit shoreline development which would have a substantial adverse impact upon shoreline, wetland, or marine resources.

2. Prohibit activities such as dredging, filling and spoil disposal or opening of existing but unconnected canals to open water that would have a substantial adverse impact on shoreline, wetland and marine resources.

3. Protect the natural functions of shoreline, wetland and marine resources to ensure the maintenance and enhancement of water quality, shoreline stabilization, storm surge protection, and fish and wildlife habitat.

4. Protect fish and wildlife habitats from adverse impacts such as boat or vehicle traffic.

5. Prohibit any significant disturbance, including but not limited to land clearing and excavation, of established critical habitats for endangered species identified by the U. S. Department of Interior and lands within National Wildlife Refuges.

6. Prohibit any significant disturbance, including but not limited to land clearing and excavation, of established habitats for documented resident populations of endangered species, as identified by rule of the Florida Game and Fresh Water Fish Commission, except as may be approved by the Florida Game and Fresh Water Fish Commission.

7. Discourage any new land clearing, excavation or other significant disturbance of habitats for threatened species identified by the Florida Game and Fresh Water Fish Commission of the U.S. Fish and Wildlife Service.

(b) Implementation:

1. Local government shall appropriately revise its development regulations, including site alteration, subdivision and zoning ordinances, to increase protection of shoreline, wetland and marine resources. These ordinances shall include standards which will protect mangroves, coral reef formations, seagrass beds, wetlands, and fish and wildlife and their habitat from adverse impacts from land development. Applicants for development orders or rezonings shall be required to identify potentially affected shoreline, wetland and marine resources. Local governments shall evaluate potential impacts, including cumulative and indirect impacts, and demonstrate in the record that such impacts were considered and mitigated in rendering a decision.

2. Local government shall appropriately lower overall density to maximize protection of shoreline, wetland and marine resources

3. Local government shall significantly lower the overall number of dwelling units to be developed in areas adjacent to John Pennekamp Coral Reef State Park and Key Largo Coral Reef National Marine Sanctuary.

4. Local government, in cooperation with the appropriate state and federal agencies, shall develop mooring and marina siting regulations for docking facilities of three or more slips which give special attention and consideration to impacts to the Florida Reef Tract and other corals, eliminate impacts to wetlands, shoreline and submerged vegetation, and maintain or enhance water quality. The following specific criteria shall apply:

a. No docking facilities shall be approved which require either dredging or filling to provide access. This restriction shall also apply to widening or deepening any canal or channel, but not to regular maintenance dredging of canals, basins, or channels provided such maintenance does not exceed acceptable water depths;

b. Docking facilities shall only be approved in locations having adequate circulation and/or tidal flushing, and which have water depths to accommodate boat moorings, turning basins, access channels and other such areas. A minimum water depth of − 4 (minus four) feet mean low water shall be required. Greater depths shall be required for those facilities designed for or capable of accommodating boats having greater than a 3 (three) foot draft so that a minimum of one foot clearance is provided between the deepest draft of a vessel and the bottom. These depth requirements shall also apply to the area between the proposed facility and any natural or other navigation channel, inlet or deep water. Where necessary, marking of navigational channels shall be required;

c. Any new or expanded docking facility shall maintain water quality standards as provided by Chapter 403, Florida Statutes. To assure compliance, the developer shall maintain a water quality monitoring program approved by the Department of Environmental Regulation. Water quality data will be periodically reviewed by the Department of Environmental Regulation;

d. In reviewing applications for new docking facilities or expansions to existing facilities, attention shall be given to identifying ways to improve, or mitigate adverse environmental impacts caused by previous activities. This may include filling dredged areas in order to make them a depth acceptable for propagation of benthic biota, restoring wetland or submerged vegetation, improving circulation and/or tidal flushing, installing sewage pumpout facilities, or marking navigational channels. Such mitigation or restoration may be required as a condition of approval for new or expanded facilities. Marina development shall be encouraged to locate in already developed or disturbed areas;

e. All applications for docking facilities shall document that economic demand exists for the number of boat slips requested; and

f. No new or expanded marina or docking facility shall be located directly over any grass bed, reef, or patch reef.

5. Local government, in cooperation with state and federal agencies, shall develop siting regulations for docking facilities of less than three slips. These regulations shall, at a minimum, include the specific criteria set forth in (4)(b)4.a. and f. above.

(5) Third Objective: Protect upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife and their habitat.

(a) Guidelines:

1. Conserve the environmental values and functions of upland resources, including habitat for native tropical species of wildlife and vegetation.

2. Protect in their natural state representative units of each type of ecological system in sufficient amounts and locations so as to be self-sustaining.

3. Preserve undisturbed or high quality restored tracts of native tropical vegetation.

4. Prohibit any significant disturbance, including but not limited to land clearing and excavation, of established critical habitats for endangered species identified by the U.S. Department of Interior and lands within National Wildlife Refuges.

5. Prohibit any significant disturbance, including but not limited to land clearing and excavation, of established habitats for documented resident populations of endangered species, as identified by rule of the Florida Game and Fresh Water Fish Commission, except as may be approved by the Florida Game and Fresh Water Fish Commission.

6. Discourage any new land clearing, excavation or other significant disturbance of habitats for threatened species identified by the Florida Game and Fresh Water Fish

Commission or the U.S. Fish and Wildlife Service.

(b) Implementation:

1. Local government shall implement regulations to protect and preserve representative units of tropical biological communities including, but not limited to, cactus hammocks, tropical hardwood hammocks, pinelands, freshwater wetlands, and beach and dune systems. In the formulation of these regulations the following mechanisms shall be considered: tax incentives, transfer of development rights, purchase of development rights, fee simple acquisition, and other on-site and off-site mitigation techniques.

2. Local government shall preserve intact high quality tracts of native tropical vegetation and allow alteration only if it is demonstrated that the proposed development or site alteration will not involve the removal of native vegetation to the extent that the habitat and its wildlife cease to function as a self-sustaining, viable ecosystem.

3. Site alteration, subdivision and other development regulations shall prohibit disturbance of areas of high quality native biological communities. The extent to which an area of any parcel proposed for development may be disturbed shall depend upon the quality of the native tropical vegetation and the extent to which the area is covered with exotic species such as *Casuarina, Schinus terebinthefolius* or *Malaleuca quinquenervia*. The developer shall be required to prepare plans which identify on-site vegetation, provide for protection of native tropical vegetation and provide for the elimination of exotic vegetation. The local government shall consult this plan in determining the extent to which proposed alteration will be permitted and shall reflect that determination in its response to the developer's application.

4. In the event of any significant disturbance to native tropical vegetation, mitigation shall be required as a condition of development approval. Such mitigation may take the form of replanting disturbed areas with native species, or in the form of the acquisition and donation of lands covered by native tropical vegetation of a high quality in an amount greater than that disturbed.

5. Development regulations shall establish standards for the following:

a. prohibition of "grubbing out" or removal of native understory vegetation;

b. prohibition of removal or trimming of native tropical vegetation;

c. removal of exotic plant species which outcompete or otherwise displace native tropical species;

d. prohibition of the sale, purchase or planting of exotic species which outcompete or otherwise displace native tropical species, such as *Casuarina, Schinus terebinthefolius* and *Malaleuca quinquenervia;*

e. use of native vegetation, displaced during site alteration, in the overall landscape scheme of the site development;

f. use of vegetation native to the Florida Keys in landscaping altered sites; and

g. preservation of isolated saltwater or freshwater wetlands.

(6) Fourth Objective: Ensure the maximum well-being of the Florida Keys and its citizens through sound economic development.

(a) Guidelines:

1. Promote a diversified and stable economy that is compatible with the community and the environmental resources of the Florida Keys.

2. Encourage the diversification and expansion of local government tax bases in order to minimize the vulnerability of the local economy to economic fluctuations and to maximize employment opportunities for county residents.

(b) Implementation:

1. Local government shall implement an economic development program compatible with the objectives and guidelines contained in these principles for the protection of natural and historic resources.

2. Local government shall promote economic expansion that will supplement and complement the existing seasonal tourist industries. The economic development program shall be consistent with the local governments' ability to provide adequate public services.

3. Local government shall give special consideration to the promotion and protection of the marine fishing and aquaculture industries.

4. Local government shall give special consideration to water-dependent facilities through the development of a specific siting plan identifying environmentally acceptable locations for marine and other water-dependent uses.

5. Local government shall encourage through financial incentives and appropriate land development regulations the development and redevelopment of underutilized areas of existing development in the Florida Keys.

(7) Fifth Objective: Limit the adverse impacts of development on the quality of water throughout the Florida Keys.

(a) Guidelines:

1. Development in the Florida Keys shall be planned and designed to function in a manner that protects and preserves the quality of surrounding waters and natural ecosystems.

2. Stormwater management systems shall be designed to protect the absorptive, purifying and retentive functions of natural systems that exist on the site of a proposed development.

3. Development shall be designed so as not to adversely affect local freshwater resources.

4. Domestic waste systems shall be planned and designed to function in a manner that protects and preserves the quality of groundwater, surrounding waters and natural ecosystems.

(b) Implementation:

1. Local government shall establish an effective surface water quality program to substantially reduce the adverse impacts of stormwater runoff from existing developed areas.

2. Local government shall establish effective guidelines and standards for the installation and long term maintenance of stormwater management systems in new developments which incorporate Best Management Practices for stormwater control and sewage treatment. These standards shall be equivalent, at a minimum, to standards set forth in Chapter 17-25, Florida Administrative Code.

3. Local government shall establish construction guidelines which provide for control of erosion from construction sites, the detention of sediment on-site, and the reduction of sediment buildup and turbidity in area waters.

4. Local government shall require that applicants for subdivision or site alteration approval develop water management plans which demonstrate that the proposed activity has been designed to meet the following standards:

a. natural hydrological characteristics of the site shall be maintained;

b. surface and groundwater quality shall be protected;

c. erosion during and after construction shall be detained on-site;

d. beneficial functioning of wetlands for water storage and pollution assimilation shall be protected;

e. increased flooding that results from improper location, construction and design of development shall be prevented; and

f. adverse impacts to fish and wildlife habitat shall be prevented.

5. Local government shall prohibit the construction of interior lakes or stormwater management systems which intersect any freshwater lens.

6. Local government shall establish effective guidelines and standards for the installation and long term maintenance of private domestic waste treatment systems that protect and preserve the quality of surface water and groundwater resources.

(8) Sixth Objective: Enhance natural scenic resources, promote the aesthetic benefits of the natural environment and ensure that development is compatible with the unique historic character of the Florida Keys.

(a) Guidelines:

1. Local government shall formulate criteria by which proposed development will be evaluated for compatibility with natural and historic characteristics of the Florida Keys. This criteria will be used by the appropriate local agency in reviewing and making recommendations on development proposals.

(b) Implementation:

1. In establishing review criteria the local governments shall consider, but not be limited to, the following:

a. preservation of natural scenic vistas;

b. preservation of the existing low visual profile;

c. setback restrictions;

d. visual buffering;

e. preservation and enhancement of the unique historic architecture; and

f. the extent to which development is compatible with the historic architecture.

2. Local governments shall implement sign and billboard ordinances. These ordinances shall, at a minimum, provide for;

a. uniform signage;

b. limitation on the use of neon and flashing signs; and

c. height and size restrictions.

3. Local government shall require that utility service lines shall be placed underground where feasible and where soil and topographic conditions permit to preserve the natural scenic beauty of the Keys.

4. Local government, in coordination with the Florida Department of Transportation, shall establish a scenic view

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corridor plan for U.S. Route # 1.

5. Local government shall adopt provisions in the land development regulations to provide developers with options for achieving the objectives of the comprehensive plan and the Principles for Guiding Development which encourage the integration of the development into the immediate surrounding scenic vista. These provisions may include density transfers, site alterations procedures and other means. Particular emphasis should be placed on preserving existing tree line vistas.

(9) Seventh Objective: Protect the historical heritage of the Florida Keys.

(a) Guidelines:

1. Protect and preserve all sites contributing to the overall historical heritage of the Florida Keys.

(b) Implementation:

1. Local government shall conduct a comprehensive survey of all sites having national, state or regional historical, archeological or geological significance.

2. Local regulations shall be modified to ensure that these sites are protected and preserved. In formulating these regulations, mechanisms such as transfer of development rights, tax incentives, purchase of development rights and acquisition shall be used to insure adequate protection and preservation.

3. At a minimum, local government shall request the assistance of the State Historic Preservation Office at the Florida Department of State, Division of Archives, History and Records Management, in the identification and protection of historic property. Local government shall incorporate these considerations into its development review process.

(10) Eighth Objective: Protect the value, efficiency, cost-effectiveness and amortized life of existing and proposed major public investments, including:

1. The Florida Keys Aqueduct and water supply facilities;

2. sewage collection and disposal facilities;

3. solid waste collection and disposal facilities;

4. Key West Naval Air Station and other military facilities;

5. transportation facilities;

6. Federal parks, wildlife refuges, and marine sanctuaries;

7. State parks, recreation facilities, aquatic preserves and other publicly owned properties;

8. city electric service and the Florida Keys Electric Co-op; and

9. other utilities, as appropriate.

(a) Guidelines:

1. Local government and the Florida Keys Aqueduct Authority shall establish a water use program to assure that potable water supplies are used efficiently.

2. Local government and the Monroe County Waste Collection and Disposal District shall establish a program to regulate the collection, storage, transfer, and final disposal of all wastewater effluents (public and private), solid waste, trash and hazardous wastes. The program shall be consistent with programs and regulations of the Florida Department of Environmental Regulation (DER).

3. Local government shall create a special zoning district and implementing regulations for noise and hazard zones of the Key West Naval Air Station as delineated by the U.S. Navy Office of the Chief of Naval Operations.

4. Local government shall establish a uniform and coordinated land use and transportation planning process, which will assure that the distribution, location and intensity of future development on the Florida Keys shall not exceed the efficient use of the principal transportation system, including facilities on the islands as well as the bridges, causeways and related roadway systems.

5. Local government shall prepare and implement a Capital Improvements Plan based on viable funding sources to provide adequate infrastructure for existing and future development. Development shall be coordinated with the availability of adequate infrastructure in order to protect the environment and maintain a high quality of life for the residents of Monroe County.

(b) Implementation:

1. A water use program, consistent with the Monroe County Capital Improvements Plan, shall be established by local government in cooperation with the Florida Keys Aqueduct Authority to accomplish, at a minimum, the following:

a. mandatory installation of water conserving fixtures in all new development and redevelopment;

b. establishment of an emergency water use and supply plan and update it annually; and

c. establishment of a system for u[illegible] treated wastewater for irrigation [illegible] landscaping and park sites.

2. A program, consistent with the Monroe County Capital Improvements Plan, shall be established by the Monroe County Waste Collection and Disposal District in cooperation with local government to regulate the collection, storage, transfer and final disposal of effluents and wastes to accomplish, at a minimum, the following:

a. protection of existing and future waste treatment and disposal sites and landfill sites from encroachment by land uses which would endanger their functions and existence; and

b. preparation of a land acquisition plan which identifies potential sites necessary to properly dispose of the effluents and wastes from a growing population.

3. The special zoning district created for the noise and hazard zones of the Key West Naval Air Station shall require that development within that zone be compatible with air operations. Implementation of this section should be closely coordinated with the Office of the Chief of Naval Operations. Similar districts shall be created around civilian airfields and in cooperation with the Florida Department of Transportation and the Federal Aviation Administration. Codes for airfield districts shall clearly specify height limits for structures and other appropriate restrictions on development necessary to protect air operations and public health and safety.

4. Local government shall prepare and implement a land use/transportation planning process, consistent with the Monroe County Capital Improvements Plan, that provides, at a minimum, for the following:

a. a coordinated thoroughfare system that will meet future as well as current traffic needs;

b. a thoroughfare system which is consistent with desired land use patterns;

c. road plans and designs which preserve critical environmental habitats and contribute to the aesthetic qualities of the Keys;

d. a minimum standard of Level of Service "C" on an annual basis and Level of Service "D" for peak season traffic to determine whether future development efficiently uses the transportation system;

e. street parking, service roads and limited controlled access points to business, commercial and industrial development adjacent to the Highway. Except in cases of extreme hardship, highway access from any development within 250 feet of a bridge or bridge ramp shall be prohibited;

f. evaluation of all future traffic circulation improvements to assure that the objectives set forth in this section are supported and maintained; and

g. encouragement of the use of bicycles, mass transit and car pooling as alternative forms of transportation. The program shall include development of a biking system throughout the Keys.

5. The Capital Improvements Plan to be developed and implemented by Monroe County shall, at a minimum, include the following:

a. projections of levels of growth and the public expenditures the county intends to incur to meet the demand;

b. a timetable and anticipated sources of funding for capital improvements;

c. evidence that demonstrates the Capital Improvement Program is sufficient to meet demands created by the Monroe County Comprehensive Plan; and

d. a requirement that development decisions shall take into consideration the availability of infrastructure both at present and in the future as defined within a required county Capital Improvement Program. Developments which will exceed the capacity of existing infrastructure shall be denied unless the Capital Improvement Program provides for the required expansion and specifies committed funds or the developer agrees to finance the immediate needed improvements.

6. Local government shall develop, consistent with the programs of the Florida Department of Health and Rehabilitative Services and the Florida Department of Environmental Regulation, as appropriate, alternatives to individual waste treatment systems for consideration in the development review process.

7. Local government shall establish an impact fee ordinance to ensure that new development provides its fair share of expanded public facilities.

(11) Ninth Objective: Limit the adverse impacts of proposed public investments on the environmental resources of the Florida Keys.

(a) Guidelines:

1. Utility systems shall be designed to consider ecological impacts and minimize detrimental effects.

2. Public capital improvements and facilities such as roads, [illegible] waste disposal sites, and utility lines and structures shall be

planned, designed, sited, constructed and maintained to minimize impact on tropical natural vegetation and wildlife habitat.

3. Local government shall adopt provisions, including incentives and restrictions, to promote infill and redevelopment of areas with public facilities currently available.

(b) Implementation:

1. Local government shall limit impervious surfaces to a minimum. Roads and parking areas shall be constructed of crushed coral, marl or other permeable material to the maximum extent practicable.

2. Local government shall prohibit excavation and filling in wetlands except for essential public services when no alternative exists.

3. Local government shall prohibit new solid-fill roads or similar structures which obstruct water flow in wetlands. Major repairs to existing roads which obstruct water flow in wetlands shall include provisions for restoring the natural hydrology of the wetland area.

4. Local government shall minimize the removal of natural vegetation during the placement and maintenance of public facilities.

5. No new public facilities shall be extended to islands in Florida Bay, the Gulf of Mexico or the Atlantic Ocean which are not currently connected by road or bridge to U.S. Route # 1.

(12) Tenth Objective: Make available adequate affordable housing for all sectors of the population of the Florida Keys.

(a) Guidelines:

1. Adequate and affordable housing should be available to all sectors of the population within Monroe County, including low and moderate income families.

2. Where the need is identified, developers shall be encouraged through financial incentives and appropriate land development regulations to incorporate a range of differing housing types in major residential developments.

3. Local government shall encourage and support the use of energy conscious technological solutions to housing construction cost problems, provided that those new and advanced techniques do not compromise the structural integrity, durability, utility costs, or occupant safety.

(b) Implementation:

1. Local government shall consider during the development approval process, the provision of incentives for developers who designate a portion of their proposed residential units to meet the needs of the handicapped, elderly, low and moderate income and special needs groups.

2. Local government shall, to the maximum extent possible, utilize local, State and Federal housing programs to upgrade existing substandard units and to provide rental and mortgage assistance to low and moderate income groups.

3. Local government shall support the programs and policies of the Monroe County Housing Authority which are designed to administer and develop low income housing.

4. Local government shall participate in and encourage innovative housing finance programs from both the private and public sector arenas.

5. Local government shall enforce the County Housing Code by ensuring that an adequate number of qualified and competent personnel are available to administer the provisions and criteria contained within it.

(13) Eleventh Objective: Provide adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a post-disaster reconstruction plan.

(a) Guidelines:

1. Local government shall develop, implement, update and maintain plans and facilities to provide evacuation or protection in the event of natural or manmade disaster.

2. Local government shall develop procedures, including proposed changes in land use density, to guide reconstruction after natural disasters.

3. Local government shall prevent the extension of public services into high hazard areas.

(b) Implementation:

1. Local government shall develop, adopt and operate a Peace Time Emergency Plan as required by Chapter 9G-7, Florida Administrative Code.

2. Local government shall develop and adopt a post-disaster reconstruction plan based on hazard mitigation policies including, at a minimum, the following:

a. the establishment of a damage classification scheme;

b. the establishment of damage assessment teams qualified to identify:

i. structures which should be demolished or which will require a development permit for repair or reconstruction;

ii. repairs needed for public and private utilities facilities and institutions; and

iii. cause of damage for each structure to

in the development of future mitigation plans;

c. the establishment of a "recovery task force" to oversee the reconstruction process and any policy issues which might arise after a storm disaster;

d. the establishment of guidelines for post-disaster repair and reconstruction, including but not limited to:

i. the timing and completion of damage assessments;

ii. the timing and imposition of temporary development moratoria; and

iii. the development standards to which repairs and reconstruction shall conform;

e. the establishment of a schedule for staging and permitting repairs and reconstruction according to established priorities assigned to the restoration of essential services, minor repairs, major repairs and new development;

f. the determination of which agency, such as the local legislative body or a special recovery task force, is to implement the policies and procedures contained in the Post-Disaster Reconstruction Plan; and

g. the establishment of policies for repair and/or replacement of public utilities and facilities including possible relocation to less hazardous areas.

3. Local government shall locate critical public facilities, such as hospitals, power generating facilities and potable water holding tanks, in areas that will minimize the possibility of their destruction.

4. Local government shall consider public acquisition of land in high hazard coastal areas, either through acquisition of full fee title or acquisition of land use easement (use restrictions).

5. Local government shall designate hurricane hazard areas on subdivision plats and require insertion of deed restrictions to control land unsuitable for residential or other uses.

6. Local government shall develop and enforce housing and building code standards which would reduce damages to structures caused by the forces of a hurricane (particularly with respect to wind).

7. Local government shall remain in and fulfill all the requirements associated with the Federal Flood Insurance Program.

8. Local government shall demonstrate that it has the financial ability to pay for its share of replacing public facilities damaged during a major storm and not covered by the Federal Emergency Management Administration during a major storm event.

9. Local government shall re[illegible]n the development review process [illegible] new development contains adequate refuge areas on site to protect residents from natural hazards when evacuation is impossible.

(14) Twelfth Objective: Protect the public health, safety, and welfare of the citizens of the Florida Keys, and the maintenance of the Florida Keys as a unique Florida resource.

(a) Guidelines:

1. Adequate levels of police, fire and medical service shall be provided to the citizens of the Florida Keys.

2. Local government shall guide patterns of land use development to preserve the unique features of the Florida Keys.

(b) Implementation:

1. Local government shall provide for a continuing evaluation of population growth and visitor use and their impacts on the adequacy of police, fire and medical service.

2. Local government shall encourage development of specialized transportation services to aid those persons otherwise unable to reach health care facilities.

3. Local government, in cooperation with State agencies, shall attempt to vacate plats in environmentally sensitive lands and, when possible, acquire these lands for public benefit. Alternatively, and especially in tropical hammocks, local government shall require that plats consisting of unimproved, substandard lots be replatted to protect the integrity of the ecosystem.

Specific Authority 380.05, 380.0552(1) FS. Law Implemented 380.05, 380.0552(1) FS. History—New 5-16-75, Formerly 22F-8.03, Amended 8-23-84.

Editorial Note: The 8-23-84 amendment entirely superseded the former rule.

27F-8.04 Administration.

(1) The state land planning agency shall administer the requirements of these rules through negotiated memoranda of agreement with each affected local government, specifying reporting requirements and deadlines for implementation.

(2) All appropriate state and regional agencies shall render technical assistance and commit any available resources to aiding local governments in their compliance with the provisions of these rules.

(3) The state land planning agency shall coordinate the programs and regulatory activities of state, regional and federal agencies to ensure that they are consistent, to the maximum extent possible, with local government comprehensive plans and

development regulations approved under these Principles for Guiding Development.

(4) The above guidelines and implementation requirements are oriented towards protection of natural resources and public investments of regional and state importance. The comprehensive plans and development regulations developed pursuant to these principles shall be:

(a) performance oriented to maximize design flexibility;

(b) administered to provide specified levels of protection that reflect the location, quality, environmental functions and the relationship of the protected resources to developed areas and public facilities; and

(c) adopted and administered consistent with the requirements of Chapter 163, Florida Statutes.

(5) The state land planning agency shall develop a mechanism for monitoring local government comprehensive plans and land development regulations to ensure consistency with these principles.

Specific Authority 380.05, 380.0552(1) FS. Law Implemented 380.05, 380.0552(1) FS. History—New 5-16-75, Formerly 22F-8.04, Amended 8-23-84.

Editorial Note: The 8-23-84 amendment entirely superseded the former rule.

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CHAPTER 27F-9
LAND PLANNING REGULATIONS FOR THE FLORIDA KEYS AREA OF CRITICAL STATE CONCERN MONROE COUNTY
(Formerly 22F-9)

27F-9.03 Local Comprehensive Plan. Ordinance No. 4-1979, sections 1 and 2 (Land Use Plan), adopted January 30, 1979, Ordinance No. 9-1979, sections 1 and 2 (Housing Element), adopted November 14, 1979, Ordinance No. 2-1980, sections 1 and 2 (Coastal Zone Protection and Conservation Element), adopted February 12, 1980, Ordinance No. 3-1980, sections 1 and 2 (Traffic Circulation Element and U. S. 1 Corridor Plan), adopted February 12, 1980, Ordinance No. 8-1980, sections 1 and 2 (Inter-Governmental Coordination Element), adopted June 11, 1980, Ordinance No. 9-1980, sections 1 and 2 (Services and Utility Element), adopted June 11, 1980, Ordinance No. 16-1980, sections 1 and 2 (Recreation and Open Space Element), adopted Septemb[illegible] 1980, by the Monroe County Board [illegible] Commissioners are incorporated by reference and adopted as an

interim measure to comply with the principle set forth in Rule 27F-8.03(2)(a)1., F. A. C., requiring adoption of a plan and policies consistent with the critical area objectives.

The County shall issue development orders only after determining that the proposed development, or phase thereof, is consistent with and does not violate the goals, objectives and policies of the above referenced elements of the Local Comprehensive Plan. The above referenced elements of the Local Comprehensive Plan shall be utilized and applied by the County in the issuance of development orders until a subsequent local comprehensive plan is prepared by the County or its agent, reviewed and approved by the State land planning agency and adopted by Monroe County in accordance with the procedures specified in Section 380.05, Florida Statutes, as amended by Chapter 83-308, Laws of Florida.

Specific Authority 380.05(8), (11) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-9.03, Amended 12-28-83.

Editorial Note: The 12-28-83 amendment entirely superseded the former rule.

27F-9.15 Protection of Waste Treatment Sites. Ordinance No. 21-1975 adopted by the Monroe County Board of Commissioners on December 15, 1975, and the Local Comprehensive Plan adopted by the Monroe County Board of County Commissioners are incorporated by reference and adopted in compliance with the principles set forth in Rule 27F-8.03(2)(d)3., F. A. C., requiring the protection of waste treatment sites.

Specific Authority 380.05(8), (11) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-9.15, Amended 12-28-83.

27F-9.17 Ordinances Incorporated by Reference. Copies of Ordinances Number 1-1973, 17-1975, 18-1975, 19-1975, 20-1975 and Local Comprehensive Plan of Monroe County incorporated by reference in this rule are available at the Monroe County Planning and Zoning Department, Stock Island Public Service Building, Key West, Florida.

Specific Authority 380.05(8), (11) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-9.17, Amended 12-28-83.

CHAPTER 27F-10
LAND PLANNING
REGULATIONS FOR THE FLORIDA KEYS AREA OF CRITICAL STATE CONCERN
CITY OF KEY COLONY BEACH
(Formerly 22F-10)

27F-10.01 Short Title.
27F-10.02 Purpose.
27F-10.03 Coordination of Development Orders With Public Facilities.
27F-10.04 Community Impact Assessment Statement.
27F-10.05 Landscaping of Cleared Sites.
27F-10.06 Effective Date.
27F-10.07 Ordinance Incorporated by Reference.

27F-10.01 Short Title. This chapter shall be known as the City of Key Colony Beach Critical Area Regulations.
Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-10.01.

27F-10.02 Purpose. Pursuant to Section 7, Article II, of the Florida Constitution and Section 380.05, Florida Statutes, it is the purpose of these rules to establish land development regulations for the municipality of Key Colony Beach which implement the principles for guiding development set forth in Chapter 27F-8, Florida Administrative Code, Boundary and Principles for Guiding Development for the Florida Keys Area of Critical State Concern.
Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-10.02.

27F-10.03 Coordination of Development Orders With Public Facilities. Ordinance No. 120, adopted on December 23, 1975, by the Key Colony Beach City Commission is hereby incorporated by reference and adopted to comply with Section 27F-8.03(2)(a)1., Florida Administrative Code, requiring coordination of development orders and public facilities.
Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-10.03.

27F-10.04 Community Impact Assessment Statement. Ordinance No. 136, adopted on January 20, 1978, by the Key Colony Beach City Commission is hereby incorporated by reference and adopted to comply with Section 27F-8.03(2)(a)4., Florida Administrative Code, requiring adoption of a community impact assessment ordinance.
Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Amended 5-2-78, Formerly 22F-10.04.

27F-10.05 Landscaping of Cleared Sites. Ordinance No. 117, adopted on December 11, 1975, by the Key Colony Beach City Commission is hereby incorporated by reference and adopted to comply with Section 27F-8.03(2)(b)1.c., Florida Administrative Code, requiring adoption of a landscaping ordinance.
Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-10.05.

27F-10.06 Effective Date. These rules shall take effect twenty (20) days after filing with the Secretary of State.
Specific Authority 380.05(8) FS. Law Implemented 120.54(11), 380.05 FS. History—New 3-30-76, Formerly 22F-10.06.

27F-10.07 Ordinance Incorporated by Reference. Copies of Ordinances of the City of Key Colony Beach incorporated by reference in this rule are available at the City Hall, Key Colony Beach, Florida.
Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Amended 5-2-78, Formerly 22F-10.07.

27F-11.04 Effective Date. These rules shall take effect twenty (20) days after filing with the Secretary of State.
Specific Authority 120.54(11), 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-11.04.

27F-11.05 Ordinance Incorporated by Reference. Copies of Ordinance No. 112875 of the City of Layton incorporated by reference in this rule are available at the Layton City Hall, Long Key, Florida.
Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-11.05.

CHAPTER 27F-11
LAND PLANNING
REGULATIONS FOR THE FLORIDA KEYS AREA OF CRITICAL STATE CONCERN
CITY OF LAYTON
(Formerly 22F-11)

Short Title.
Purpose.
.03 Land Use Regulations.
11.04 Effective Date.
27F-11.05 Ordinance Incorporated by Reference.

27F-11.01 Short Title. This chapter shall be known as the City of Layton Critical Area Regulations.
Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-11.01.

27F-11.02 Purpose. Pursuant to Section 7, Article II, of the Florida Constitution and Section 380.05, Florida Statutes, it is the purpose of these rules to establish land development regulations for the municipality of Layton which implement the principles for guiding development set forth in Chapter 27F-8, Florida Administrative Code, Boundary and Principles for Guiding Development for the Florida Keys Area of Critical State Concern.
Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-11.02.

27F-11.03 Land Use Regulations. Ordinance No. 112875, adopted on November 28, 1975, by the Layton City Commission is hereby incorporated by reference and adopted to comply with Subsection 27F-8.03(2)(a)4., requiring the adoption of a Community Impact Assessment State, Subsection 27F-8.03(2)(c), F. S., requiring coordination with the Monroe County Waste Collection and Disposal District on a plan for disposal of solid and liquid waste, and Subsection 27F-8.03(2)(d)2., F. S., requiring minimum setbacks for dev[illegible]nt adjacent to U. S. Highway One.
Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-11.03.

CHAPTER 27F-12
LAND PLANNING
REGULATIONS FOR THE FLORIDA KEYS AREA OF CRITICAL STATE CONCERN
CITY OF KEY WEST
(Formerly 22F-12)

27F-12.01 Short Title.
27F-12.02 Purpose.
27F-12.03 Plan and Policy Statement.
27F-12.04 Coordination of Development Orders.
27F-12.05 Airport Zoning District.
27F-12.06 Community Impact Assessment Statement.
27F-12.07 Landscaping of Cleared Sites.
27F-12.08 Waste Collection and Disposal.
27F-12.09 Plumbing Code.
27F-12.10 Historical Resource Protection.
27F-12.11 Architectural Review Board Incorporation Into Old Island Restoration Commission.
27F-12.12 Effective Date.
27F-12.13 Ordinances Incorporated by Reference.

27F-12.01 Short Title. This chapter shall be known as the City of Key West Critical Area Regulations.
Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-12.01.

27F-12.02 Purpose. Pursuant to Section 7, Article II, of the Florida Constitution and Section 380.05, Florida Statutes, it is the purpose of these rules to establish land development regulations for Key West which implement the principles for guiding development set forth in Chapter 27F-8, Florida Administrative Code, Boundary and Principles for Guiding Development for the Florida Keys Area of Critical State Concern.
Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-12.02.

27F-12.03 Plan and Policy Statement. The City of Key West, Florida, in compliance with and furtherance of Subsection 27F-8.03(2)(a)1., F. A. C., Principles for Guiding Development for the Florida Keys Area of Critical State Concern, which requires adoption of a plan and policies consistent with the critical area principles and objectives shall take into consideration and utilize the objectives of the critical area as stated in Subsection 27F-8.03(1) when acting to approve, approve with conditions, or deny development orders and when any revisions or updates to the Key West Comprehensive Land Use Plan may be made.
Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-12.03.

27F-12.04 Coordination of Development Orders. Ordinance No. 75-17 amending Ordinance No. 69-29, Section XIII, which was passed by the City Commission of Key West, Florida, on December 1, 1975, is hereby incorporated by reference and adopted in compliance with the principles set forth in Subsection 27F-8.03(2)(a)2., F. A. C., requiring the coordination of development orders with the availability of public facilities.
Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-12.04.

27F-12.05 Airport Zoning District. Ordinance No. 75-18, adopted December 1, 1975, by the City Commission of Key West, Florida, is hereby incorporated by reference and adopted in compliance with Subsection 27F-8.03(2)(a)3., F. A. C., requiring a special zoning district for Key West International Airport.
Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-12.05.

27F-12.06 Community Impact Assessment Statement. Ordinance No. 76-5, adopted on January 19, 1976, by the City Commission of Key West, Florida, is incorporated by reference and adopted in compliance with Subsection 27F-8.03(2)(a)4., F. A. C., requiring the adoption of a Community Impact Assessment Statement.
Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-12.06.

27F-12.07 Landscaping of Cleared Sites. The following landscape regulations are hereby adopted and shall be applicable to the City of Key West, Florida, in compliance with and in furtherance of Subsection 27F-8.03 (2)(b) 1.c., F. A. C., Principles for Guiding Development for the Florida Keys Area of Critical State Concern.

Section 1. Purpose

To promote the establishment of landscaped areas within within various zoning districts and the establishment of landscape buffers between various zoning districts, encourage the protection of existing trees and encourage the planting of new trees, shrubs and ground cover in recognition of their importance and contributions to the promotion of the health, safety, and welfare of the community through wind and noise reduction, microclimate modification, carbon dioxide absorption, oxygen release, filtration of urban runoff and stabilization of surface areas.

Section 2. Definitions

(1) Landscape area — shall consist of any of the following or combination thereof; material such as, but not limited to, grass, ground covers, shrubs, vines, hedges, trees or palms and non-living durable material commonly used in landscaping such as, but not limited to, natural coral rock, limestone rock, pebbles, but excluding paving.

(2) Tree — shall mean a self-supporting woody plant of a species which normally grows to an overall height of at least fifteen (15) feet in this county.

(3) Shrub — shall mean a self-supporting woody plant of a species normally grown in this county.

(4) Grass — shall mean an area planted in grass of a species normally grown in permanent lawns in the Keys. Grass may be sodded, plugged, sprigged, or seeded.

(5) Vine — shall mean a species of plant which normally requires support to reach mature form.

(6) Zoning districts — shall mean those zoning districts as defined and described in Ordinance No. 69-29, as from time to time amended.

Section 3. Submission of a Landscape Plan

A landscape plan shall be submitted in conjunction with any application for a building permit in any R-1, R-2, C-1, C-2, M-1, and M-2 zoning district.

Section 4. Landscaping Requirements

The landscape plan must be of sufficient detail and clarity so as to illustrate compliance with the following requirements:

(1) Minimum landscape area;

(a) In all R-1 districts, a minimum of fifteen (15) percent of each site shall be covered with grass, ground cover, or other landscaped area.

(b) In R-2 single family and R-2 two family districts, a minimum of fifteen (15) percent of each site shall be covered with grass, ground cover or other landscaped area.

(c) In R-2 multi-family districts, a minimum of twenty (20) percent of each site shall be covered with grass, ground cover or other landscaped area.

(d) In all C-1 and C-2 districts, a minimum of ten (10) percent of each site shall be covered with grass, ground cover or other landscaped area.

(2) Landscape Buffer Between Residential and Commercial-Industrial Uses.

In all C-1, C-2, M-1, and M-2 districts no building shall be constructed on any site which has a common lot line with a site that is zoned R-1, R-2, or HP-1, unless a landscape buffer is installed along the entire length of said common lot line. Such landscape buffer shall be installed and maintained by the owner of said C-1, C-2, M-1 or M-2 site and must be adjacent to and lie on the owner's side of sai[illegible]mon lot line. The landscape buffer shall c[illegible] a six (6) foot high wall or hedge or other durable landscape barrier

planted so as to be eighty (80) percent opaque between two (2) feet and six (6) feet above ground level and forming a continuous screen between the commercial/industrial uses and residential uses. If such barrier consists all or in part of plant materials, such plant materials shall be planted in a strip of not less than two and one-half (2 1/2) feet in width. In addition to the landscape barrier, one (1) tree shall be provided for each seventy-five (75) lineal feet of such landscape barrier or fractional part thereof.

Where there is an existing hedge, wall or other durable landscape barrier on abutting property, said existing barrier may be used to satisfy the landscape buffer requirements of this subsection provided that the existing barrier meets the requirements of this subsection.

(3) Protection for Existing Trees

To the maximum extent possible, existing trees protected. The spatial arrangement of ructures and other impervious surfaces lesign consideration which provide tion for existing trees.

ed Tree Species

ollowing trees species shall not be planted lized to fulfill any of the landscape ements of this regulation;

(a) Australian pine — *Casuarina sp.*

(b) Melaleuca (cajeput) — *Melaleuca leucadendra*

(c) Brazilian pepper — *Schinus terebinthifolius*

Section 5. Completion of Landscape Plan

All landscaping as required by this regulation d as shown on the landscape plan shall be mpleted within one (1) year from the date of the certificate of occupancy for the appurtenant building.

Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-12.07.

27F-12.08 Waste Collection and Disposal. The City of Key West, Florida, in compliance with and in furtherance of Subsection 27F-8.03(2)(c)1., F. A. C., requiring regional coordination for waste collection and disposal, shall coordinate their activities to develop adequate waste treatment facilities with the Monroe County Waste Treatment and Disposal District and shall enter into such agreements as necessary so as to provide for the establishment of intergovernmental coordination, the establishment of more efficient and less expensive regional waste treatment systems, and to enhance the possibilities of securing adequate federal and state financial assistance for both the City of Key West and Monroe County.

Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-12.08.

27F-12.09 Plumbing Code. The existing Key West plumbing code shall continue for a period of not more than two (2) years from the adoption of this rule and during which time appropriate amendments to such plumbing code shall be made to provide for the installation of water conserving fixtures in all new and redevelopment areas.

Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-12.09.

27F-12.10 Historical Resource Protection. The following criteria shall be utilized as guidelines in conjunction with Key West Ordinance No. 69-29, Section XIII, XIV of XV by the Board of Adjustment when a certificate of appropriateness, special exception or variance is required. The following criteria shall also be utilized by the Old Island Restoration Commission in formulating their recommendations to approve, deny or modify permits for improvements, alterations, reconstruction, restoration and new construction in the Key West Historical Preservation District. The guidelines shall apply only to buildings and portions thereof that are visible from a public way.

(1) General Considerations

(a) Character and Quality of the Historic District

The character of any district is determined by those buildings which comprise it. While each building must be separately appraised for its historical and architectural value, it must also be assessed for its contribution to the integrity of the whole. It is within this area that important visual qualities come into play, such as scale, massing, open space, design and building relationship, both from building to building and from building to pedestrian. In an area such as Key West, where a variety of period styles exist, the attention to the aforementioned details would, by necessity, become more flexible than in a small neighborhood or suburb where all of the structures date from the same period and are in the same style. This is particularly true of such items as scale and massing. For example, whereas the "Conch" houses associated with the island are regularly massed and fairly uniform in size, the next building may be a late nineteenth century Queen Anne House of much larger size, vertically oriented and irregularly massed. The criteria for development within such an area, or within a block containing a variety of styles shall be to insure the authenticity of the individual components while striving to maintain the uniqueness of a mixed but architecturally pleasing whole. No style, even that most commonly associated with a given locale, should be given priority over styles which occur less frequently, particularly as related to new construction. Differing styles and types of buildings with a multitude of architectural details often heightens the impact of the historic district.

(b) New Construction

1. Siting: Appropriate setback distance shall be determined by the Commission along the following guidelines:

a. Setback restrictions for new construction will apply to all sites within the District.

b. On any block containing buildings built prior to 1915, setback for new construction will be determined as that setback distance which occurs most frequently for pre-1915 buildings on that block (may, of course, vary from block to block).

c. On any block which does not contain pre-1915 buildings, setback distance will be determined by the Commission as that distance which is most suitable to the character of that portion of the District.

2. Scale: In general, height of new construction shall not exceed two and one half (2 1/2) stories. The Commission shall make individual determinations along the following guidelines:

a. Height restrictions for new construction will apply to all sites within the District.

b. On any block containing buildings built prior to 1915, maximum height for new construction will be determined as that height which occurs most frequently for pre-1915 buildings on that block (may vary from block to block).

c. On any block which does not contain pre-1915 buildings, maximum height will be determined by the Commission as that height which is most suitable to the character of that portion of the District.

d. Determinations as to suitability of proportions of height to width will be made on an individual basis by the Commission.

3. In all other determinations relating to new construction, the Commission will strive to allow maximum flexibility of design. It is not the intent of the Commission to require that new construction imitate or produce facsimiles of 19th century buildings. Good contemporary designs are welcomed, provided that they are compatible with the general character of the District. In making determinations regarding compatibility of new construction details, the Commission and the prospective builder will take into consideration items 1-13, listed under "Specific Considerations" in the following section. The prospective builder may also find additional aid in the O. I. R. C. "Guidelines — Bulletin Number One."

(2) Specific Considerations (Applies to all buildings subject to review.)

(a) Siting

No existent building shall be relocated and no new structure shall be placed closer to the sidewalk, street or visible alley, than that distance which has been predetermined by existent historic structures. Areas which have traditionally been reserved for parks and open spaces should remain as such. Criteria for building setback will be established either by studying original zoning permits and plat maps or by establishing uniform setback based on existent structures.

(b) Scale

No existent historic building shall be enlarged and no new structure shall be built so that its proportions, particularly height, are out of scale with its surroundings. On any given block or area where a variety of sizes and styles exist, no structure, either new or enlarged, shall outsize the majority of the structures in that area. If it is mandatory for any of a number of reasons that a private dwelling be enlarged, these alterations shall be made in such a manner as not to alter the scale of the streetscape. The height of all new construction shall be based upon the height of existing structures within the vicinity and generally shall not exceed a maximum height of two and one half (2 1/2) stories.

(c) Landscaping

Wherever possible, attention should be given to traditional lawn and garden arrangements with emphasis given to regional flora. In no case, shall such landscaping techniques as concrete or gravel lawns, front patios, or circular driveways in front of houses be considered.

(d) Texture

This term refers to the exterior fabric of a building. In Key West, where the majority of the houses were carpenter-built, the exterior was usually wood. In addition to squared weather boards and vertical siding as mentioned in Bulletin Number One, wide beaded-edge siding is a unique and interesting architectural factor of the District. In no case, shall plywood, metal, stucco, brick veneer over wood, or any imitative material be used for restoration. Although there is very little masonry construction within the residential areas, it is acceptable with certain limitations. Concrete block, glass blocks, heavily stuccoed exteriors or brick in any of the wide variety of contemporary colors, such as salmon, buff, yellow, etc., shall be unacceptable. For Restoration and new construction, the masonry in existent buildings should be matched as closely as possible. This is also true of mortars; black and colored mortars would be unacceptable without precedent within the District.

(e) Structural Systems

Since the structural framing of a building is not normally visible, this is an area which is not of concern to the Review Committee.

(f) Roof Types and Materials

In Key West, where wind intensity was always a consideration, roofing was a primary concern. Consequently, those roof types which offered the least wind resistance were used, i.e., ridge roofs with gable ends and narrow eaves. Hip and mansard are also acceptable, although they occur less frequently. As all of the earliest buildings probably had wood shingles, the cost of replacing these may be prohibitive for many homeowners. In such instances, asphalt or some material imitative of wood shall be acceptable. Metal shingles may be suitable for some later buildings, although V-crimped metal roofing is generally a twentieth century device. Most favored material, where possible, would be fire-retardant cedar or cypress shakes.

(g) Secondary Roof Structures

Wooden roof scuttles were very common in Key

West and were frequently used off wrecked boats. Widow's walks and cupolas were also in common use as were balustraded decks. Dormers appear on a number of buildings, sometimes varying in size within one building. None of these devices, however should be used on a house where they did not previously exist.

(h) Foundations

Building foundations, unless obscured by shrubbery, are normally visible. The wooden houses of Key West were generally erected on Florida cypress posts. Where such a foundation might be difficult to reproduce, a foundation of brick piers is acceptable. If infill between piers is desired by the owner it should be either brick or wood lattice. Solid brick curtain walls between piers would generally be anachronistic.

(i) Fenestration

Window and door size, location and style will vary with the individual structure, therefore, generalizations about the overall District are not feasible. However, devices which were not available at the period in which the structure was [illegible] such as plate glass windows, aluminum doors and aluminum sash windows, shall be considered unacceptable. Additionally, any substitutions such as the placing of an oak Victorian door on the front of a house or glazing a window in a Conch house with stained glass shall be considered unacceptable.

(j) Porches

Porches vary with the period and style of the house. The earliest Conch houses had front and back porches which were normally incised under the roof. Normally, the roof slanted down from its ridge to the columns located at the outside of the porch. Porches were frequently two stories and took the form of galleries. Later in the century, their size and location took on a more random pattern such as in the Harris-Ramos House. Restoration should relate to pre-existent porches, most of which would be of wood. Existing porches should not be screened-in, glassed-in or enclosed in any way, except by balustrades.

(k) Fences and Yard Walls

The type of fencing shall be related to the style of the building site that it enclosed. For example, although wrought iron fencing was in use in Key West during the latter part of the nineteenth century it would not have normally enclosed a Bahamiam-type house. In all cases, fencing should relate specifically to the structure it encompasses unless it is not visible from a public road. Incompatible fencing shall include such types as chainlink, split-rail, reed or bamboo fencing. Stuccoed masonry walls should be used only in cases where the original material was such. If masonry walls are absolutely necessary, exposed brick in running, common bonds should be preferred. If fences or walls are completely gone, some archaeological research may be required to determine the original fabric.

(l) Exterior Decoration

The Historic American Building Survey has noted that there were approximately thirty different balustrade patterns used in Key West at the height of the Victorian era (circa 1885). These ranged from simple jigsaw pattern to elaborately turned balusters. Templates of each of these designs have been made and it is possible to reproduce exactly the designs used in palings and balustrades. With regard to brackets, columns, cornice drapery, banisters, bargeboards, none should be placed where it did not exist, and if it did exist, the original should be copied when possible. There are now methods of restoration available whereby seriously rotted columns, balusters, can be fully restored and reused as opposed to reproducing a facsimile. (Information on these processes is available through the State of Florida, Division of Archives, History and Records Management.)

(m) Color

The following traditional colors apply to both repainting of existing structures and new construction. For colors listed below, see a chart of approved color samples on file at the O. I. R. C. bulletin board in the Building Department. Other colors may be approved. Where feasible, it is strongly recommended that you experiment by carefully scraping down paint layers on the oldest parts of existing buildings to reveal the original paint color. If this is not feasible, or if you do not wish to match the original color; the following list is offered for your guidance.

Exterior Siding	Gray (from light to dark tones — including gray-blue), cream, white and various shades of yellow.
House Trim	White; or in same color as siding; or acceptable in slightly darker or slightly lighter shade of siding color.
Sash, window frames, porches, railings, spindles, balusters, gutter & downspouts	White, light blue, light green, gray — or match trim or siding color.
Porch Ceilings	Gray, Charcoal gray, (or match siding or trim color).
Porch decking & Porch steps	White, or match siding or trim.
Wood fences & gates	White, or match siding or trim.
CBS walls	White, or match siding or trim (with additional option of black).
Iron fences	Natural, unless stripping of previous paint layers involved.
Foundations	White, or match siding or trim.
Piers	Match siding or trim.
Lattice	Grays or unpainted.
Doors	Grays or browns.
Roofs	Natural.
Metal	
Asphalt	
Wood	

Supplemental Information

Additional information regarding Old Island Restoration Commission application procedures, photographic examples of various historical structures and architectural details may be found in the Preservation Guidebook for the Old Section of the City of Key West by the Old Island Restoration Commission, 1975.

Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-12.10.

27F-12.11 Architectural Review Board Incorporation Into Old Island Restoration Commission. Pending legislative clarification, the Old Island Restoration Commission shall continue its functions in lieu of the architectural review board noted in Subsection 27F-8.03(2)(e)2.

Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-12.11.

27F-12.12 Effective Date. These rules shall take effect twenty (20) days after filing with the Secretary of State.

Specific Authority 120.54(11), 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-12.12.

27F-12.13 Ordinances Incorporated by Reference. Copies of Ordinances Number 75-17, 75-18, and 76-5 of the City of Key West incorporated by reference in this rule are available at the City Hall, Key West, Florida.

Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-12.13.

CHAPTER 27F-13
LAND PLANNING
REGULATIONS FOR THE FLORIDA KEYS AREA OF CRITICAL STATE CONCERN
CITY OF NORTH KEY LARGO BEACH
(Formerly 22F-13)

27F-13.01 Short Title.
27F-13.02 Purpose.
27F-13.03 Shoreline and Mangrove Protection.
27F-13.04 Site Clearing and Tree Protection.
27F-13.05 Effective Date.

27F-13.01 Short Title. This chapter shall be known as the North Key Largo Beach Critical

27F-13.02 Purpose. Pursuant to Section 7, Article II, of the Florida Constitution and Section 380.05, Florida Statutes, it is the purpose of these rules to establish land development regulations for the municipality of North Key Largo Beach which implements the principles for guiding development set forth in Chapter 27F-8, Florida Administrative Code, Boundary and Principles for Guiding Development for the Florida Keys Area of Critical State Concern.

Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-13.02.

27F-13.03 Shoreline and Mangrove Protection. The following regulations relating to shoreline and mangrove protection shall apply to North Key Largo Beach and shall supersede any existing regulations relating thereto.

Section 1. Purpose

It is the purpose and intent of this regulation to identify and provide protection for shorelines and associated mangrove communities and to preserve those conditions and characteristics which promote shoreline stabilization, storm surge abatement, water quality maintenance, wildlife and marine resource habitats, and marine productivity.

Section 2. Shoreline Protection Zone

There is hereby established a shoreline protection zone in all of North Key Largo Beach. The shoreline protection zone includes submerged lands covered by the waters of the Atlantic Ocean and the Gulf of Mexico (Florida Bay) out to the seaward limit of the State's territorial boundaries, whether in sovereign or private ownership, including those lands contiguous to said waters where shoreline mangrove communities occur. In order to maintain the functional integrity of these mangrove communities; the interior boundary of the shoreline protection zone is hereby established at a line extending 50 feet laterally upland from the landward limit of the shoreline mangroves. The shoreline mangroves shall include mangrove communities which contain red (Rhizophora mangle), black (Avicennia Nitida) or white (Laguncularia racemosa) mangroves but excluding those mangrove communities which are isolated inland and separated from open water areas by non-mangrove natural vegetative communities.

Only the following uses, subject to appropriate limitations and requirements, shall be allowed within the shoreline protection zone:

(1) Access canals or channels;

(2) Docks;

(3) Elevated boardwalks;

(4) Other structures elevated on pilings;

(5) Utility line crossings or rights-of-way.

Section 4. Uses Permitted Upon Special Approval: Special Exception Uses

(1) The following uses, subject to appropriate limitations and requirements, shall be allowed within the shoreline protection zone by special approval of the City Commission.

(a) Access driveways and turnarounds for single-family residences.

(2) The following standards shall be met before the City Commission may grant approval for a Special Exceptions Use within the shoreline protection zone:

(a) The principle structure shall be located as cl[illegible]s possible to the landward edge of the site so a[illegible]luce driveway length.

[illegible]access driveways and turnarounds shall [illegible] piped culverts under the access [illegible]nd/or turnaround at appropriate [illegible] as to maintain tidal regime.

(c) Wherever an access driveway or turnaround crosses a discernible tidal creek, inlet or shallow basin, a bridge or box culvert shall be installed over the creek, inlet or shallow basin.

Section 5. Permit

(1) No development permit of any kind shall be issued to any person to undertake any development with the shoreline protection zone without first obtaining a zoning clearance from the City Commission.

(2) An application for any development permit within the shoreline protection zone shall be referred to the City Commission. The materials to be referred to the City Commission shall include the following, in duplicate:

(a) Proposed site plan

(b) A natural vegetation map

(c) Other information as may be appropriate to determine the impact of the development of the natural functions of the shoreline protection zone.

(3) The placement of landfill within the shoreline protection zone is hereby prohibited and no permit shall be issued authorizing the same, except as provided in Section 4 of this regulation.

(4) No application for a zoning clearance shall be approved and no permit shall be issued except upon a written finding by the City Commission that the proposed development will not encroach upon or destroy the value of areas within the shoreline protection zone or otherwise adversely affect those conditions and characteristics which promote shoreline stabilization, storm surge abatement, water quality maintenance, wildlife and marine resource habitats, and marine productivity.

(5) Where a permit is required to be obtained from the Florida Department of Environmental Regulation for any development proposed to be undertaken in the shoreline protection zone no zoning clearance or development permit shall be approved or issued pursuant to this regulation until such permit from the State of Florida, Department of Environmental Regulation has been obtained. Provided, however, that permits for fill and construction projects required under this section which also require a permit from Department of Environmental Regulation pursuant to Chapter 253.124, Florida Statutes, shall be issued subject to approval of Department of Environmental Regulation.

(6) The City Commission may attach other appropriate special conditions to the issuance of the zoning clearance as it may determine are necessary to meet the spirit and purpose of this regulation.

Section 6. Exceptions

The requirements of this regulation shall not apply to the following activities:

(1) Maintenance and reconstruction of U. S. Highway 1 and its bridges;

(2) Maintenance and Construction of mosquito control ditches by the Monroe County Mosquito Control District;

(3) Maintenance and reconstruction for the water pipeline by the Florida Keys Aqueduct Authority; and

(4) The maintenance and construction of seawalls and docking facilities on canals in residential subdivisions and marinas constructed prior to the adoption of this regulation.

Section 7. Completion

The permittee shall notify the City Commission in writing of the termination of any authorized work. No development shall be deemed to have been completed in accordance with this regulation until approved in writing by the City Commission following such written notification.

Section 8. Inspection

The City Commission may periodically inspect the development and shall make a final inspection following completion of work. The permittees shall assist the City Commission in making such inspection.

Section 9. Time Limitation

If a zoning clearance is issued under the provisions of this regulation by the City Commission, the applicant shall initiate necessary action to implement the approved plans within one (1) year from the date the request was granted. Should the owner of the property in question fail to initiate action within one (1) year, the zoning clearance granted shall become void. The owner of such property shall be notified to appear at the City Commission meeting at which this action will be taken. Under certain circumstances, the owner of the property in question may request and be granted by the City Commission a reasonable time extension beyond the one (1) year limitation.

Section 10. Exclusions

After the effective date of this regulation, when a tropical storm of such force or magnitude eliminates, destroys, or otherwise alters the mangrove communities within the shoreline protection zone, those areas will continue to be covered under the provisions of this regulation. If after a period of five (5) years from the date of such disturbance, the mangrove communities have not sufficiently recovered or revegetated so as to comply with the intent and purposes of this regulation, those areas will be excluded from the shoreline protection zone and the provisions governing this zone.

Section 11. Standards

(1) In order to minimize the effects of water pollution from storm runoff from development authorized under the provisions of this regulation both during and after construction which results in the degradation of water quality, the following standards shall also be met:

(a) Retention of construction related runoff or discharge of such runoff into adequately sized natural vegetative filtration areas in a manner approximating the natural runoff regime; and

(b) Permanent drainage systems which make maximum use of natural drainage patterns, vegetative retention and filtration.

Specific Authority 380.05(8) FS. Law Implemented 253.124, 380.05 FS. History—New 3-30-76, Formerly 22F-13.03.

27F-13.04 Site Clearing and Tree Protection. The following regulations relating to site clearing and tree protection shall apply to North Key Largo Beach and shall supersede any existing regulations relating thereto.

Section 1. Purposes

(1) To promote and encourage the protection of unique and biologically important natural resources, prevent the adverse effects to adjacent properties caused by the indiscriminate clearing of land, aid in the implementation of other requirements for shoreline and tree protection, and minimize potential adverse impacts upon water quality.

(2) To promote and encourage the protection and conservation of biologically unique vegetative associations known as tropical hardwood hammocks, protect certain rare or aesthetically desirable tree species found within these hammocks, provide performance oriented criteria for the protection of these tropical hammocks and specific trees in recognition of their importance and contributions to the promotion of the health, safety, and welfare of the community through carbon dioxide absorption, oxygen release, protection from storm winds, microclimate modification, wind and noise reduction and surface drainage improvement and stabilization.

Section 2. Definitions

(1) "Development" means the carrying out of any building operation or the making of any material change in the use or appearance of any structure, and for the purpose of this regulation shall include:

(a) The placement or construction of any structure on land;

(b) The reconstruction, alteration of the size, or material change in the external appearance, of a structure on the land;

(c) Alteration of a shore or bank of a seacoast, including any coastal construction as defined in Section 161.021, Florida Statutes;

(d) Demolition of a structure;

(e) Clearing of land or removal of any vegetation;

(f) Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

(2) Tropical hardwood hammock is defined as a characteristic combination of plant species, repeated in numerous stands, which contain predominantly the following tree species:

Pigeon Plum — Coccoloba diversifolia
Strangler Fig — Ficus aurea, F. citrifolia
Torchwood — Amyris elemifera
Wild Tamarind — Lysiloma bahamensis
Jamaica Dogwood — Piscidia piscipula
Mastic — Mastichodendron foetidissimum
Willow Bustic — Bumelia salicifolia
Black Ironwood — Krugiodenron ferreum
Lancewood — Nectandra coriacea
Gumbo Limbo — Bureau simaruba
Geiger Tree — Cordia sebestena
Crabwood — Gymnanthes lucida
Poisonwood — Metopium toxiferum
Spanish Stopper — Eugenia buzifolia
Wild Lime — Zanthoxylum fagara
Soapberry — Sapindus sapunaria
Blolly — Pisonia discolor

Section 3. Land Clearing

(1) Permit Required

(a) No person, firm or corporation, either individually or through agents, employees or independent contractors, shall clear, by mechanical or any other means, any land located within the corporated areas of North Key Largo Beach without having first applied for and obtained a land clearing permit from the City Commission.

(b) A land clearing permit shall be required for the removal of all or parts of natural occurring vegetation in North Key Largo Beach.

(c) Review and approval of development site plans which results in the issuance of a development order shall constitute compliance with the requirements of this Section. In such cases the land clearing permit will be issued in conjunction with the building permit.

(d) Exceptions. A land clearing permit shall not be required for:

1. Minor landscaping maintenance such as trimming of trees and shrubs, and mowing of yards;

2. Minimal clearing of lines less than four feet wide for surveying purposes;

3. Minimal clearing for the maintenance of property access and for minor recreational pursuits such as fishing, natural trails, boardwalks and wildlife observation;

4. Removal of trees or parts thereof which threaten to cause disruption of public or private utility services or pose a hazard in an emergency condition; provided, however, that any trimming will not destroy the tree.

(2) Permit Application; Field Check, Verification Prerequisite to Permit Issuance

(a) Any person, firm or corporation requesting a land clearing permit shall file an application with the City Commission on a form provided by said Commission. Said application shall contain the following information:

1. The name and address of the owner of the land for which the clearing permit is requested;
2. The name and address of the person, firm or corporation that will physically clear the land;
3. The proposed date the land clearing will commence and the projected date of completion;
4. The legal description and street address, if any, of the land for which the permit is requested;
5. A map of the natural vegetative communities found on and adjacent to the site.

An overall site plan of the land for which the is requested indicating the shape and ions of said land, the purposes for which clear.. ; is requested, and the steps taken to minimize effects of clearing on surrounding vegetation and water bodies.

(b) Prior to the issuance of a land clearing permit, the City Commission shall field check the proposed clearing site and shall verify on the application that the facts contained therein, relative to the location and description of vegetation, are factually correct.

(3) Approval of Permit

After an application for a land clearing permit has been filed and verified, the City Commission shall review and consider what effects such removal of vegetation will have upon the natural resources, scenic amenities and water quality on and adjacent to the proposed site. Upon finding that such removal of natural vegetation will not adversely affect the natural resources, scenic amenities and water quality adjacent to the proposed site, the permit shall be approved, approved subject to modification or specified conditions, or denied. In the event a request is denied, the reasons for denial shall be noted on the application form and the applicant shall be so notified.

(4) Notification of Completion of Clearing; Certificate of Completion

Within forty-eight (48) hours after the work contemplated under the land clearing permit has been completed, the holder of the permit shall notify the City Commission shall issue a certificate of completion to the holder of the permit. No further activity of any nature shall commence on the land that is the subject matter of the land clearing permit until said certificate has been issued.

Section [illegible] Protection

(1) To [illegible] ximum extent possible, tropical hardwood hammock communities, as defined in Section 2(2) of this regulation, shall be protected. Protection of such tropical hardwood hammock communities as intact areas or "clumps" shall be encouraged in all proposed development over the selective removal of individual trees. The spatial arrangement of proposed structures and other impervious surfaces shall reflect design considerations which provide maximum protection of these tropical hardwood hammock communities.

(2) To the maximum extent possible, individual palm trees and tree cactus of the following species shall be protected:

Buccaneer Palm — Pseudophoenix sargentii
Cabbage palm — Sabal palmetto
Coconut palm — Cocos nucifera
Date palm — Phoenix dactylifera
Paurotis palm — Acoelorrhaphe wrightii
Royal palm — Roystonea elata
Silver palm — Coccothrinax argentata
Key thatch palm — Thrinax morrissii (H. Wendel)
Florida thatch palm — Thrinax radiata (Lodd)
Washington palm — Washington filifera
Tree cactus — Cereus robinii

Specific Authority 380.05(8) FS. Law Implemented 380.05 FS. History—New 3-30-76, Formerly 22F-13.04.

27F-13.05 Effective Date. These rules shall take effect twenty (20) days after filing with the Secretary of State.

Specific Authority 380.05(8) FS. Law Implemented 120.54(11), 380.05 FS. History—New 3-30-76, Formerly 22F-13.05.

ANNOTATIONS

Filing date

Final agency action occurred when rules were filed with Department of State, although in some cases rules may be withdrawn or changed after such filing, and petition seeking judicial review was not filed within 30 days, so court had no jurisdiction. Florida Administration Commission v. District Court of Appeal, First District, 351 So. 2d 712 (1977).

CHAPTER 27F-14
COASTAL ENERGY IMPACT PROGRAM
(Formerly 22F-14)

27F-14.01 — 27F-14.09 Reserved.
27F-14.10 Purpose.
27F-14.11 — 27F-14.19 Reserved.
27F-14.20 Definitions.
27F-14.21 — 27F-14.29 Reserved.
27F-14.30 Authority.
27F-14.31 — 27F-14.39 Reserved.
27F-14.40 Provisions.
27F-14.41 — 27F-14.49 Reserved.
27F-14.50 Applicant Eligibility.
27F-14.51 — 27F-14.59 Reserved.
27F-14.60 Policy and Condition.
27F-14.61 — 27F-14.69 Reserved.
27F-14.70 Procedure.

CHAPTER 27F-15
LAND PLANNING BOUNDARY AND PRINCIPLES FOR GUIDING DEVELOPMENT FOR THE CITY OF KEY WEST

27F-15.01 Purpose.

(1) Pursuant to Section VII, Article II, of the Florida Constitution, and Section 380.05, Florida Statutes, it is the purpose of these rules to define the boundary of the City of Key West Area of Critical State Concern and to provide principles for guiding development within the critical area in order to conserve and protect the natural, environmental, historical and economic resources, the scenic beauty, and the public facilities within the Area of Critical State Concern.

(2) The 1979 legislation designating the Florida Keys Area of Critical State Concern contained a special provision, Section 380.0552(3), Florida Statutes, that required the removal of the City of Key West upon approval by the State Land Planning Agency of the Land Use Element of the Local Government Comprehensive Plan. This was accomplished on June 26, 1981.

(3) Based on the recommendation of the Keys Resource Planning and Management Committee and the State Land Planning Agency, the Administration Commission determined to again designate the City of Key West as an Area of Critical State Concern. These principles are the basis for the City of Key West to prepare the Comprehensive Plan and Land Development Regulations for the designated Area of Critical State Concern. When the principles are properly implemented by the adoption and enforcement of the Comprehensive Plan and Development Regulations, then the advantages of coordinating development in the Area of Critical State Concern should be achieved.

Specific Authority 380.05(1) FS. Law Implemented 380.05 FS. History—New 2-28-84.

27F-15.02 Boundary. The area designated as an Area of Critical State Concern encompasses the territorial boundaries of the City of Key West, Florida, including the entire Island of Key West, Monroe County, Florida, and all territories whether natural or filled, separated from the Island of Key West by artificial canals or natural channels or waterways, and all territories that have been filled in, built up and developed and areas not contiguous, adjacent to, or abutting on said Island of Key West and served by bridges or other direct connections therewith including bay bottoms owned by the City of Key West, Florida, also including all that part of Stock Island and bay bottoms lying northerly of United States Highway No. 1 which is now owned by the existing municipality of the City of Key West, Florida, the Florida Keys Junior College, and privately owned property and islands including natural or filled or submerged lands lying contiguous to or separated from Stock Island by artificial canals, natural channels, or waterways, particularly described as follows:

A tract of submerged land in the Bay of Florida in Section 27, Township 67 South, Range 25 East, Stock Island, Monroe County, Florida, being more particularly described as follows:

Commence at the point of intersection of U. S. Highway No. 1 with the center line of "Old Country Club Road;" thence northwesterly along said center line of "Old Country Club Road" a distance of 1400 feet; thence North 60° 00" West a distance of 200 feet to the P. O. B.; thence continue North 60° 00" West distance of 1548 feet to a point; thence continue North 30° 00" East a distance of 1100 feet to a point; thence continue South 60° 00" East a distance of 1548 feet to a point; thence continue South 30° 00" West a distance of 1100 feet to the P. O. B. containing 39.06 acres, more or less.

A tract of submerged land in Section 27, Township 67 South, Range 25 East, offshore from the northwesterly shoreline of Stock Island in Monroe County, Florida, more particularly described as follows:

Commence at the intersection of the center line of U. S. Highway No. 1 and "Old Country Club Road;" thence northwesterly along the center line of said "Old Country Club Road" for a distance of 1400 feet; thence North 60° West, 200 feet; thence at right angles to the last named course, North 30° East, 1100 feet to the point of beginning of the property herein after described; from said point of beginning, thence at right angles to the last named course North 60° West, 1548 feet; thence North 76° East, 900 feet; thence South 34° East, 1040 feet; thence South 30° West, 160 feet, more or less, back to the point of beginning. Containing 13.05 acres, more or less. Lying and being in Section 27, Township 67 South, Range 25 East, Monroe County, Florida;

provided, that no island [illegible] between Roosevelt Boulevard on the [illegible] ly shore of the Island of Key West [illegible] Cow Key

Channel shall be included in the territorial boundaries of the City of Key West, Florida, nor shall the property commonly known as Key Haven be included in the territorial boundaries of the City of Key West, Florida, nor shall the property known as Wisteria Island and/or any other islands situated and lying west of the Island of Key West be included in the territorial boundaries of the City of Key West, Florida (Sp. Acts, 70-762, Section 1).

Specific Authority 380.05(1) FS. Law Implemented 380.05 FS. History—New 2-28-84.

27F-15.03 Principles for Guiding Development.

(1) Objectives to be Achieved.

(a) Strengthen local government capabilities for managing land use and development;

(b) Protection of tidal mangroves and associated shoreline and marine resources and wildlife;

(c) Minimize the adverse impacts of development of the quality of water in and around the City of Key West and throughout the Florida Keys;

(d) Protection of scenic resources of the City of Key West and promotion of the management of unique, tropical vegetation;

(e) Protection of the historical heritage of Key West and the Key West Historical Preservation District;

(f) Protection of the value, efficiency, cost-effectiveness and amortized life of existing and proposed major public investments, including:

1. The Florida Keys Aqueduct and water supply facilities,

2. Sewage collection and disposal facilities,

3. Solid waste collection and disposal facilities,

4. Key West Naval Air Station,

5. The maintenance and expansion of transportation facilities, and

6. Other utilities, as appropriate;

(g) Minimize the adverse impacts of proposed public investments on the natural and environmental resources of the City of Key West; and

(h) Protection of the public health, safety, welfare and economy of the City of Key West, and the maintenance of Key West as a unique Florida resource.

(2) Elements Requiring Regulation.

(a) Planning and Administration.

1. The City of Key West shall modify the Comprehensive Plan which guides development within its boundaries to be consistent with these principles. The Comprehensive Plan shall be implemented through development regulations, including zoning ordinances and maps, which are kept current and made available for reasonable public distribution and inspection. Development orders shall be issued only in conformance with the policies and standards of the Comprehensive Plan, development regulations and maps.

2. The City of Key West shall prepare and implement Capital Improvement Plans based on viable funding sources to provide adequate infrastructure for existing and future development.

3. Issuance of development orders shall be coordinated with and contingent upon provisions contained within the Capital Improvement Plan. Development shall not be approved which is inconsistent with or exceeds the services specified in the Plan.

4. Special planning and zoning districts shall be created for:

a. Environmentally sensitive areas including, without limitation, mangrove communities. Such areas shall be zoned with a maximum use density of one dwelling unit per acre. Site alteration in these areas shall be limited to 10% of the total site size. Density credit should be considered by local governments as an incentive for the preservation of environmentally sensitive areas.

b. Noise and hazard zones of the Key West Naval Air Station as delineated by the U. S. Navy Office of the Chief of Naval Operations. Development within such zones should be limited to that compatible with air operations. Implementation of this section should be closely coordinated with the Office of the Chief of Naval Operations. Similar districts should be created around civilian airfields in cooperation with the Florida Department of Transportation and the Federal Aviation Administration. Codes for airfield districts should clearly specify height limits for structures and other appropriate restrictions on development necessary to protect air operations and public health and safety.

5. A community impact statement shall be designed to enable local governmental officials to determine the proposed development's favorable or unfavorable impact on the environment, natural resources, economy and the potential of the project to meet local or regional housing needs. The statement shall also require

information relative to the project's potential impact on public facilities, including without limitation, water, sewer, solid waste disposal and transportation facilities. A community impact assessment statement shall be submitted and approved prior to the issuance of development orders or site plan approval for the following developments:

a. Any development which includes building(s) in excess of 45 feet in height;

b. Any intensive land uses including: residential uses of 10 or more dwelling units per acre or 50 or more total dwelling units; and

c. Intensive business, commercial, or industrial uses.

6. Developments shall be encouraged in the Comprehensive Plan and development regulations to use clustering and other design techniques which would reduce public facility costs, produce energy savings, and improve the scenic quality of the development. In addition, they shall conform to appropriate setback and open space requirements, stringent landscaping and land use compatibility requirements. Building and siting requirements shall reduce hurricane and fire damage potential and control access to City thoroughfares.

7. An evacuation plan consistent with regional and County plans shall be prepared and adopted which provides an opportunity for residents and visitors to evacuate to a place of safety during a natural disaster.

(b) Site Alteration Regulations.

Site alteration and landscaping regulations shall provide for:

1. A land clearing permit of limited duration issued upon approval of a site plan which includes a natural vegetation map, excepting minimal clearing required for survey.

2. Limitation of the size and species of trees allowed to be removed in clearing, including reasonable exceptions for structure sites and public safety. The ordinance shall provide protection for native tropical vegetation and tree species characteristic of West Indian tropical hardwood hammocks.

3. Revegetation and landscaping of cleared sites after construction.

(c) Waste Control and Water Quality Protection.

1. The City of Key West, in cooperation with the Monroe County Waste Collection and Disposal District, shall establish criteria and regulations for the methods and location of the disposal of all solid waste-water effluents and residu

2. Site alteration and regulations shall provide for:

a. Retention of runoff or discha runoff into adequately sized vegetative filtration areas in a approximating the natural runoff

b. Permanent drainage systen make maximum use of natural patterns, vegetative retention and fi

c. Maintenance of habitat for species, prevent the introduction of vegetation, and minimize the altera transitional wetlands.

(d) Protection of Public Faciliti Investments.

1. The City of Key West, in coope with the Florida Keys Aqueduct Auth shall amend all applicable plumbing coc provide for the mandatory installatio water conserving fixtures in all development and redevelopment.

2. Business, commercial and indust development shall provide off street park and limited controlled access points to C thoroughfares.

3. Existing and future waste treatm and disposal sites shall be protected fr encroachment by land uses which wo endanger their functions or existence.

(e) Historical Resource Protection.

1. A management and enforcement p and ordinance shall be adopted by the City Key West providing that designs and uses development reconstruction within the K West Historical Preservation District sh be compatible with the existing uniq architectural styles and shall protect historical values of the District.

2. The City of Key West shall maint an architectural review board establish pursuant to Section 266.207(2), Flori Statutes. Furthermore, the architectu review board shall receive notice of applications for development within the C of Key West and participate in hearings appropriate.

Specific Authority 380.05(1) FS. I Implemented 380.05 FS. History—New 2-28-

27F-15.04 Administration.

(1) The above guidelines are orien towards protection of natural and histori resources and public investments of regio and State importance.

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(2) The Comprehensive Plan and development regulations developed pursuant to these principles shall be:

(a) Performance oriented to maximize design flexibility.

(b) Administered by the municipal government in the same manner as local comprehensive plans, ordinances, and codes.

Specific Authority 380.05(1) F.S. Law Implemented 380.05 F.S. History—New 2-28-84.

CHAPTER 27F-16
COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS FOR THE CITY OF KEY WEST AREA OF CRITICAL STATE CONCERN

27F-16.01 Purpose and Effect.

(1) The purpose of this Chapter is to establish land development regulations and a local comprehensive plan applicable within the City of Key West Area of Critical State Concern, pursuant to Section 380.05(8), F.S. It is the intent of the Administration Commission that this rule shall supplement those land development regulations approved by the Department of Community Affairs in Chapter 9B-30, FAC. This Chapter and Chapter 9B-30, FAC, comprise the comprehensive plan and land development regulations for the City of Key West Area of Critical State Concern. To the extent that existing ordinances are not adopted in this rule or approved in Chapter 9B-30, FAC, such ordinances are not deemed to be "land development regulations" within the definition of Section 380.031(8), F.S.

(2) As provided in Section 380.05(10), F.S., the comprehensive plan and land development regulations adopted herein shall be superseded by regulations or amendments which are proposed by the City of Key West and approved by the Department of Community Affairs under the procedures found in Section 380.05(6), F.S.

(3) In the event of any inconsistency between the comprehensive plan and a land development regulation or graphic rendering, including but not limited to the zoning and land use maps, the text of the comprehensive plan shall control.

Specific Authority 380.05(8) F.S. Law Implemented 380.05(8) F.S. History—New 1-17-85.

27F-16.02 Comprehensive Plan. The City of Key West Comprehensive Plan, 1981, is incorporated by reference with the following amendments:

(1) Fiscal Structure and Economic Assumptions Element

(a) Section I: Inventory and Analysis

Page 2.0, add new page as follows:

Data found in this section were originally compiled prior to 1981. More current figures will be available no later than 1986 as part of the evaluation and appraisal report process required by Section 163.3191, Florida Statutes, to update this element of the Comprehensive Plan. This process will also involve information developed in planning studies prepared by the City of Key West Planning Department and the other revised elements of the Comprehensive Plan approved by the Administration Commission.

(b) Section II: Economic Assumptions

Page 2.40, under F. Utilities and Services, delete the entire paragraph, and add:

Utilities and services are discussed in the Utilities and Public Services Element of the Comprehensive Plan. Problem areas are noted in the Fiscal Structure and Economic Assumptions, Traffic Circulation, and Utilities and Public Services Elements.

(c) Section III: Implementation Program

Page 2.47, add under Other Funding Sources the following paragraph (insert as new paragraph after first paragraph):

In order to accommodate demand for public services it is reasonable to require that new and expanding development or redevelopment pay an equitable and proportionate share of the necessary improvements. Such payments should be in the form of land dedications, impact fees or similar requirements to be incorporated in an appropriate ordinance. The City will continue to develop and evaluate various planning studies to determine the capacities of public services and the sources of impacts on those services.

(2) Open Space and Recreation Element

Section III: Implementation Program

Page 3.36, under I.

Replace "To the extent possible allocate local expenditures on recreation facilities that will" with "Ensure that the allocation of local expenditures on recreation facilities will."

(3) Intergovernmental Coordination Element

Section II: Goals, Objectives and Policies

Page 4.8, add the following:

Policy 1.E. In cooperation with the Monroe County Waste Collection and Disposal District, establish criteria and regulations for the methods and location of the disposal of all solid waste and wastewater effluents and residuals.

Policy 1.F. Ensure that existing and future waste treatment and disposal sites are protected from encroachment by land uses which would endanger their functions or existence.

(4) Conservation/Coastal Zone Protection Element

(a) Section II: Goals, Objectives, and Policies

1. Page 5.19, Policy 2.I., line 3.

Delete "extensive"

2. Page 5.19, Policy 2.L.

Delete "unduly"

3. Page 5.20, Policy 2.N.

Add after "seagrasses" the words "and reestablishment of plant material."

4. Page 5.20, Policy 3.A.

Replace "should" with "shall"

5. Page 5.20, Policy 3.B.

Replace "should" with "shall"

6. Page 5.20, Policy 3.C.

Replace "should" with "shall"

7. Page 5.20, Policy 3.D.

Replace "should" with "shall"

8. Page 5.20, Policy 3.E.

Replace "should" with "shall"

9. Page 5.21, Policy 3.F.

Delete existing wording, replace with "The sale of submerged lands for the purpose of obtaining fill material shall be prohibited."

10. Page 5.21, Policy 3.H.

Replace "should" with "shall" in both sentences.

11. Page 5.21, Policy 3.I.

Replace "should" with "shall"

12. Page 5.21, Policy 3.J.

Replace "should" with "shall"

13. Page 5.24, Policy 6.F.

Delete "particularly" and replace "discouraged" with "prohibited"

14. Page 5.24, Policy 7.A.

Replace "encourage that" with "regulate" and delete "occur"

15. Page 5.24, add:

"7.C. Environmentally sensitive areas including but not limited to wetland communities, mangroves, salt ponds, and tropical hardwood hammocks, shall not be allocated a density in excess of one unit pe acre. To the extent site alteration permitted, in no event shall site alteratio exceed 10% of the total site size."

16. Page 5.25, Policy 8.E.

Add: The Old Island Restoratio Commission (OIRC) shall recommend to th City appropriate standards and guideline for the protection of the architectura heritage of the historic district. The Cit shall consider this recommendation, and, n later than July 1, 1985, by ordinance, adop standards and guidelines for the protection the architectural heritage of the histori district.

(b) Section III: Implementation Progra

1. Page 5.28, under "Existing Loc Regulations, 2."

Delete "Sp. Acts 69-1187"

2. Page 5.29, continuing under "Existin Local Regulations, 3., 4. and 5."

Delete "# 79-45"

Delete "# 78-14"

Replace "Major Development Ordinanc # 76-5" with "Community Impa Assessment Ordinance," and add: " Landscape Ordinance."

(5) Traffic Circulation Element

Section I: Inventory and Analysis

(a) New page 7.3a, add as follows:

Traffic Circulation System, 1984

The Florida Department Transportation is presently helping the Cit deal with numerous circulation problems b designing and conducting a Comprehensi Traffic Circulation Study which will resu in recommendations for (1) an immedia action plan which will define needed low co improvements and safety recommendation and (2) a long-range 1995 transportatio plan responsive to anticipated growth population, employment and tourism.

This effort, in conjunction with t planning studies prepared by the City of K West Planning Department, as well future reports, will be used by the City evaluate the impacts of future developme on the existing transportation system.

Current studies describe problems in t existing street network. To a large exten especially in the historic district, roads are t narrow to serve as major or minor arteri routes. To address this issue, studies will necessary to explore alternatives right-of-way expansions, where expansio are not feasible in many areas.

(b) Page 7.18, [illegible]y 2.C.

Replace "Enco[illegible]" with "Develop"

(c) New page 7.[illegible]a, add as follows:

Objective 4: Equitably distribute the cost of transportation system improvements.

Policies: 4.A. Develop a Capital Improvements Program with a transportation system component.

4.B. Where the City determines that applications for development approval will adversely impact the capacities of the transportation system, such approvals shall be withheld unless appropriate transportation system improvements are funded by some means, including but not limited to the option of development contributing its fair share to the necessary improvements.

(d) Add, new page 7.32, as follows:

New Development

The City will continue to study the impacts of new development on the existing transportation system. The Comprehensive Traffic Circulation Study, as well as other planning studies, may be used to identify current problem areas, and may serve as sources of information for the development of new funding sources by ordinances designed to equitably distribute the costs of transportation system improvements.

(6) Public Services and Utilities Element

(a) Introductory Matter

1. Page 8.2, add a new paragraph as follows:

The material found in this element is being revised by planning studies and the update process required by Section 163.3191, Florida Statutes. This information acknowledges the status of public utilities and services as they existed in 1981 and is retained for its historic significance. A study completed by the Key West City Planning Department in August, 1984, focused on problem areas continuing to face the City, such as water, sewer, solid waste, transportation, public safety, and electricity. The City will continue to revise all of this information as it works to document the capacities of existing public services.

2. Page 8.3, add new page as follows:

The planning studies prepared by the Planning Department specifically inventory several public services with respect to the impacts of future development on service capabilities. These studies and subsequent reports will be used as a basis for equitably distributing the costs of anticipated service improvements.

(b) Goals, Objectives, and Policies

1. Page 8.21, Policy 1.D.

Replace "Encourage" with "Require"

2. Page 8.22

Insert Policy 2.D — Establish, in coordination with Monroe County, criteria and regulations for the methods and location of the disposal of all solid waste and wastewater effluents and residuals.

3. Page 8.22

Insert Policy 2.E. — Develop and implement a Capital Improvement Plan to ensure adequate existing and future solid waste disposal. In doing so, develop standards for this public investment and identify viable funding.

4. Page 8.22, Policy 3.C.

Add sentence:

Coordinate with South Florida Water Management District for their review and comment on the proposals, where appropriate.

5. Page 8.23

Insert Policy 4.D. — Protect existing and future waste treatment and disposal sites from encroachment by land uses which would endanger their functions or existence.

6. Page 8.23

Insert Policy 4.E. — Establish, in coordination with Monroe County, criteria and regulations for the methods and location of the disposal of all solid waste and wastewater effluents and residuals.

7. Page 8.24a, add as follows:

Goal: Equitably distribute the cost of improved public services and utilities.

Objective 1: Equitably distribute the costs of services and utility expansions.

Policies:

1.A. The City will develop a Capital Improvement Program to address financing for necessary service and utility expansions.

1.B. Where the City determines that applications for development approval will adversely impact the capacities of utilities and services including, but not limited to water, sewer, solid waste disposal and transportation, such approvals shall be withheld unless appropriate utilities and service expansion are funded by some means, including but not limited to the option of development contributing its fair share to the necessary expansion cost.

(c) Section III: Implementation Program

1. Page 8.26

Under "Potable Water," delete "Ordinance 76-5" and add "a Community Impact Assessment Ordinance"

2. Page 8.27

Under "Wastewater Treatment," delete "Ordinance 76-5" and add "a Community Impact Assessment Ordinance"

3. Page 8.28

Under "Drainage and Flood Control," delete the final sentence of the third paragraph.

4. Page 8.29

Under "Site Design Criteria," delete existing paragraph c., and insert the following paragraph c.:

Retention of runoff or discharge of such runoff shall be into adequately sized natural vegetative filtration areas in a manner approximating the natural runoff regime.

5. Pages 8.30a and 8.30b

Delete existing language, insert new definition.

Elevation

Buildings should have a minimum elevation as required by the base flood elevations in conformance with the Federal Flood Insurance Programs Flood Insurance Rate Maps (FIRM).

Following are building height regulations that will control future development and that will be incorporated into the City's development codes.

a. Definition of Building Height.

In a R-2H Zoning District, building height shall mean the vertical distance from the crown of the nearest adjacent street or the base flood elevation, whichever is higher, to the highest point of the proposed building.

In all other zoning districts, building height shall mean the vertical distance from the crown of the nearest adjacent street to the highest point of the proposed building.

Building height excludes elevator shafts, signs, antennas, ventilating shafts, air conditioning units and other non-living or nonleasable area, appurtenant structures, and incidental protrusions above the roof line. These exclusions shall be approved by the Building Department of the City of Key West.

b. Maximum Building Height

District	Height
R-1	25
R-1A	25
R-1B	25
R-2	40
R-2H	40
HP-1	30
HP-2	35
HP-3	30
C-1	40
C-2	40
M-1	35
M-2	35

c. The City Commission may allow buildings in excess of the Maximum Building Height as a special exception. Provided, however, in the HP-2 district additional five feet of building height shall allowed when the roof is of a pitch desig which roof shall be approved by the O Island Restoration Commission. In additi to any other conditions imposed by lav including but not limited to Section XV Appendix A, Code of Ordinances, on th granting of special exceptions and prior to th Board's approval of a special exceptio relating to height, written findings shall b made by the Board that:

1. screening, buffering or massing c structures will mitigate the visual impact c height;

2. the height will be compatible wit surrounding structures; and

3. the additional height supports th public interest and advances positive land us policy rather than mere economi convenience of the applicant.

d. Structure Design

In no case should areas created by elevate buildings be used for living units or a occupied leasable area. Thus, area belov bottom floors should be restricted to th following use:

1. Parking
2. Storage
3. Recreation
4. Utility Rooms

Bottom floors must comply with all relevan sections of the Federal Flood Insuranc Program and the City of Key West Buildin Code.

6. Page 8.30c.

Delete paragraphs and lines up to, but no including, heading Solid Waste.

7. New page 8.33, add new section a follows:

System Improvements

The City, as described in the Fisca Structure and Economic Assumptions, wil continue to assess various methods of fundin necessary for system improvements. At minimum, such methods may include th adoption of impact fees consistent wit principles established by the Florid Supreme Court and the creation of specia taxing or municipal service districts.

(7) Future Land Use Plan Element

(a) Section I: Inventory and Analysis

New page 9.16a, add the following:

The provision of transportation an public services will have significant effects o future land use patterns within the City. I order to properly assess those effects, it i necessary to continually review existin capacities for sewers, solid waste, publi

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safety, electricity, water and transportation, as well as other services. When new growth necessitates expansion or replacement of different system components, the City will identify those needs and how such improvements can be financed.

(b) Section II: Goals, Objectives, and Policies

1. Page 9.24. Add Policy F. Promote traditional waterfront uses.

2. Page 9.25, Policy B. Replace "should" with "shall"

3. New page 9.26a, add:

Objective 4: Develop a hurricane evacuation plan consistent with regional and county plans that provides an opportunity for residents and visitors to evacuate to a place of safety during a natural disaster.

Policies:

a. It shall be the policy of the City to develop and adopt a hurricane evacuation plan consistent with regional and county plans. This plan shall be developed and adopted within twelve (12) months of the adoption of a hurricane evacuation plan by Monroe County.

b. After the adoption of a hurricane evacuation plan, any development that contains habitable units and that also meets the threshold requirements of the Community Impact Assessment Ordinance shall include in the assessment a statement of:

i. The manner in which residents are informed of the plan.

ii. The developer's responsibility under the plan.

c. Where appropriate, all City, County, State, Federal and other public buildings shall be built so as to incorporate hurricane mitigation measures such that the building may serve as an approved hurricane shelter in times of emergency.

4. Page 9.27, Policy B.

a. Third line — delete "i.e.," and insert "including, but not limited to,"

b. Fourth line — delete the number 78-14,

c. Fourth line — delete "Major Development," and insert "Community Impact Assessment."

d. Fifth line — delete numbers 76-5 and 69-29 and insert after Key West: "Tree Ordinance, Landscape Ordinance"

5. Page 9.32

Second line of page — delete "Major Development" and insert "Community Impact Assessment"

Specific Authority 380.05(8) FS. Law Implemented 380.05(8) FS. History—New

27F-16.03 Land Development Regulations. The following ordinances of the City of Key West are adopted, as amended herein, and are incorporated by reference as the land development regulations for the City of Key West:

(1) "The City of Key West Community Impact Assessment Ordinance," Sections 24-1/2-31 through 24-1/2-40 of the City of Key West Code of Ordinances, including ordinances 76-5, 84-2 and 84-43; with the following amendments:

(a) Add to Section 24-1/2-34, under (b): "or, any residential development in which the gross residential density is 10 or more units per acre and the development requires rezoning, variance or special exception modifying the presently allowed density."

(b) Section 24-1/2-34

Insert new:

(d) Any development which occurs in or adjacent to wetland communities as defined by marshes and shallow areas which may periodically be inundated by tidal waters and which are normally characterized by the prevalence of salt and brackish water vegetation capable of growth and reproduction in saturated soil, including but not limited to batis (*Batis maritma*), black mangroves (*Avicennia germinans*), red mangroves (*Rhizophora mangle*) and white mangroves (*Laguncularia racemosa*), Cord grass (*Spartina* spp.), Buttonwood (*Conocarpus erectus*), glasswort (*Salicornia* spp.), Key Grass (*Monathocloe littoris*), sea daisy (*Borrichla* spp.), and sea purslane (*Sesuvium portulascasstrum*)."

(d) becomes (e)

(e) becomes (f)

(c) Section 24-1/2-35 (a), line 16.

Add after "required," "If no building permit has been issued within one calendar year from the date of approval of a development's CIAS, the approval shall expire and a new CIAS must be approved before any building permits can be issued."

(d) Section 24-1/2-37(a)(5)

After "site" add:

"shall provide for:

(1) Retention of runoff or discharge of such runoff into adequately sized natural vegetative filtration areas in a manner approximating the natural runoff regime.

(2) Permanent drainage systems which make maximum use of natural drainage patterns, vegetative retention and filtration."

(e) Section 24-1/2-37

(a) Maps

Add:

(9) A natural vegetation map if the site includes wetland communities.

(f) Section 24-1/2-37

Delete (d)(1) and substitute:

(d) Natural Resources

(1) Natural Vegetation: If wetland communities are found in or adjacent to the site, describe all proposed site alterations in these areas including dredging, filling, spoil sites, canals and channels. Identify measures which have been taken to protect conditions and characteristics which promote shoreline stabilization, storm surge abatement, water quality maintenance, wildlife and marine resource habitats, and marine productivity. Illustrate how any activity or structure that will impact wetland communities will be performed, located, constructed and maintained to prevent or mitigate any adverse impacts to wetland communities.

(g) Section 24-1/2-2-37(g)

Add (4) as follows:

(4) Describe hurricane evacuation considerations which acknowledge the current evacuation and emergency operations plans, how project residents will be informed about these plans, and any developer responsibilities identified in such plans.

(h) Section 24-1/2-37(h)

Add:

(10) Provide evidence that any necessary permit, lease or other permission from the Florida Department of Environmental Regulation and Natural Resources has been obtained for any activity that will impact wetland communities or submerged lands.

(i) Add Section 24-1/2-41 — Site Plan Review.

Beginning January 2, 1986, prior to the issuance of any building permits, a site plan review approval shall be required of any project of eight (8) or more habitable units or non-residential projects which result in the creation or expansion of four thousand (4,000) square feet or more of building area. A non-refundable fee in the amount of $100.00 shall accompany the application. An additional fee shall be determined in the manner provided in Section 24-1/2-40. However, in those instances where both site plan review and impact statement review are required, the maximum fee shall not exceed $6,000.00.

Beginning July 1, 1986, prior to the issuance of any building permits, a site plan review approval shall be required of any project of three (3) or more habitable units, or non-residential projects which result in the creation or expansion of 500 square feet or more of building area. A non-refundable fee in the amount of $100.00 shall accompany the application. An additional fee shall be determined in the manner provided in Section 24-1/2-40. However, in those instances where both site plan review and impact statement review is required, the maximum fee shall not exceed $6,000.00.

If a proposed project is abandoned for a new project or is substantially changed in the opinion of the zoning official, a new fee will be charged for the project.

The purpose of the site plan procedure is to aid the developer through approval of preliminary plans prior to development of complete construction drawings. Approvals should be secured prior to the construction document phase. The required site plan submission may be submitted along with construction drawings at the time of building permit application. However, a building permit will not be issued until site plan approval has been granted.

Section 1. Consideration in reviewing Site Plan: The following will be considered, depending on the nature of the project, by the Zoning Official for site plan approval and by those departments, agencies and persons reviewing and evaluating site plans:

A. Compliance with all City policies, standards and zoning regulations.

B. The provision of adequate, safe vehicular and pedestrian circulation.

C. The provision of adequate open space and landscaping.

D. The provision of surface run-off and site drainage.

The retention of runoff or discharge shall be incorporated into adequately sized natural vegetative filtration areas in a manner approximating the natural runoff regime. Permanent drainage systems which make maximum use of natural drainage patterns, vegetative retention and filtration shall be required.

E. Consistency with the Key West Comprehensive Plan.

Section 2. Information Included in Site Plan. A site plan for the purposes of this Section shall include, but not necessarily be limited to the following requirements. All drawings must be drawn to scale. All projects requiring preparation by an architect or engineer shall be completed in accordance with Chapters 471 and [illegible] Florida Statutes, as amended, which establish standards for

the qualifications, licensing, and registration of these professions and further prescribes a form of seal to be used by all valid registrants. Each site plan application shall be signed by the legal owner or authorized agent with power of attorney.

A. All Site Plan applications shall include, where applicable:

1. General Information

a. Street address and complete legal description of the site.

b. Description of the project, including total lot area, total building area, building square footage by type, site coverage, square footage of paved areas and open areas, number of dwelling units, along with other pertinent information.

2. Drawings

a. Map illustrating existing land uses within 100 feet of the site.

b. Site Plan.

i. Site boundaries including existing and proposed easements and rights-of-way.

ii. Location and use of all buildings and structures on the site, showing existing and proposed buildings.

iii. Location and character of all:

— paved areas and parking areas, including walkways, indicating wearing surface materials.

— outside facilities for waste disposal, storage or display, and related screening.

— open space and landscaping, including the height of all perimeter walls, fences, hedges, ornamental walls and other screening devices.

— curb cuts on the site.

c. Generalized floor plan indicating dimensions and square footage of each use of all building, building addition, or structure; and indicating new and existing construction.

d. Elevation drawings showing the sides, front and rear of the proposed building or building addition, indicating the exterior construction material and color, height between floors, first floor, elevation and roof height.

e. Additional drawings such as perspective, transverse section, etc. may be submitted to more accurately depict a project.

f. Location, character and orientation of signs and outdoor lighting.

g. Systems for controlling stormwater runoff.

B. Supplemental Requirements.

1. Those projects located on or along a shoreline shall include the following:

a. Any easements or rights-of-way providing public access to the shoreline.

b. The location and type of any existing or proposed bulkhead.

2. The Zoning Official may require that additional information be included in site plans, including but not limited to information concerning:

a. Protection of vegetation.

b. Shoreline protection.

c. Flood protection and elevations.

d. Consistency with the Key West Comprehensive Plan.

3. Identification of the size and nature of any recreation facilities being provided on the site.

(2) "The Zoning Ordinance of the City of Key West, Florida," Appendix A of the Code of Ordinances (except for those sections approved in Chapter 9B-30, FAC) with the following amendments:

(a) Section 1, page 2861, line 1.

Change "Milo Smith and Associates, Inc." to "Regional Research Associates."

(b) Section 1, page 2862, line 4.

Change "Milo Smith and Associates, Inc." to "Regional Research Associates."

(c) Section VII, page 2873.

Add new paragraph (1)(f) to read:

"Environmentally sensitive areas including but not limited to wetland communities, mangroves, tropical hardwood hammocks and salt ponds shall be zoned with a maximum density of one unit per acre. Site alteration shall be limited to a maximum of 10% of the total site size."

(d) Section VII, page 2873(2)(k).

Change "35 feet" to "25 feet."

(e) Section VII, page 2876(3)(j).

Change "40 feet" to "25 feet."

(f) Section VII, page 2878(4)(k).

Change "40 feet" to "25 feet."

(g) Section VII, page 2884.1(7)(j)1.

Change "40 feet" to "30 feet."

(h) Section VII, page 2884.1(7)(j)2.

Change "40 feet" to "30 feet."

(i) Section VII, page 2886(8)(j).

Change "40 feet" to "35 feet."

Add "provided, however, an additional 5 feet of building height shall be allowed when the roof is of a pitched design, which roof shall be approved by the OHRC."

(j) Section VII, page 2886.2(8A)(j).

Change "40 feet" to "30 feet."

(k) Section VII, page 2895(11)(j).

Change "40 feet" to "35 feet."

(l) Section VII, page 2896(12)(j).

Change "none" to "35 feet."

(m) Section VII, page 2896.3(13)(a)(4).

Change "four (4) stories" to "40 feet."

(n) Section IX, page 2912(1)(a).

Replace paragraph with:

a. Definition of off-street parking spaces: For the purpose of this ordinance, the term "off street parking space" shall be a minimum of nine feet (9') wide and twenty feet (20') long. Driveways for a parking area shall be a minimum of twenty feet (20') wide (two-way) and twelve feet (12') wide (one-way).

(o) Section XIII, page 2929(4)a, line 2.

Change "HP-1 and HP-2 Districts" to "HP Districts."

(p) Section XIII, page 2929(4)b, line 1.

Change "HP-1 and HP-2" to "the HP."

(q) Section XIII, page 2929(4)(c), line 1.

Replace "In a district zoned HP-1 or HP-2" with "In an HP district,"

(r) Section XIII, page 2929(4)(c), line 5.

Replace "HP, and HP-2" with "HP."

(s) Section XIV, page 2931(1), line 6.

Replace "either of the two (2)" with "any of the"

(t) Section XXIV, page 2945(16).

Replace entire paragraph with:

16. Definition of Building Height.

In a R-2H Zoning District, building height shall mean the vertical distance from the crown of the nearest adjacent street or the base flood elevation, whichever is higher, to the highest point of the proposed building.

In all other zoning districts, building height shall mean the vertical distance from the crown of the nearest adjacent street to the highest point of the proposed building.

(u) Section XXIV, page 2954(51)a, line 4.

Add "The lot line of a lot abutting a public street shall be deemed the front lot line. The front yard of a corner lot shall be that yard abutting the street with the least frontage unless otherwise determined by a street address assigned to the property on a recorded plat or deed."

(v) Amendments to Section VII which have been adopted by the City of Key West in the following ordinances:

1. Ordinance 84-13, adopted April 2, 1984.

2. Ordinance 84-28, adopted July 16, 1984.

3. Ordinance 84-41, adopted October 1, 1984.

(3) "Trees," Chapter 35, Sections 35-1 through 35-27, Code of Ordinances of the City of Key West, with the following amendments:

(a) Section 35-3(a), line 5, page 2675.

Add, after "trimming."

"An application for tree removal shall include a site plan, including a natural vegetation map, excepting when minimal clearing is required for a survey."

(b) Section 35-5, pages 2677-2679.

Add, to list of species:

"Buttonwood — *Conocarpus erectus*, Red Mangrove — *Rhizophora mangle*, Black Mangrove — *Avicennia germinans*, White Mangrove — *Languncularia racemosa*."

(c) Add Section 35-6, "Penalties" on page 2679:

Upon conviction, a violator of any provision hereof shall be subject to a fine not to exceed five hundred dollars ($500.00) or imprisonment in jail for a period not to exceed sixty (60) days or both such fine and imprisonment, in the discretion of the court; and each individual tree cut down, destroyed, removed or moved shall constitute a separate offense. In addition to the fine, the violator shall be required to restore the site with like vegetation as outlined in a restoration plan approved by the building department.

Civil Remedies

In addition to any other remedies provided by this Article the City shall have the following judicial remedies available for violations of this Article or any permit condition promulgated under this Article.

(a) The City may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury caused by the removal of vegetation in contravention of the terms of this Article.

(b) The City may institute a civil action in a court of competent jurisdiction to impose and recover a civil penalty for each violation in an amount of not more than five thousand dollars ($5,000) per offense. However, the court may receive evidence in mitigation. Each tree unlawfully removed under the provisions of this Article shall constitute a separate offense hereunder.

(c) The City may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this Article to enjoin any violation hereof; and to seek injunctive relief to prevent irreparable injury to the vegetation or properties encompassed by the terms of this Article.

(4) "Landscaping," Chapter 17-1/2 City of Key West Code of Ordinances Sections 17-1/2-1 through 17-1/2-9, with the following amendments:

(a) Add in Section 17-1/2-5(a), page 1561 after "proposed landscape development," ". . . and site drainage patterns and systems."

(b) In Section 17-1/2-6(f), "Prohibited

trees," page 1564, delete ". . . or utilized in any manner to fulfill the requirements of this chapter."

(5) "Subdivisions," Chapter 30, City of Key West Code of Ordinances, Sections 30-1 through 30-48, with the following amendment:

Section 30-45, "Drainage," page 2408, Add:

"The retention of runoff or discharge shall be incorporated into adequately sized natural vegetative filtration areas in a manner approximating the natural runoff regime. Permanent drainage systems which make maximum use of natural drainage patterns, vegetative retention and filtration shall be required."

(6) Ordinance 84-17, adopted by the City of Key West on May 21, 1984, amending the Future Land Use Element of the Comprehensive Plan.

(7) Ordinance 84-31, adopted by the City of Key West on August 20, 1984, amending Chapter 9 of the Code of Ordinances, "Buildings and Construction."

Specific Authority 380.05(8) FS. Law Implemented 380.05(8) FS. History—New 1-17-85.

CHAPTER 25-6
ELECTRIC SERVICE BY ELECTRIC PUBLIC UTILITIES

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Library Refere[illegible]gnificant recent decisions in public utility la[illegible] L. Willis, Ben E. Girtman, James A. McGee, 54 Fla. Bar J. 389, 393 (May 1980).

PART I GENERAL PROVISIONS

25-6.01 Authorization of Rules. The statutory power granted to the Florida Public Service Commission to establish rules and fix standards for electric utility service is contained in Subsection (1) of Section 366.05, Florida Statutes, which states as follows:

"In the exercise of such jurisdiction, the Commission shall have power to prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements, and service rules and regulations to be observed by each public utility; to prescribe uniform system and classification of accounts for all public utilities which, among other things, shall set up adequate, fair and reasonable depreciation rates and charges; to require the filing by each public utility of periodic reports and all other reasonably necessary data; to require repairs, improvements, additions, and extensions to plant and equipment of any public utility reasonably necessary to promote the convenience and welfare of the public and secure adequate service or facilities for those reasonably entitled thereto; employ and fix the compensation for such examiners and technical, legal, and clerical employees as it deems necessary to carry out the provisions of this Chapter; to prescribe all rules and regulations, reasonably necessary and appropriate for the administration and enforcement of this Chapter; and to exercise all judicial powers, issue all writs, and do all things necessary or convenient to the full and complete exercise of its jurisdiction and the enforcement of its orders and requirements."

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69.

ANNOTATIONS

Cost of service

Public Service Commission in setting new electricity rate structure did not err merely because it considered factors other than actual cost of service differences, since regulatory statute does not specify that particular consideration. International Minerals and Chemical Corporation v. Mayo, 336 So. 2d 548 (1976).

25-6.02 Application and Scope.

(1) These rules and regulations shall apply to all electric public utilities operating under the jurisdiction of the Florida Public Service Commission. They are intended to define and promote good utility practices and procedures, adequate and efficient service to the public at reasonable costs, and to establish the rights and responsibilities of both the utility and the customer.

(2) In any case where compliance with any of these rules introduces unusual hardship, or if unreasonable difficulty is involved in immediate compliance with any particular rule, application may be made to the Commission for modification of the rule or for temporary exemption from its requirements, provided that the utility shall submit with such application a full and complete statement of reason therefor.

(3) No deviation from these rules shall be permitted unless authorized in writing by the Commission.

(4) The adoption of these rules shall in no way preclude the Commission, upon complaint, upon its own motion, or upon the application of any utility from altering or amending them, in whole or in part, or from requiring any other or additional service, equipment, facility or standard, or from making such modification with respect to their application as may be found necessary to meet exceptional conditions.

(5) The adoption of these rules shall not in any way relieve any utility from any of its duties under the laws of the State.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69.

ANNOTATIONS

Foreign cooperatives

Where Florida rural electric cooperatives enjoyed power of eminent domain, foreign cooperative meeting F. S. A. § 425.27 requirements was also entitled to exercise this power in order to construct electrical transmission line over appellants' land, and no abuse of discretion was found in that choice of locations; further, since F. S. A. § 425.04(4) authorized rural electric cooperatives to serve up to ten percent non-rural areas, and cooperative had not violated "central station" provisions, foreign corporation's service to four municipalities did not deprive it of its "rural" character. Alabama Electric Cooperative, Inc. v. First National Bank of Akron, Ohio, 684 F. 2d 789 (11th Cir. 1982).

Municipal utilities

While Commission had no jurisdiction to set rates for municipal utility, it had authority over "rate structure" of all electric utilities in state; city's differential charges to customers within and without its corporate limits constituted classification system and therefore were matter of "rate structure" subject to jurisdiction of Public Service Commission. City of Tallahassee v. Mann, 411 So. 2d 162 (1982).

State policy

Florida cities' claim involving electricity transmission services arose under state "Little FTC Act," Section 501.204, F.S., so was dismissed without prejudice for reassertion in state proceedings. Federal court refused to determine state policy by interpreting scope of regulated business exemption to that statute. City of Gainesville v. Florida Power & Light Company, 488 F. Supp. 1258 (S. D. Fla. 1980).

25-6.03 Definitions. Unless otherwise defined in Rule 25-6.03 below, Rule 25-6.75 or in adopted national codes, pursuant to Rule 25-6.34, the definition of the terms used in Chapter 25-6 shall be as stated in the IEEE Dictionary of Electrical and Electronic terms.

(1) "Commission." Unless a different intent clearly appears from the context, the word "Commission" shall be construed to mean the Florida Public Service Commission.

(2) "Customer." Any person, firm, partnership, company, corporation, association, governmental agency or similar organization, who makes application for and is supplied with electric service by the utility for its ultimate use and not for use by, to, or through any other person or entity unless specifically authorized by the Commission.

(3) "Customer's Installation." Wires, enclosures, switches, appliances, and other apparatus, including the service entrance and service equipment, forming the customer's facilities utilizing service for any purpose on the customer's side of the point of delivery.

(4) "Meter." The word "meter," when used in these rules without other qualification, shall be construed to mean any device used for the purpose of measuring the service rendered to a customer by a utility.

(5) "Point of Delivery." The first point of attachment where the utility's service drop or service lateral is connected to the customer's service entrance conductors either at a riser, in a terminal box, or meter or other enclosure inside or outside the building wall.

(6) "Service." The supply by the utility of electricity to the customer, including the readiness to serve and availability of electrical energy at the customer's point of delivery at the standard available voltage and frequency whether or not utilized by the customer.

(7) "Service Conductors." The overhead conductors from the last pole or other aerial support to the point of delivery including the splices, if any, connecting the service drop to the service entrance conductors.

(8) "Service Drop." The overhead service conductors from the last pole or other aerial support to and including the splices, if any, connecting to the service entrance conductors at the building or other structure.

(9) "Service-Entrance Conductors, Underground System." The service conductors between the terminals of the service equipment and the point of connection of the service lateral.

(10) "Service Equipment." The customer's equipment, usually consisting of circuit-breaker or switch and fuses, and their accessories, connected to the supply conductors of a building.

(11) "Service Lateral." The underground conductors between the transformer(s) or transformer secondary, including any risers at a pole or other structure, and the point of delivery.

(12) "Utility." Unless a different intent clearly appears from the context, the word or words "utility" or "electric utility" as used in these rules shall have the same meaning as set out for "public utility" in § 366.02, F. S., and shall include all such utilities subject to Commission jurisdiction.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69, Amended 4-13-80.

25-6.04 Reference to Commission. In the event of any dispute involving the interpretation of any of these rules and regulations, any party in interest may refer the mat[illegible] the Commission for adjudication.

Specific Authority 366.05(1[illegible] Law Implemented 366.05(1) FS. History—Amended 7-29-69.

PART IX RATE ADJUSTMENT APPLICATIONS

25-4.140 Applicability, Test Year Approval.

(1) [Renumbered from former (2), former (1) deleted]

Specific Authority 350.127(2) FS. Law Implemented 364.05(4) FS. History—New 5-4-81, Amended 10-15-84.

ANNOTATIONS

Projected test year

Nothing in decisions of Supreme Court or any legislative act prohibits use of projected test year by Commission in setting utility's rates in order to minimize regulatory lag. Southern Bell Telephone and Telegraph Company v. Florida Public Service Commission, 443 So. 2d 92 (1983).

CHAPTER 25-6 ELECTRIC SERVICE BY ELECTRIC PUBLIC UTILITIES

PART I GENERAL PROVISIONS

25-6.01 Authorization of Rules.

ANNOTATIONS

Territorial disputes

Court affirmed Public Service Commission's order entitling one power company to provide electric power to project and prohibiting another power company from doing so, where no factual or equitable distinction existed in favor of either company, and territorial dispute was thus properly resolved in favor of privately owned utility; court disagreed, however, with Commission's alternative finding that its more extensive jurisdiction over privately owned utilities was additional consideration supportive of policy decision in favor or private utility. Escambia River Electric Cooperative, Inc. v. Florida Public Service Commission, 421 So. 2d 1384 (1982).

PART II RECORDS AND REPORTS

25-6.13 Gross Intrastate Operating Revenue Report.

Specific Authority 350.12(2)(m) FS. Law Implemented 350.12(2)(m) FS. History—New 7-3-74, Repealed 5-18-83.

25-6.131 Regulatory Assessment Fees; Investor-owned Electric Companies, Municipal Electric Utilities, Rural Electric Cooperatives.

(1) As applicable and as provided in s. 350.113, F. S. (1981), each company, utility, or cooperative shall remit to the Commission a fee based upon its gross operating revenue, except that no fee is required where a company, utility, or cooperative has no revenue which is the result of intrastate retail sales or intrastate provision of services. This fee shall be referred to as a regulatory assessment fee.

(a) Each investor owned electric company shall pay a regulatory assessment fee in the amount of one-eighth of one percent of gross operating revenues derived from intrastate business, excluding sales for resale between public utilities, municipal electric utilities and rural electric cooperatives or any combination thereof.

(b) Each municipal electric utility and rural electric cooperative shall pay a regulatory assessment fee in the amount of one-sixty-fourth of one percent of its gross operating revenues derived from intrastate business, excluding sales for resale between public utilities, municipal electric utilities and rural cooperatives or any combination thereof.

(2) Regulatory assessment fees are due each January 30 for the preceding period or any part of the period from July 1 until December 31, and on July 30 for the preceding period or any part of the period from January 1 until June 30. Each company, utility, or cooperative shall have up to and including the due date in which to:

(a) Remit the total amount of its fee, or

(b) Remit an amount which the company, utility, or cooperative estimates is its full fee, or

(c) Seek and receive from the Commission a 30-day extension of its due date.

(3) Where the company, utility, or cooperative remits less than its full fee pursuant to subsection (2)(b) of this rule, the remainder of the full fee shall be due on or before the 30th day from the due date and shall, where the amount remitted was less than 90% of the total regulatory assessment fee, include interest as provided by subsection (5)(b) of this rule.

(4) Where a company, utility, or cooperative receives a 30-day extension of its due date pursuant to subsection (2)(c) of this rule, then the entity shall remit a charge in addition to the regulatory assessment fee, as set out in s. 350.113(5) F. S. (1981).

(5) The delinquency of any amount due to the Commission from the company, utility, or cooperative pursuant to the provisions of s. 350.113, F. S. (1981) and this rule, begins with the first day after any date established as the due date either by operation of this rule or by an extension pursuant to this rule.

(a) A penalty, as set out in s. 350.113, F. S. (1981) shall apply to any such delinquent amounts.

(b) Interest at the rate of 12% per annum

shall apply to any such delinquent amounts.

Specific Authority 350.113 FS. Law Implemented 350.113 FS. History—New 5-18-83, Amended 2-9-84.

25-6.14 Records and Reports in General.

as provided in Subsection (2), each electric utility shall maintain its records in conformity with the ral Energy Regulatory Commission's orm System of Accounts for Public Utilities Licenses as found in the Code of Federal ilations, Title 18, Subchapter C, Part 101 as April 1, 1981. All inquiries relating to interpretation of the Uniform System of Accounts shall be submitted to the Commission's Electric and Gas Department in writing.

(2) For ratemaking purposes only, each investor-owned electric utility shall accrue unbilled base rate revenues, excluding those base rate revenues recoverable through other cost recovery or adjustment mechanisms.

(3) Each utility shall file with the Commission annual reports on forms prescribed by the Commission. These reports shall be verified by a responsible accounting officer of the utility making the report and shall be due on or before March 31 for the preceding calendar year. The utility shall also file with the original and each copy of the annual report form, or separately within 30 days, a letter or report attesting to the conformity, in all material respects, of the schedules listed on the general instruction page of the appropriate Federal Energy Regulatory Commission annual report form supplied by the Commission, with the Commission's applicable uniform system of accounts (statement certification includes applicable notes) and published accounting releases. The letter or report of attestment shall be signed by an independent certified public accountant or an independent licensed public accountant. The filing date can be extended only by written permission of the Commission. Authorization for the correction of any errors found in the reports and replies to inquiries prop[illegible] by the Commission staff shall be furnis[illegible] writing within fifteen days from the date of the Commission's letter.

(4) Each utility shall maintain continuing property records in conformity with the plant accounts prescribed in the Uniform System and Classification of Accounts. It shall be compiled on the basis of original cost (or other book cost consistent with the provision of the Uniform System and Classification of Accounts). The record or records supplemental thereto shall contain such detailed description and classification of property record units that will permit their ready identification and verification. They shall be maintained in such manner as will meet the following basic objectives:

(a) The functional use, description and location of property units in service.

(b) Costs associated with property units to assure accurate accounting for retirements.

(c) The determination of the age, service life or other data necessary for depreciation studies.

(5) Each utility shall furnish to the Commission at such time and in such form as the Commission may require, the results of any required tests and summaries of any required records. Each utility shall also furnish the Commission with any information concerning its facilities or operation which the Commission may request and require. All such data, unless otherwise specified, shall be consistent with and reconcilable with its Annual Report to the Commission.

(6) Upon direction of the Commission, or in the performance of delegated staff duties, any member of the Commission staff may make at any reasonable time a personal visit to a utility's offices or other places of business, and may inspect any facility, records, accounts, books, reports, and papers of the utility which may appear necessary in the discharge of Commission duties. During such visits the utility shall provide the staff member(s) with adequate and comfortable working and filing space, consistent with prevailing conditions and climate and comparable with the accommodations provided the company's outside auditors.

(7) The Commission has prescribed the Federal Energy Regulatory Commission's Uniform System of Accounts for Public Utilities and Licensees, as found in the Code of Federal Regulations, Title 18, Subchapter C, Part 101 as revised, April 1, 1981, to be used by Rural Electric Cooperative and Municipal Electric Utilities operating within the State. All inquiries relating to interpretations of the Uniform System of Accounts shall be submitted to the Commission's Electric and Gas Department in writing.

(8) Each investor-owned electric utility, Rural Electric Cooperative and Municipal Electric Utility shall file with the Commission its chart of accounts as of the effective date of this rule showing compliance with the Uniform System and Classification of Accounts as prescribed by the Commission, and shall also periodically file revisions of said chart of accounts.

Specific Authority 366.05(1), 350.127(2) FS. Law Implemented 366.04(2)(a), 366.05(1) FS. History—

Amended 7-29-69, 2-4-76, 8-21-79, 1-2-80, 11-18-82.

ANNOTATIONS

Rural electric cooperatives

Where Florida rural electric cooperatives enjoyed power of eminent domain, foreign cooperative meeting F. S. A. § 425.27 requirements was also entitled to exercise this power in order to construct electrical transmission line over appellants' land, and no abuse of discretion was found in that choice of locations; further, since F. S. A. § 425.04(4) authorized rural electric cooperatives to serve up to ten percent non-rural areas, and cooperative had not violated "central station" provisions, foreign corporation's service to four municipalities did not deprive it of its "rural" character. Alabama Electric Cooperative, Inc. v. First National Bank of Akron, Ohio, 684 F. 2d 789 (11th Cir. 1982).

25-6.15 Location and Preservation of Records.

(1) All records that a utility is required to keep by reason of these or other rules prescribed by the Commission shall be kept at the office or offices of the utility within this state, unless otherwise authorized by the Commission.

(2) Any utility authorized to keep its records outside of the state shall reimburse the Commission for the reasonable travel expense of the Commission's representative during any out-of-state audit.

(3) All records shall be preserved in accordance with the Federal Energy Regulatory Commission's regulations, Title 18, Subchapter C, Part 125, Code of Federal Regulations, entitled "Preservation of Records of Public Utilities and Licensees" as revised, April 1, 1981.

Specific Authority 366.05(1), 350.127(2) FS. Law Implemented 366.05(1) FS. History—Amended 7-29-69, 7-19-72, 1-11-76, 9-28-81, 11-18-82.

25-6.16 Maps and Records.

(1) Each utility shall keep and, upon request, provide the Commission with an adequate description or maps defining the territory it serves.

(2) Each utility shall maintain primary maps, records, diagrams or drawings showing the location of its major units of operating property.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—Amended 7-29-69.

25-6.17 Operating Records. As required by the Commission, each utility shall keep appropriate operating records and such other details of plant operation as may be necessary to substantially reproduce its operations for use in statistical and analytical studies for regulatory purposes.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69.

25-6.18 Records of Interruptions and Commission Notification of Threats to Bulk Power Supply Integrity or Major Interruptions of Service.

(1) Each utility shall keep a record of all major and/or prolonged interruptions to services affecting an entire community or a substantial portion of a community. Such record shall show cause for interruption, date, time duration, remedy, and steps taken to prevent recurrence, where applicable.

(2) The Commission shall be notified as soon as practicable of:

(a) any action to maintain bulk power supply integrity by:

1. requests to the public to reduce the consumption of electricity for emergency firm customer load reduction purposes.

2. reducing voltage which affects firm customer load.

3. reducing firm customer loads by manual switching, operation of automatic load-shedding devices, or any other means except under direct load management programs as approved by the Commission.

(b) any loss in service for 15 minutes or more of bulk electric power supply to aggregate firm customer loads exceeding 200 megawatts.

(c) any bulk power supply malfunction or accident which constitutes an unusual threat to bulk power supply integrity. The utility shall file a complete report with the Commission of steps taken to resume normal operation or restore service and prevent recurrence, where applicable, within 30 days of return to normal operation unless impracticable in which event the commission may authorize an extension of time.

(3) Each utility with interruptible or curtailable rate schedules shall provide a report to the Commission of customer interruptions and curtailments for each applicable rate schedule for those months when interruptions occur. The report should include the names of the customers interrupted or curtailed, the reason for interruption or curtailment, the date, time, and duration of the interruption or curtailment and amount of load shed. For utilities with optional billing provisions which provide for the utility to purchase power from another utility and supply it directly to the interrupted or curtailed customer, the utility shall provide a report to the Commission indicating the name of the customer, the source, date, time, and amount of purchase in megawatt hours and cost per megawatt hour for those months when purchases are made under the optional billing provision. Reports of customer interruptions or curtailments are not required when done under direct load management programs as approved by the Commission.

Specific Authority 366.05(1) FS. Law Implemented 366.03 FS. History—Amended 7-29-69, 4-13-80.

25-6.185 Electric Utility Procedures for Long-Term Energy Emergencies.

(1) The Commission has reviewed the Florida Electric Power Coordinating Group's Emergency Procedure for Long-Term Energy Emergencies, Fuel Supply Shortage Plan dated August 3, 1981 and adopts said plan, as [illegible]ded below, as the Fuel Supply Shortage [illegible]t of the Florida Electrical Emergency Co[illegible]gency Plan, under Section 377.703, Florida Statutes.

(2) (a) By December 1, 1982, each electric utility in Florida shall develop and submit to the Commission a long-term energy emergency plan for fuel shortages. Each utility's plan shall be consistent with the requirements of the Fuel Supply Shortage Element of the Florida Electrical Emergency Contingency Plan. The plans shall also provide for the full reimbursement by an electric utility receiving energy or fuel during an energy emergency. Full reimbursement shall be all of the supplying utility's cost of replacing such energy or fuel with the same or alternate fuel or energy.

(b) At the time the utility submits its plan to the Commission, it shall also provide a copy of the plan to the Florida Electric Power Coordinating Group (FCG). The Florida Electric Power Coordinating Group will assess each utility's plan for compatability with the Fuel Supply Shortage Element of the Florida Electrical Emergency Contingency Plan.

1. The Commission shall review and may reject each utility's plan. In so doing, it may rely upon the FCG for technical advice and assistance in assessing the compatability with the Fuel Supply Shortage Element of the Florida Electrical Emergency Contingency Plan. The Commission will review each utility's plan with regard to whether it adequately:

a. Identifies specific actions to be taken by the utility upon the Governor's declaration of a fuel supply emergency;

b. Addresses interchange of energy and the physical sharing of fuel stocks or fuel deliveries or both; and

c. Sets priorities for customer interruptions.

d Establishes objective criteria for notifying the Chairman of the FCG Technical Advisory Group of the existence of a long-term energy emergency on the system of the utility.

2. In reviewing individual utility plans of electric utilities serving areas west of the Apalachicola River, whose electric facilities and emergency contingency plans are coordinated with utilities outside of Florida, the Commission may take into account such special considerations as may be just and reasonable in light of such utilities' geographical location and interconnections with utilities outside of Florida.

3. Plans not approved by the Commission shall be revised and resubmitted to the Commission pursuant to Commission order and within the time specified in the order.

(d) Upon approval of an individual utility's plan, such plan shall be incorporated as a supplement to the Fuel Supply Shortage Element of the Florida Electrical Emergency Contingency Plan.

(3) Where the plan or this rule refers to the Florida Electric Power Coordinating Group (FCG), or any committee, group or individual that is a part of FCG, the reference means FCG or part thereof, or any other entity which the utilities subject to the Commission's jurisdiction under § 377.703 F. S., agree to have perform the functions outlined in this rule or plan.

(4) The Florida Electric Power Coordinating Groups Emergency Procedure for Long Term Energy Emergencies, Fuel Supply Shortage Plan dated August 3, 1981 is amended as follows:

(a) On page 3, the following definition is substituted for the definition in the Plan:

II. DEFINITION

An electric energy emergency exists when Florida has inadequate energy generating capability by reason of a fuel supply shortage and is thereby prevented from operating at required levels to supply its energy obligations. An energy emergency differs from a short-term capacity emergency in that energy requirements cannot be met over an extended period. The period of advance warning and expected duration of an energy emergency is usually measured in terms of weeks or months, as opposed to minutes or hours for a short-term capacity deficiency.

(b) On page 4, the following paragraph is substituted for the last paragraph on page 4:

The Fuel Supply Shortage Plan is oriented toward energy emergencies caused by a fuel supply shortage. As such, the actions specified herein are primarily oriented toward those to be taken by the generating utilities in Peninsular Florida. Peninsular Florida is defined as the area east of the Apalachicola River. The emergency plans and procedures of utilities receiving partial or full requirements service are concomitant with those of their wholesale suppliers and shall be coordinated and be consistent with the suppliers' individual utility plans. The actions of other generating utilities outside of peninsular Florida, such as Gulf Power Company, will be coordinated through liaison with appropriate emergency personnel. Gulf Power Company, while operating under its own plan as a result of its geographical location in the State and its interconnections to the Southern Electric System, will coordinate its activities and participate where feasible and practical with the Fuel Supply Shortage Plan.

(c) On page 7, the following paragraph A is substituted for paragraph A:

A. DESIGNATION

A long-term utility energy emergency exists when the fuel supplies of an individual electric utility are decreasing or are anticipated to decrease below a level adequate to provide for continuous, uninterrupted service to its customers. If such a long-term energy emergency exists on the system of the utility; if that individual utility's plan includes the elements as prescribed by Section IV; and if implementation of these actions has been or is anticipated to be inadequate to mitigate the energy emergency on its system, then the utility will notify the Chairman of the FCG Technical Advisory Group (TAG) of this impending emergency. The Chairman of TAG, after consultation with and concurrence by the Chairman of the FCG Executive Committee, will

notify the Florida Public Service Commission and request the initiation of a Fuel Supply Alert. The initiation of a Fuel Supply Alert by the Commission will trigger the actions indicated below.

(d) On page 8, the following paragraphs 4, 5, and 6 are substituted for paragraphs 4, 5, and 6 of the plan:

4. TAG will request that the data be collected and that the remaining days of fuel supply, expressed in terms of Days Burn, for Florida be calculated by the procedures detailed in Appendix C, "Determination of Remaining Fuel Supply."

5. The FCG Staff will calculate and publish the Days Burn for Florida.

6. TAG will advise the Executive Committee and the Commission regarding the status of the Florida fuel supply situation.

(e) On page 9, the following paragraphs A, B and C are substituted for paragraphs A, B, and C of the Plan:

A. DESIGNATION

Following the designation of a Fuel Supply Alert, the remaining days of fuel supply (Days Burn) will be determined and the FCG Executive Committee, upon advice from TAG, may request that the Governor of the State of Florida declare a Fuel Supply Emergency in Florida pursuant to § 377.703, F. S. or other appropriate statutory authority.

B. RESPONSIBILITY

Upon the declaration of a Fuel Supply Emergency by the Governor, the Technical Advisory Group will assume emergency responsibility for coordinating the initiation and termination of all Fuel Supply Emergency actions, monitoring of the fuel supply situation and continuing apprisal of the appropriate governmental agencies (see Appendix D, "Energy Management and Allocation Procedures").

C. ACTIONS

Upon the declaration of a Fuel Supply Emergency by the Governor, all participating utilities shall take the actions indicated in the following steps as deemed to be appropriate by TAG:

(f) On page 10, the following paragraph 2 under Step A is substituted for the paragraph 2 in the plan:

2. Implement energy source conservation measures throughout Florida so as to minimize the generation of electricity from the fuel in short supply considering economic constraints. Insofar as practical, optimum usage will be made of available purchased energy.

(g) On page 19, the following paragraph is substituted for the first paragraph under the heading "1. Fuel Supply Alert Actions":

Upon the initiation of a Fuel Supply Alert, the FCG Public Information Committee (PIC) shall prepare a uniform notification for use by all participating utilities. The form and content of the notification shall be approved, prior to issuance, by the Technical Advisory Group.

(h) On page 19, the following paragraph is substituted for paragraph (a) under the heading "2. Fuel Supply Emergency Actions":

(a) PIC shall transmit the previously approved notification, as expeditiously as possible, to the chief operating officer, energy emergency executive or the appropriate designee of each participating utility.

(i) On page 20, the following paragraphs (c) and (e) are substituted for the paragraphs (c) and (e) in the plan:

(c) PIC will notify the Florida wire services as soon as possible after initiation of the emergency and shall prepare the appropriate press releases and status reports on the Florida situation throughout the duration of the emergency. PIC shall coordinate all appeals for reduction of consumption and conservation coinciding with the Fuel Supply Emergency actions contained in Section VI of this plan. Issuance of any information by PIC shall be at the direction of TAG and uniformly administered throughout Florida by the individual participants.

(e) TAG will establish a liaison with the appropriate emergency organization of other generating utilities contiguous to Florida.

(j) On page 21, the following paragraph (c) is substituted for the paragraph (c) in the plan:

(c) The FCG staff will calculate the remaining days of fuel supply, expressed in terms of Days Burn, for Florida. The Days Burn for Florida shall be the weighted average, based on energy source requirement, of the individual participants' Days Burn.

(k) On page 22, the following sentence is substituted for the first sentence under the heading "2. Fuel Supply Emergency Action" in the Plan.

Upon the initiation of a Fuel Supply Emergency, the following actions shall be taken, at the direction of TAG.

(l) On page 22, the following paragraph (d) is substituted for the paragraph (d) in the Plan.

(d) The FCG Staff, or in their absence the Energy Emergency Operation Task Force, will continue to calculate the Days Burn for Florida in the manner previously described. This information will be provided to TAG.

(m) On page 26, the following paragraphs (d) and (e) are substituted for the paragraphs (d) and (e) in the Plan:

(d) Begin review of the daily reports to establish a trend of fuel usage to serve the Florida load.

(e) Recommended changes in generation and interchange as necessary to optimize fuel use with due consideration for the economical operation of Florida's generation resources.

(n) On page 27, the following paragraph (5) is substituted for paragraph (5) of the Plan:

(5) Utilize generation sources to minimize use of fuel in short supply with due consideration for the economic operation of Florida's generation resources.

Specific Authority 350.127(2), 366.05(1) FS. Law

Implemented 366.04(3), 377.703 FS. History—New 6-28-82.

25-6.19 Notification of Accidents.

(1) As soon as practicable, each utility shall notify the Commission of any accident occurring in connection with any part of the electrical system which:

(a) Involves death or injury requiring hospitalization of non-utility persons, or,

(b) Is significant from a safety standpoint in the judgment of the utility even though it is not required by (a).

(2) Each utility shall report to the Commission within 30 days of any malfunction of or accident involving any part of the electrical system, fire, or explosion, that:

(a) Involves damage to the property of others for an amount in excess of $5000, or,

(b) Causes significant damage, in the judgment [illegible]tility, to the utility's facilities.

[illegible]ports are not required with respect to [illegible]ury, death, or property damage [illegible] vehicular equipment striking poles [illegible]tility property.

[illegible]ority 366.05(1) FS. Law Implemented [illegible] FS. History—New 7-29-69, Amended [illegible].

25-6.20 Record of Applications for Service. Each utility shall accept and keep a record of each application for service within its service area. The record shall show the name and address of the applicant, date of application, date service is desired and, in those instances where service is not initiated promptly, the reason for the delay. Such records shall be preserved until service is made available or as otherwise provided under Rule 25-6.15(2).

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69.

25-6.21 Records of Complaints. Each utility shall keep a record of all written complaints received. The record shall show the name and address of the complainant, the date received, the nature of the complaint, the result of any investigation, the disposition of the complaint and the date of such disposition. Cf. Rule No. 310-6.61(1) for the definition of "complaint" for the purpose of this rule.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69.

25-6.22 Record of Meters and Meter Tests.

(1) A test record shall be made whenever a unit of metering equipment is tested, but need not be retained after the equipment is again tested. The record shall show information to identify the unit and its location; equipment with which the unit is associated; the date of test; reason for the test; readings before and after the test; if the meter creeps, a s[illegible]nt as to the rate of creeping; a statement [illegible] as found" accuracy; indications showing that all required checks have been made; [illegible] statement of repairs made, if any; and identification of the person making the test. The completion of each test will signify the "as left" accuracy falls within the required limits specified in Rule 25-6.52, unless the meter is to be retired.

(2) Each utility shall keep a record for each unit of metering equipment showing the date the unit was purchased, if available; the utility's identification; associated equipment; essential name plate data; date of test; results of "as found" test and location where installed with date of installation.

(3) Each utility shall maintain its meter test records in such a manner that the following information is readily available to the Commission on request:

(a) The time elapsed between meter tests.

(b) The type of meter, such as single-phase or polyphase watt-hour meter.

(c) The number of meters which the full load "as found" tests indicate falls within each of the following accuracy classifications:

1. Under 98.0%
2. 98.0% to 102.0%
3. Over 102.0%

(d) For those meters tested under an approved statistical sampling plan, provision (c) shall be maintained by type or age groups.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—Amended 7-29-69.

25-6.23 Customer Account Records.

(1) Each utility shall keep a record of each customer's account in such manner as will permit reproduction of the customer's bill for any billing period occurring with the period required to comply with Rule 25-6.15(2).

(2) Each utility having on hand deposits from customers shall keep records to show:

(a) The name of each customer making such deposit.

(b) The service premises for which the deposit is applicable.

(c) The amount and date of making such deposit.

(d) A record of the latest transaction concerning such deposit, and all transactions with the period to comply with Rule 25-6.15(2).

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69.

25-6.24 Rate of Return Report.

(1) Each electric utility shall file the following rate of return data within 45 days after the end of each month:

(a) Actual (per book) rate of return computed on a jurisdictional average rate base for the twelve-month period ended with the month being reported.

(b) An adjusted (pro forma including annualized rate increases/decreases) rate of return computed on a jurisdictional year end rate base for the twelve-month period ended with the month being reported. The adjustments shall be consistent with those made in the utility's most recently completed rate proceeding.

(c) Required rates of return (low, midpoint, high) calculated in accordance with Section 366.071(5)(b)(2), F. S., for the twelve month period ended with the month being reported.

(2) Requests for extensions of time in which to file must be submitted in writing to the Commission prior to the due date for the data.

Specific Authority 350.127(2) FS. Law Implemented 350.117(1), 366.04(2)(f), 366.05(1) FS. History—New 11-18-82.

PART III GENERAL MANAGEMENT REQUIREMENTS

25-6.33 Tariffs.

(1) Each utility may adopt such additional non-discriminatory rules and regulations governing its relations with customers as are necessary and which are not inconsistent with these rules or orders of the Commission. Such rules and regulations shall constitute an integral part of the utility's tariffs and shall be filed with them.

(2) Each utility shall file with the Commission tariffs containing schedules for all rates and charges and copies of all rules and regulations governing the relation of customer and utility.

(a) Each utility shall include in its tariffs without limiting them to the following provisions:

1. Definitions of classes of customers.
2. Rules with which prospective customers must comply as a condition of receiving service, and the terms of contracts required.
3. Rules governing the establishment of credit by customers for payment of service bills.
4. Rules governing deposits and interest on deposits.
5. Rules governing the procedure followed in disconnecting and reconnecting service.
6. Notice by customer required for having service discontinued.
7. Rules governing temporary, emergency, auxiliary or stand-by service.
8. Rules covering billing periods.
9. Rules covering customer's construction requirements.
10. Rules covering a special type of construction commonly requested by customers which the utility allows to be connected and terms upon which such construction will be permitted. This applies, for example, to a case where a customer desires underground service in overhead territory.
11. Rules covering such portion of service which the utility furnished, owns, and maintains.
12. Rules covering inspection of customer-owned facilities by proper authorities before service is rendered.

(3) All tariff filings shall be in the manner and form as prescribed by the Commission under separate Order entitled "Rules and Regulations Governing the Construction and Filing of Tariffs by Public Utilities."

(4) No rules and regulations, or schedules of rates or charges, or modification or revisions of the same, shall be effective until filed with and approved by the Commission as provided by Law.

(5) A copy of the rules contained herein, as promulgated and adopted by the Commission, also a copy of the rate schedules and rules and regulations of the utility as filed with the Commission, shall be kept on file in the local commercial offices of the utility for inspection by its customers. A customer shall, upon request, be furnished a copy of the rate schedule applicable to his service.

Specific Authority 366.05(1) FS. Law Implemented 366.06 FS. History—Amended 7-29-69.

ANNOTATIONS

Discriminatory effect

Holding company in class action suit against utilities commission and county failed to establish that commission's inclusion of "in lieu of tax" payments to county as operating expense was arbitrary or unreasonable; failure to make such payments would have effect of discriminating against county taxpayers, who would presumably have to pay through higher taxes for free services received by utility. Rosalind Holding Company v. Orlando Utilities Commission, App., (5th) 402 So. 2d 1209 (1981).

Effective date

Commission followed law regarding prospective ratemaking when it ordered power company to begin billing under new rates on meter readings taken 30 days after effective date of new rates, which was date when issues were decided and official vote taken, rather than date when written order was issued. Gulf Power Company v. Cresse, 410 So. 2d 492 (1982).

Hearings

Public Service Commission deprived intervenors of due process where it notified them of grant of previously-withheld interim rate increase to electric company, promising full hearing and then denying public counsel adequate opportunity to cross-examine and present new evidence. Where public counsel intervene, court said, Commission must develop adequate record to show competent and substantial evidence of reasonableness of increase. Case was remanded, with no refund of increase to public. Citizens of Florida v. Mayo, 333 So. 2d 1 (1976).

Rate of return

State supreme court upheld grant by Public Service Commission of interim rate increase to electric company, where substantial and competent evidence showed company's rate of return at time of grant was substantially lower than last authorized minimum fair rate, with resultant danger to company's financial integrity. Citizens of Florida v. Mayo, 335 So. 2d 809 (1976).

True-up proceedings

Where power company appealed Commission's denial of its petition for authority to recover excess fue expenses attributable to shutdown of company's nuclea power plant, court concluded that facts concernin company's prior troubles with heat pump, its recognitio of necessity of having spare pump on hand and failure procure spare were sufficient to support Commissic finding of company's misma[illegible]gement, which justifi withholding recovery of [illegible]gedly incurred due failure to have replacem[illegible]mp on hand. Flori Power Corporation v. Cresse, 413 So. 2d 1187 (198.

Requirement that utilities demonstr reasonableness of their fuel costs was neither impro

nor unusual, and Commission did not err in placing burden on nuclear power company to show that excess costs incurred were reasonable and were not fault of management, where data provided showed that company's fuel costs were significantly higher due to incident, responsibility for which was in dispute; simple production of cost records and documentation could not satisfy requirements imposed on utility in true-up proceeding. Id.

25-6.34 Standard of Construction.

(1) The facilities of the utility shall be constructed, installed, maintained and operated in accordance with generally accepted engineering practices to assure, as far as is reasonably possible, continuity of service and uniformity in the quality ·ice furnished.

:: Commission has reviewed the National Standard Code for Electricity 6th edition, ANSI C-12, 1975, and the ·can National Standard Requirements, ·minology and Test Code for Instrument ·nsformers, ANSI-57.13, and has found them to contain reasonable standards of good practice. A utility that is in compliance with the applicable provisions of these publications, and any variations approved by the Commission, shall be deemed by the Commission to have facilities constructed and installed in accordance with generally accepted engineering practices.

Specific Authority 350.127(2), 366.05(1) FS. Law Implemented 366.05(1) FS. History—Amended 7-29-69, 12-20-82.

25-6.35 Adequacy of Supply. The generating capacity of the utility's plant, supplemented by the electric power regularly available from other sources, must be sufficiently large to meet all reasonable demands for service and provide a reasonable reserve for emergencies.

Specific Authority 366.05(1) FS. Law Implemented 366.03 FS. History—New 7-29-69.

25-6.36 Inspection of Plant. Each utility shall adopt a program of inspection of its electric plant in order to determine the necessity for replacement and repair. The frequency of the various inspection shall be based on the utility's experience and accepted good practice. Each utility shall keep sufficient records to give evidence of compliance with its inspection program.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1), 366.08 FS. History—New 7-29-69.

25-6.37 Extent of System Which Utility Shall Operate and Maintain. Each utility, unless specifically relieved in any case by the Commission from such obligations, shall operate and maintain in safe, efficient, and proper condition, pursuant to the standards referenced herein, all of the facilities and equipment used in connection with the production, transmission, distribution, regulation, and delivery of electricity to any customer up to the point of delivery. The utility is also responsible for the safe, efficient measurement of electrical consumption consistent with test procedures and accuracies prescribed by the Commission.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69, Amended 4-13-80.

25-6.38 Change in Character of Service. If any changes are made by the utility in its existing service characteristics which would impair the safe, efficient utilization of energy by the customer's equipment, the utility shall bear the cost of all changes necessary to adapt the customer's equipment to the new service conditions so that such equipment will perform to the same degree of effectiveness as theretofore unless such change is necessitated by a change in the customer's requirements.

Specific Authority 366.05(1) FS. Law Implemented 366.03 FS. History—Amended 7-29-69.

25-6.39 Safety. Each utility shall establish safe work practices. These safe work practices will effect the safety of the employees, the utility, and the general public. These safe work practices shall be designed to cover general information relative to the safety for all employees and the fundamental safe requirements for the various classifications of work encountered in the operations of the utility. They shall also include instruction in accepted methods of artificial respiration for all employees subject to the hazards of electrical shock or drowning.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—Amended 7-29-69.

25-6.40 Grounding of Primary and Secondary Distribution System Circuits.

(1) Unless otherwise specified by the Commission, each utility shall effectively ground the neutrals of all its multigrounded distribution circuits so as to render them reasonably safe to person and property. Conformance with the applicable provisions in the publications listed in Rule 25-6.34(2) shall be deemed by the Commission that the system is grounded so as to be reasonably safe to person and property.

(2) Each utility shall establish a program of inspection to insure that its artificial grounds are in good mechanical condition.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69, Amended 4-13-80.

25-6.41 Ground Resistance. There shall be a minimum of one made electrode in each quarter (1/4) mile of primary and/or secondary distribution circuit that shall, when practicable, have a resistance to ground not to exceed 25 ohms. Where this resistance is not below 25 ohms, additional sections shall be added to the rod, or a second electrode shall be connected in parallel to the first electrode.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 4-13-80.

25-6.42 Response to Commission Staff Inquiries. The necessary replies to inquiries propounded by the Commission's staff concerning

service or other complaints received by the Commission shall be furnished in writing within fifteen (15) working days from the date of a Commission inquiry where practicable.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 4-13-80.

25-6.43 Minimum Filing Requirements; Commission Designee.

(1) Each electric utility filing a petition for general rate relief shall file with the Commission, in accordance with sample forms and instructions supplied by the Commission, the data listed below for a historic test year or as indicated, before that petition is deemed to be complete. Where primary account data is required and the utility is using projected data based on functional accounts, the utility shall specify the method it used in developing the primary accounts from the functional accounts.

(a) Accounting and engineering data —

1. Schedule 1 — Financial statements and reports of independent Certified Public Accountants for the two most recent calendar year periods.

2. Schedule 2 — The average rate base reflected on the books of the utility for the 13-month period ending with the last month of the test year, both including and excluding adjustments described in Schedule 3, and achieved and adjusted rate of return.

3. Schedule 3 — Listing of all adjustments to test year 13-month average rate base arrived at in Schedule 2, showing the total amount of each adjustment, jurisdictional portion calculated on an individual basis, revenue effects of each and the total of each such adjustments. The listing shall indicate which adjustments were made in company's last full revenue requirement case.

4. Schedule 4 — Schedule showing monthly plant balances by primary accounts for the 13-month period ending with the last month of the test year.

5. Schedule 5 — Schedule showing monthly depreciation reserved balances by primary accounts for the 13-month period ending with the last month of the test year.

6. Schedule 6 — Schedule showing, by month, property held for future use by items and amounts for the 13-month period ending with the last month of the test year and the average monthly amount during that period, together with:

a. Date of acquisition or anticipated date of acquisition.

b. Brief description of location unless disclosure of this information could increase the price the utility would be required to pay for the property.

c. Reason for purchase, i.e., intended use.

d. Expenditures as of end of test year.

e. Date construction is to commence.

f. Date to be placed in service.

g. Indicate current use of property unless disclosure of this information could increase the price the utility would be required to pay for the property.

h. Indicate which items are included in rate base.

7. Schedule 7 — A schedule showing, by month, construction work in progress segregated by items on which Allowance for Funds Used During Construction (AFUDC) was charged and on which no AFUDC was charged, for the 13-month period ending with the last month of the test year. The schedule shall include a description of the company's policy as to which jobs received AFUDC, together with the calculations supporting the derivation of the AFUDC rates used during the test year.

8. Schedule 8 — Calculation of working capital allowances using a balance sheet method and any other method proposed by the company in determining working capital allowances.

9. Schedule 9 — Calculation of any additional rate base components not provided for the above schedules.

10. Schedule 10 — Net Operating Income (NOI) reflected on the books of the utility for the test year and NOI as adjusted using the adjustments listed in Schedule 11.

11. Schedule 11 — Listing and detailed description of annualization and pro forma adjustments made to the per books test year net operating income (NOI) of the utility, giving the total amount of each adjustment NOI effect, the revenue effect of each adjustment, jurisdictional portion calculated on an individual basis, and the total revenue effect of all adjustments. The listing shall indicate which of the above adjustments were made in the company's last full revenue requirement case.

12. Schedule 12 — A calculation of the total retail sales over or under recovery of fuel costs for the current test year, including a schedule detailing, by the month, the recoverable and non-recoverable portion of fuel and purchased power expenses since and including the test year approved by the Commission in the utility's last rate case, using the appropriate subaccounts as specified in Electric and Gas Department Accounting Bulletin 80-1.

13. Schedule 13 — Detail of revenues and expenses by month by primary accounts as prescribed by the Commission for the test year, except that fuel costs recoverable pursuant to the fuel adjustment clause shall be listed by subaccounts as specified in Electric and Gas Department Accounting Bulletin 80-1.

14. Schedule 14 — Itemization of revenues reported pursuant to Rule 25-17.15 and expenses incurred pursuant to the Commission-prescribed conservation goals.

15. Schedule 15 — Rate base and net operating income (NOI) date from Schedule 2 and 10 separated into jurisdictional and non-jurisdictional components using the allocation method used in the utility's last filed wholesale rate case before the Federal Energy

Regulatory Commission. A utility which has no wholesale customers shall file a statement that it has no wholesale customers in lieu of filing this schedule.

16. Schedule 16 — Rate base and net operating income (NOI) data from Schedules 2 and 10 separated into jurisdictional and non-jurisdictional components using the allocation factors as prescribed in sub-sub-sub-paragraph (1)(b)5.b.1. of this rule.

17. Schedule 17 — List all adjustments allowed in the company's last full revenue requirement case which are not included in either Schedules 3 or 11, together with an explanation for not including the adjustments.

18. Schedule 18 — Calculation of the revenue [illegible]ion factor for the test year.

Schedule 19 — Calculation of the revenue [illegible]ciency or excess requested in the company's [illegible]tition.

20. Schedule 20 — Year-end cost of capital for the test year. Segregate by classes including cost-free capital exclusive of 4% and 10% job development credits if the company is using Option No. 2 treatment pursuant to Section 46(f), Internal Revenue Code. This schedule shall include a description of each class of capital, the dollar amount of each class, total capitalization, the percentage ratio of each class to total capitalization, the cost of each class of capital, and the weighted average cost of each class and in total.

21. Schedule 21 — The average cost of capital for the 13-month period ending with the last month of the test year. Segregate by classes including cost-free capital exclusive of 4% and 10% job development credit if the company is using Option No. 2 treatment pursuant to section 46(f), Internal Revenue Code. This schedule shall include a description of each class of capital, the dollar amount of each class, total capitalization, the percentage ratio of each class to total capitalization, the cost of each class of capital, and the weighted average cost of each class and in total.

22. Schedule 22 — A reconciliation of the amount of cost-free capital requested and the amount of such capital allowed the utility in its last rate case. The types of cost free capital, any additions to or subtractions from that amount, and the amount of such capital in the present filing shall be shown.

23. Schedule 23 — If projected data is used, in addition to the above schedules, provide a schedule of the major assumptions used to develop the forecasted data and the supporting basis from which each assumption was developed. This schedule shall include a side-by-side comparison of projected data for a forecasted test year, if used, and the same data for the historic test year.

24. Schedule 24 — Copy of any safety citations issued by the C[illegible]ission against the company in the last two c[illegible] years and up to the date of filing along w[illegible] explanation of steps which have been taken to correct the violations.

25. Schedule 25 — A statement that the utility will make available to the Commission's staff upon request:

a. The most recent federal income tax return filed.

b. The most recent state income tax return filed.

c. The most recent final Internal Revenue Service revenue agents report.

d. The most recent Florida Department of Revenue final Income Tax Audit Report.

26. Schedule 26 — Most recent F.E.R.C. final compliance report audit.

27. Schedule 27 — Tax and book treatment of gain or loss reacquired bonds.

28. Schedule 28 — A schedule for each of the accumulated deferred income tax accounts (Account Nos. 190, 281, 282, and 283) showing monthly balances for the period beginning with the first month of the test year and ending with the last month of the test year or, if a projected test year is used, monthly balances for the 12-month period ending with the month immediately preceding the month of filing.

29. Schedule 29 — Analysis of accumulated investment tax credits, by month, showing beginning balance investment tax credits generated and amortization of investment tax credits for the period beginning with the first month of the test year and ending with the last month of the test year or, if a projected test year is used, monthly balances for the 12-month period ending with the month immediately preceding the month of filing. Amounts required under the Revenue Act of 1971, and subsequent acts shall be shown separately from amounts required under prior law. Describe the election made under Section 46(f), Internal Revenue Code.

(b) Rate structure and billing data —

1. Bill frequency analysis by rate schedule classification for the test year complete with consolidated factor as well as a summary which will illustrate the transition from the frequency analysis to revenues from both present and proposed schedules. For schedules with separate charges for demand, a bill frequency analysis shall be provided for the customer and energy charges. Additional information shall be provided to relate demand charges and any other charges or credits to the base rate revenue for the test year for each rate schedule. The information in this item shall tie into the base revenues requested in subparagraph 2. Underlying data pertaining to the analysis shall be retained by the company and shall be available for Commission inspection during normal business hours for a period of 3 years beginning on the date the M.F.R.'s were filed.

2. Schedule showing for the test year, the base, fuel, directly billed franchise, other revenues and total revenues produced by rate schedule. If any customers are to be transferred from one schedule to another, the revenue information shall be shown separately for the transfer group and shall be included as a subitem under the old and the new

classification.

3. Schedule showing revenue calculation of present and proposed rates. Indicate for all rates the reasons for changes in terms and conditions.

4. Proposed tariff sheets highlighting on those sheets the proposed changes in all rates, terms and conditions. In addition, provide a brief summary of the reasons for each of these changes.

5. Provide a fully-allocated class cost of service study under present and proposed rates. This study shall include rate of return by class and load research studies used in the cost allocation. The cost of service study shall include the following:

a. Identify customer, energy and demand components for each class of service in the fully allocated cost of service study.

b. Allocated Demand Component:

(I) Production and transmission separated into jurisdictional amounts using the average of the 12-month peaks method and average of the 12-month peak and average method.

(A) Allocate retail amount to rate classes based on the average of twelve monthly peaks.

(B) Also provide the requested information allocating retail amount to rate classes based on the total of the twelve monthly peaks and the average demand.

(II) Distribution, use non-coincident peak method.

c. Allocated Energy Component — Based on the MWH sales adjusted for losses.

d. Allocated Customer Component — Allocation shall be based on actual or weighted number of customers. The utility may provide additional cost studies allocating costs on some other basis which the utility feels is more appropriate for its particular system.

e. A copy of the cost of service study shall be provided to an intervenor only if the intervenor requests a copy.

6. Provide a study developing the minimum cost to provide ongoing service to customers on each rate schedule classification. Indicate which cost categories are included.

7. By rate schedule for those rates for which a connection charge is applicable, provide a study developing the cost of:

a. Connecting initial service at a location.

b. Reconnecting service to subsequent subscribers at previously served locations.

c. Reconnection of existing customer after disconnection for cause.

d. Administrative costs for name and/or billing address changes and the total number of each of these types of transactions for which a rate exists.

8. Schedule showing monthly peaks in MR, indicating the date and day of the week, and time of the day during which the peak occurred for the test year as well as the previous three years. If the test year is a projected test year, the schedule for the projected test year shall show the projected amount of the peak in MR, as well as the monthly peaks for the three years immediately preceding the date of filing indicating the date, day of the week, and time of the day during which the peak occurred.

9. Schedule showing energy losses by rate schedule.

10. Schedule showing cost justification for all present and proposed rate adjustments.

11. A monthly bill comparison of present and proposed charges for each rate schedule with and without the current fuel adjustment. For demand metered customers, use load factor. The monthly bill comparison shall also be made for 50%, 60%, 65%, 70%, 80% and 90% of the requested rate increase.

12. Copies of all outstanding contracts that the company may have relating to sales of energy at rates or containing conditions different from those in the approved tariff. Provide justification for serving these customers at rates different from those in the approved tariff.

13. For each interruptible or curtailable customer, indicate for each service interruption or curtailment the date, time and duration. In each instance where energy is wheeled from another utility in lieu of interruption or curtailment, indicate the date, time and duration. Also indicate company policy as to when customers are interrupted or curtailed and what action is taken if customers refuse to voluntarily interrupt or curtail. This data shall be provided for the period of time beginning with the company's last rate increase.

14. An analysis of monthly fuel revenues and expenses by rate classes for the 18-month period ending with the last month of the test year. This analysis shall include, by month, the total fuel cost, the total retail KWH sales, total revenue collected from base fuel cost, the amount needed to recover total fuel expense, the fuel adjustment factor, and total revenues collected from fuel adjustment.

15. Schedule showing, by month, for the 13-month period ending with the last month of the test year, the number of customers served by rate schedule classification. Indicate totals for each month and the average for the test year. If a projected test year is used, the company may submit a schedule showing the average number of customers served by rate schedule classification for the test year.

16. A list of all delivery voltage levels [transmission, subtransmission, distribution primary and distribution secondary] and number of customers served at each level, by rate schedule.

17. Schedule showing plant (account balance, accumulated depreciation, depreciation expense) and operation and maintenance expenses by primary account for the test year used in the cost of service study.

(c) Executive summary

1. Schedule A — to[illegible]agnitude and percentage change comp[illegible] between the utility's last rate case and th[illegible]ent case, which shall include the following:

a. The Commission docket number of the

utility's last rate case and the test year, interim rate increase, and permanent rate increase:

(I) Requested, as well as authorized, in the utility's last rate case, and

(II) Requested in the present case.

b. Jurisdictional rate base before rate relief.

c. Jurisdictional net operating income before rate relief.

d. Rate of return earned.

e. System capitalization in dollars.

f. Overall rate of return.

g. Cost of long term debt.

h. Cost of preferred stock.

i. Cost of short term debt.

j. Cost of customer deposits.

k. Cost of common equity.

l. Average number of customers.

2. Schedule B — A dollar breakdown of current events or circumstances which require an increase in gross operating revenues by way of new rates.

3. Schedule C — A dollar breakdown of the change in rate base between that determined by the Commission in the utility's last rate case and that to be shown in the present rate case.

4. Schedule D — A dollar breakdown of the change in net operating income between that determined by the Commission in the utility's last rate case and that to be shown as earned in the current rate case.

5. Schedule E — An overall rate of return comparison between that last authorized by the Commission and that requested in the present rate case.

6. Schedule F — A comparison of rate of return by rate class (present and proposed) for each rate class and for each cost of service methodology approved by the Commission or suggested by the petitioner, for consideration in the case.

7. Schedule G — Calculations of typical bills for each rate class both present and proposed.

8. Schedule H — A dollar and percentage comparison of major functional categories of electric plant allocated to each rate class, both present and proposed.

(d) The filing shall indicate the employee of the utility responsible for preparation of the specific items required in paragraphs (a) and (b) of this subsection.

(2) The utility shall file twenty copies of the data required by subsection (1) with the Commission Clerk.

(3) The Director of the Electric and Gas Department shall be the designee of the Commission for the purpose of determining whether the utility has met the minimum filing requirement imposed by this rule.

Specific Authority 366.05(1), (2), 366.06(3) FS. Law Implemented 366.06(3), 366.071 FS. History—New 5-27-81.

ANNOTATIONS

Rate base

Court said Commission neither violated essential requirements of law nor abused its discretion by allowing power company to include in its rate base unamortized cancellation charges as base rate or by adding ten basis points to company's return on equity in recognition of its energy conservation efforts. Gulf Power Company v. Cresse, 410 So. 2d 492 (1982).

Transition adjustment

Where public counsel petitioned Florida Supreme Court to review Public Service Commission order, which changed fuel adjustment clause procedure for electric utilities, and questioned legality of two-month transition adjustment which counsel argued would result in double recovery, or recovery of costs not previously recouped, Court found that order was supported by competent, substantial evidence. Citizens of State of Florida v. Florida Public Service Commission, 403 So. 2d 1332 (1981).

25-6.435 Interim Rate Relief.

(1) Each electric utility petitioning for interim rate relief pursuant to Section 366.071, F.S., shall file the data required in Schedules 2 through 14, 17, and 23 in Rule 25-6.43(1)(a). In addition, a schedule shall be submitted calculating the interim relief in accordance with § 366.07, F.S., and allocation factors by functional group approved in the company's last rate case.

(2)(a) Interim rates shall apply across the board based on base rate revenues for the test period less embedded fuel revenue by rate schedule. The resulting dollar amount shall be divided by base rate revenues per rate schedule to determine the percent increase applied to each rate schedule.

(b) In determining the interim increase, the following data shall be provided: KWH sales; base rate revenue less base fuel revenue; base fuel revenues; total base rate revenue; fuel adjustment revenue; total revenue. The interim increase shall be shown by dollar amount and percentage by rate schedule in the following manner:

I. Requested Interim Amount ÷ base rate revenue less base fuel revenue = Across the board percentage constant.

II. Percentage Constant X base rate revenue less base fuel revenue = Dollar increase to rate schedule

III. Dollar Increase total ÷ base rate revenue = Percent increase applied to rate schedule

(3) Interim rate relief collected is subject to refund pending final order in the permanent rate relief request. Such increase shall be subject to a corporate undertaking or under bond as authorized by the Commission and any refund shall be made with an interest factor determined by using the 30-day commercial paper rate for highgrade, unsecured notes, sold through dealers by major corporations in multiples of $1,000, as regularly published in the Wall Street Journal. The annual rate as published on the first day of the current business month would be added to the rate as published on the first day of the subsequent business month and halved to obtain the simple

average rate to be applied in that month. This rate of interest would be applied to the refund amount for that month. The amount of interest calculated would be added to the beginning balance of the following month so as to accomplish the compounding of the interest feature of the refund provision.

Specific Authority 366.05(1), 366.071 FS. Law Implemented 366.06(3), 366.071 FS. History—New 5-27-81.

ANNOTATIONS

Due process

Public Service Commission deprived intervenors of due process where it notified them of grant of previously-withheld interim rate increase to electric company, promising full hearing and then denying public counsel adequate opportunity to cross-examine and present new evidence. When public counsel intervene, court said, Commission must develop adequate record to show competent and substantial evidence of reasonableness of increase. Case was remanded, with no refund of increase to public. Citizens of Florida v. Mayo, 333 So. 2d 1 (1976).

25-6.436 Depreciation

(1) For the purposes of this part, the following definitions shall apply:

(a) Category or Category of Depreciable Plant — A grouping of plant for which a depreciation rate is prescribed. At a minimum it should include each plant account prescribed in Rule 25-6.14(1), F. A. C.

(b) Embedded Vintage — A vintage of plant in service as of the date of study or implementation of proposed rates.

(c) Mortality Data — Historical data by study category showing plant balances, additions, adjustments and retirements, use in analyses for life indications or calculations of realized life. Preferably, this is aged data in accord with the following:

1. The number of plant items or equivalent units (usually expressed in dollars) added each calendar year.

2. The number of plant items retired (usually expressed in dollars) each year and the distribution by years of placing of such retirements.

3. The net increase or decrease resulting from purchases, sales or adjustments and the distribution by years of placing of such amounts.

4. The number that remains in service (usually expressed in dollars) at the end of each year and the distribution by years of placing of such amounts.

(d) Remaining Life Method — The method of calculating a depreciation rate based on the unrecovered plant balance, less average future net salvage and the average remaining life. The formula for calculating a Remaining Life Rate is:

$$\text{Remaining Life Rate} = \frac{100\% - \text{Reserve } \% - \text{Average Future Net Salvage } \%}{\text{Average Remaining Life in Years}}$$

(e) Reserve Data — Historical data by study category showing reserve balances, debits and credits such as booked depreciation, expense, salvage and cost of removal and adjustments to the reserve utilized in monitoring reserve activity and position.

(f) Reserve Deficiency — An inadequacy in the reserve of a category as evidenced by a comparison of that reserve indicated as necessary under current projections of life and salvage with the reserve historically accrued. The latter figure may be available from the utility's records or may require retrospective calculation.

(g) Reserve Surplus — An excess in the reserve of a category as evidenced by a comparison of that reserve indicated as necessary under current projections of life and salvage with that reserve historically accrued. The latter figure may be available from the utility's records or may require retrospective calculation.

(h) Salvage Data — Historical data by study category showing bookings of retirements, gross salvage and cost of removal used in analysis of trends in gross salvage and cost of removal or for calculations of realized salvage.

(i) Theoretical Reserve or Prospective Theoretical Reserve — A calculated reserve based on components of the proposed rate using the formula:

Theoretical Reserve = Book Investment − Future Accruals − Future Net Salvage

(j) Vintage — The year of placement of a group of plant items or investment under study.

(k) Whole Life Method — The method of calculating a depreciation rate based on the Whole Life (Average Service Life) and the Average Net Salvage. Both life and salvage components are the estimated or calculated composite of realized experience and expected activity. The formula is:

$$\text{Whole Life Rate} = \frac{100\% - \text{Average Net Salvage } \%}{\text{Average Service Life in Years}}$$

(2) (a) No utility may change any existing depreciation rate or initiate any new depreciation rate without prior Commission approval.

(b) No utility may reallocate accumlated depreciation reserves among any primary accounts and sub-accounts without prior Commission approval.

(3) (a) Each utility shall maintain depreciation rates and accumulated depreciation reserves in accounts or subaccounts as prescribed by Rule 26-6.14(1), F. A. C. Utilities may maintain further sub-categorization.

(b) Upon establishing a new account or subaccount classification, each utility shall request Commission approval of a depreciation rate for the new plant category.

(4) A utility filing for a revision of existing depreciation rates or for initiation of new depreciation rates shall submit to the Commission Clerk's office ten copies of the information required by paragraphs (5)(a) through (5)(h) of

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this rule and at least three copies of the information required by paragraph (5)(g).

(5) An application to change depreciation rates shall include:

(a) A comparison of current and proposed depreciation rates and components for each category of depreciable plant. Current rates shall be identified as to the effective date and proposed rates as to the proposed effective date.

(b) A comparison of annual depreciation expense as of the proposed effective date, resulting from current rates with those produced by the proposed rates for each category of depreciable plant. The plant balances may involve estimates. Submitted data or company planning involving estimates shall be brought to the effective date of the proposed rates.

(c) Recovery schedules currently in effect 'd be included with any new filing showing amount amortized, effective date, length of ule, annual amount amortized and reason amortization schedule.

(d) A comparison of the accumulated book reserve to the prospective theoretical reserve based on proposed rates and components for each category of depreciable plant to which depreciation rates are to be applied.

(e) A general narrative describing the service environment of the applicant company and the factors, e.g., growth, technology, physical conditions, necessitating a revision in rates.

(f) An explanation and justification for each study category of depreciable plant defining the specific factors that justify the life and salvage components and rates being proposed. Each explanation and justification shall include substantiating factors utilized by the utility in the design of depreciation rates for the specific category, e.g., company planning, growth, technology, physical conditions, trends. The explanation and justification shall discuss any proposed transfers of reserve between categories or accounts intended to correct deficient or surplus reserve balances. It should also state any statistical or mathematical methods of analysis or calculation used in design of the category rate.

(g) The filing shall contain all calculations, analysis and numerical basic data used in the design of the depreciation rate for each category of depreciable plant. Numerical data shall include plant activity (gross additions, adjustments, retirements, and plant balance at end of year) as well as reserve activity (retirements, accruals for depreciation expense, salvage, cost of removal, adjustments or transfers and reclassifications and reserve balance at end of year) for each year of activity from the date of the last submitted study to the date of the present study. To the degree possible, data involving retirements should be aged.

(h) The m and salvage data used by the company in th epreciation rate design must agree with activity booked by the utility. Unusual transactions not included in life or salvage studies, e.g., sales, or extraordinary retirements, must be specifically enumerated and explained.

(6) (a) Utilities shall provide calculations of depreciation rates using the whole life method. The Commission encourages the use of aged data in the design of depreciation rates and, where such is available, the utilities shall submit studies using the remaining life method. Utilities may submit additional studies or methods for consideration by the Commission.

(b) The possibility of corrective reserve transfers shall be investigated by the Commission prior to changing depreciation rates.

(7) Each company shall file a study for each category of depreciable property for commission review at least once every four years unless otherwise required by the Commission.

(8) Concurrent with the filing of the annual report pursuant to Rule 25-6.14(2), F. A. C., each utility shall file an annual status report. The report shall include booked plant activity (additions, adjustments, transfers, retirements and plant balance at year end) and reserve activity (retirements, accruals, salvage, cost of removal, adjustments, transfers, reclassifications and reserve balance at end of year) for each category of investment for which a depreciation rate has been approved. The report shall indicate for each category that (a) there has been no change of plans or utility experiences requiring a revision of rates or (b) there has been a change requiring a revision of rates. For any category where current conditions indicate a need for revision of depreciation rates and no revision is sought, the report shall explain why no revision is requested.

(9) (a) Prior to the date of retirement of major installations, the Commission may approve capital recovery schedules to correct associated calculated deficiencies where a utility demonstrates that (1) replacement of an installation or group of installations is prudent and (2) the associated investment will not be recovered by the time of retirement through the normal depreciation process.

(b) The Commission may approve a special capital recovery schedule when an installation is designed for a specific purpose or for a limited duration.

(c) Associated plant and reserve activity, balances and the annual capital recovery schedule expense must be maintained as subsidiary records.

Specific Authority 350.127(2), 366.05(1) FS. Law Implemented 350.115 FS. History—New 11-11-82.

PART IV GENERAL SERVICE PROVISIONS

25-6.44 Continuity of Service.

(1) Each utility shall make all reasonable efforts to prevent interruptions of service and when such interruptions occur shall endeavor to re-establish service within the shortest time practicable consistent with safety.

(2) When the service is necessarily interrupted or curtailed for prolonged periods and for the

purpose of working on the system, it shall be done at a time which, when at all practicable, will cause the least inconvenience to customers and all such scheduled interruptions shall be preceded by adequate notice whenever practicable to affected customers.

(3) The provisions of this rule shall not apply to customers receiving service under so called interruptible rate classifications.

Specific Authority 366.05(1) FS. Law Implemented 366.03 FS. History—New 7-29-69.

ANNOTATIONS

Mismanagement

Where power company appealed Commission's denial of its petition for authority to recover excess fuel expenses attributable to shut down of company's nuclear power plant, court concluded that facts concerning company's prior troubles with heat pump, its recognition of necessity of having spare pump on hand and failure to procure spare were sufficient to support Commission finding of company's mismanagement, which justified withholding recovery of costs allegedly incurred due to failure to have replacement pump on hand. Florida Power Corporation v. Cresse, 413 So. 2d 1187 (1982).

25-6.45 Frequency Standards.

(1) The standard frequency for alternating current supply systems shall be sixty cycles per second. Under normal operating conditions the frequency on interconnected systems shall not vary more than plus or minus 2% from the standard frequency. The frequency of an isolated system shall not vary more than plus or minus 5% from the standard frequency of that system.

(2) Each utility generating all or a substantial part of its requirements shall have at its main generating station or load dispatching office a master clock or will adhere to a procedure designed to indicate average frequency which shall, if necessary, be adjusted to the correct indication once a day. Every reasonable effort shall be made to operate at the standard frequency.

(3) Variations of frequency in excess of those specified above caused by service interruptions, action of the elements, temporary separation of parts of the system or other causes beyond the control of the utility, shall not be considered a violation of these rules.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—Amended 7-29-69.

25-6.46 Voltage Standards.

(1) Each utility shall adopt standard nominal voltages conforming to modern usage, as may be required by the design of its distributing and transmission system for its entire service area or for each of the districts into which its system may be divided.

(a) For service rendered to customers whose principal consumption shall be for lighting and/or residential purposes, the voltage at the point of delivery shall not exceed 5% above or below the standard voltage adopted.

(b) For service rendered principally for industrial or power purposes, excluding residential purposes, the voltage at the point of delivery shall not exceed 7 1/2% above or below the standard voltage adopted.

(c) Sudden changes in voltage that exceed 5% of the standard voltage and occur more frequently than two times per hour, or changes of 2 1/2% that occur more frequently than once per minute shall be limited to magnitudes and frequency of occurrence compatible with the customer's requirements.

(d) The limitations in (a), (b) and (c) may be modified for cases in which the customer specifically agrees to accept service not meeting the specified limits.

(2) Where the utility's facilities are reasonably adequate and of sufficient capacity to carry the actual loads normally imposed, the utility may require that the equipment on the customer's premises shall be such that the starting and operating characteristics will not cause an instantaneous voltage drop of more than 4% of the standard voltage, measured at the point of delivery, or cause objectionable flicker to other customers' service.

(3) Variations in voltage in excess of the limits specified above caused by service interruptions, action of the elements, temporary separation of parts of the system, infrequent and unavoidable fluctuations not exceeding five (5) minutes duration, operation of the customers' equipment at low power factor, unbalanced loading, or other causes beyond the control of the utility shall not be considered a violation of this rule.

(4) Each utility shall make such load and voltage surveys necessary to determine the character of service furnished its customers and make such information available to the Commission upon request.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—Amended 7-29-69.

25-6.47 Constant Current Standards.

(1) Equipment supplying constant current street lighting circuits shall be so adjusted as to furnish as nearly as is practicable the rated current of the circuit supplied and, under normal operating conditions, the current shall not vary more than 4% above or below the rated current of the circuit.

(2) At least once a year the current output of the equipment supplying constant current circuits shall be checked and the equipment adjusted if necessary.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—Amended 7-29-69.

25-6.48 Limiting Connected Load. If the utility maintains a rate based on connected load, provisions shall be made in its rules whereby the customer may arrange his wiring in such a manner that only a portion of the load may be served at one time. In su the connected load to be used for the comp of charges shall be the largest load which can be served.

Specific Authority 366.05(1) FS. Law Implemented

366.06(2) FS. History—Amended 7-29-69.

25-6.49 Measuring Customer Service.

(1) All energy sold to customers, except that sold under flat rate schedule, shall be measured by commercially acceptable measuring devices owned and maintained by the utility, except where it is impractical to meter loads, such as street lighting, temporary or special installations, in which case the consumption may be calculated, or billed on demand or connected load rate or as provided in the utility's filed tariff.

(2) When there is more than one meter at a location the metering equipment shall be so tagged or plainly marked as to indicate the circuit metered. Where similar types of meters record different quantities, (kilowatt-hours and reactive power, for example), metering equipment shall be tagged or plainly marked to indicate what the meters are recording.

(3) Meters which are not direct reading shall · multiplier plainly marked on the meter. taken from recording meters shall be th the date of the record, the meter stomer, and chart multiplier. The ratio shall be marked on all meter ers. The watt-hour constant for the meter self shall be placed on all watt-hour meters.

(4) Metering equipment shall not be set "fast" or "slow" to compensate for supply transformer or line losses.

(5)(a) Individual electric metering by the utility shall be required for each separate occupancy unit of new commercial establishments, residential buildings, condominiums, cooperatives, marinas, and trailer, mobile home and recreational vehicle parks for which construction is commenced after January 1, 1981. This requirement shall apply whether or not the facility is engaged in a time-sharing plan. Individual electric meters shall not, however, be required:

1. In those portions of a commercial establishment where the floor space dimensions or physical configuration of the units are subject to alteration, as evidenced by non-structural element partition walls, unless the utility determines that adequate provisions can be made to modify the metering to accurately reflect such alterations;

2. For electricity used in central heating, ventilating and air conditioning systems, or electric back up service to storage heating and cooling systems or when alternative renewable resources are used in connection with central heating, ventilating and air conditioning systems;

3. For electricity used in specialized-use housing accommodations such as hospitals, nursing homes, convalescent homes, college dormitories, convents, sorority houses, fraternity houses, motels, hotels, and similar facilities including separate, specially-designated areas for overnight occupancy at marinas, trailer, mobile home and recreational vehicle parks.

(b) For purposes of this rule:

1. "Occupancy unit" means that portion of any commercial establishment, single and multi-unit residential building, or trailer, mobile home or recreational vehicle park, or marina which is set apart from the rest of such facility by clearly determinable boundaries as described in the rental, lease, or ownership agreement for such unit.

2. "Time-sharing plan" means any arrangement, plan, scheme, or similar device, other than an exchange program, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, or right-to-use agreement or by any other means, whereby a purchaser, in exchange for a consideration, receives a right to use accommodations or facilities, or both, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than three years.

3. The construction of a new commercial establishment, residential building, marina, or trailer, mobile home or recreational vehicle park shall be deemed to commence on the date when the building structure permit is issued.

4. The individual metering requirement is waived for any time sharing facility for which construction was commenced before December 23, 1982, in which separate occupancy units were not metered in accordance with subsection (5)(a).

Specific Authority 366.05(1) FS. Law Implemented 366.05(3) FS. History—Amended 7-29-69, 11-26-80, 12-23-82.

25-6.50 Location of Meters. The utility shall designate to an applicant or its customers the location for meter placement. Locations of meters should be easily accessible for reading, testing, and making necessary adjustments and repairs.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69.

25-6.51 Rental Charge for Meters. The utility may charge a meter rental for extra meters installed for the customer's use or convenience, provided that the rental charge shall be set forth in the utility's tariffs filed with the Commission.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—Amended 7-29-69.

25-6.52 Test Procedures and Accuracies of Meters.

(1) Watt-hour Meters. The performance of an in-service watt-hour meter is considered to be acceptable when the meter disk does not creep and when the average percentage registration is not more than 102% nor less than 98%, calculated in accordance with USAS-C12.

(2) Watt-hour Meter Test Procedures. The following procedures shall apply to the testing and adjusting of meters and/or associated devices.

(a) The test of any unit of metering equipment shall consist of a comparison of its accuracy with the accuracy of a standard.

(b) Adjustment limits. When a test of a singlephase watt-hour meter indicates that the error in registration exceeds 1% at either light load or heavy load, at unity power factor, the percentage registration shall be adjusted to within these limits or error as closely as practicable to the condition of zero error. When a test of a polyphase watt-hour meter indicates that the error in registration exceeds 1% at either light load or heavy load, at unity power factor, or exceeds 2% at heavy load at approximately 0.5 power factor lag, the percentage registration of the meter shall be adjusted to within these limits of error as closely as practicable to the condition of zero error.

(c) Meters shall not "creep"; i.e., there shall be no continuous rotation of the moving element of a meter at a speed in excess of one revolution in ten minutes when the meter load has been removed and voltage is applied to the potential elements of the meter.

(3) Demand Meters and Registers.

(a) The performance of a demand meter or register shall be acceptable when the error of registration does not exceed 4% in terms of full-scale value, when tested at any point between 25% and 100% of full-scale value.

(b) When a test of a demand meter or register indicates that the error in registration exceeds plus or minus 4% in terms of full-scale value, the demand meter or register shall be adjusted to within plus or minus 2% of full-scale value. When a timing element also serves to keep a record of the time of day at which the demand occurs, it shall be adjusted if it is found to be in error by more than plus or minus two minutes per day.

(c) Demand meters which are direct driven shall be tested at a load point no less than 50% of full scale. However, they may be tested at a lower scale point if conditions warrant.

Tests shall be continuous for at least one demand interval unless results over a portion of an interval can be accurately determined.

(d) Demand meters which are actuated by pulses shall be tested by transmitting enough pulses to cause the meter to register at a load point no less than 50% of full scale. If a pulse-actuated demand meter is equipped with a device which records the number of pulses received by the meter, and if there is frequent and accurate comparison of such record with the number of kilowatt- hours registered on the associated watt-hour meter, then it is not necessary to make a periodic field test of the demand meter.

(e) Demand meters shall be adjusted to indicate zero under no-load conditions, and shall be checked to ascertain that the meter resets to zero.

(f) Impulse devices associated with demand meters must be checked for proper operation.

(g) The total time interval, including reset time, must be accurate with 0.5%, except that when a timing element also serves to keep a record of the time of day at which the demand occurs, it shall be adjusted if it is found to be in error by more than plus or minus two minutes per day.

(4) Lagged Demand Meters. Lagged-demand meters shall be tested and adjusted as prescribed in USAS-C12.

Specific Authority 366.05(1) FS. Law Implemented 366.05(3) FS. History—Amended 7-29-69.

25-6.53 Requirements As to Use of Instrument Transformers.

(1) All current and potential transformers shall be tested for accuracy in accordance with the procedures prescribed in American Standards Institute Code USAS-C57.13.

(2) Any utility unable to perform the above test due to lack of proper equipment may have its instrument transformers tested by another utility whose testing equipment conforms to the requirements of the Commission.

(3) In lieu of utility testing of instrument transformers, the Commission accepts the certificate of test as furnished by the manufacturer.

(4) Current or potential transformers shall not be installed if their accuracy does not fall within the 0.6 accuracy class as described in USAS-C57.13.

(5) The results of the last test of instrument transformers shall be kept on record.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—Amended 7-29-69.

25-6.54 Laboratory Testing Equipment.

(1) Each utility shall have available one or more laboratory rotating working standard watt-hour meters to check each of the portable standard watt-hour meters (rotating shop standards) described in Rule 25-6.55(1).

(a) Laboratory rotating working standard watt-hour meters shall not be in error by more than plus or minus 0.3% at loads and voltages at which they are to be used, and shall not be used to check or calibrate portable standard watt-hour meters (rotating shop standards) unless the laboratory rotating working standard watt-hour meter has been checked and adjusted, if necessary, to such accuracy within the preceding twelve months.

(b) Each laboratory rotating working standard watt-hour meter shall have a calibration history record available.

(2) Each utility shall have available laboratory indicating working standards to check each of the portable indicating standards described in Rule 25-6.55(2).

(a) Laboratory indicating working standards shall not be in error by more than plus or minus 0.25% of scale indication at commonly used scale deflection, and shall not be used to check or calibrate portable indicating shop instruments unless the laboratory indicating working standard has been checked and adjusted, if necessary, within the preceding twelve months.

(b) Each laboratory indicating working standard shall have a calibration record available.

(3) Once each year, one laboratory rotating working standard watt-hour meter and one

laboratory indicating working standard shall be submitted to a testing agency as approved by the Commission for a check for accuracy.
Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—Amended 7-29-69, 4-13-80.

25-6.55 Portable Standards.

(1) Each utility shall have one or more portable standard watt-hour meters (rotating shop standard) of capacity and voltage range adequate to test all watt-hour meters used by the utility for billing purposes.

(a) All portable standard watt-hour meters, (rotating shop standard) when regularly used, shall be compared with a laboratory rotating working standard once a week, or at such intervals as approved by this Commission, on a commonly used current and voltage range. A complete check should be made every three months. Such equipment infrequently used shall be compared before use.

(b) Each portable standard watt-hour meter (rotating shop standard) shall be adjusted, if necessary, so that its accuracy will be within plus or minus 0.3% at all voltages and loads at which standard may be used.

(2) Each utility shall have one or more portable indicating shop standards of various types as required to determine the quality of service being rendered to customers, and to calibrate instruments used in field work.

(a) Portable indicating shop standards shall not be in error by more than plus or minus 0.5% of indication at full scale deflection.

(b) Each portable indicating shop standard shall be adjusted, if necessary, at quarterly intervals, and those in constant use should be checked at least every two weeks.

(3) Each portable standard shall be accompanied at all times by a certificate or calibration card, duly signed and dated, on which are recorded the corrections required to compensate for errors found at the customary test points at the time of the last previous test.

(4) For standards used in survey work and for routine or general operating information, the limits of accuracy as specified above need not prevail, but such instruments shall be within the range of accuracy necessary to obtain reliable data.
Specific Authority 366.05(1) FS. Law Implemented 366.05(1), (3) FS. History—Amended 7-29-69.

25-6.56 Periodic Meter Tests.

(1) The test of any unit of metering equipment shall consist of a comparison of its accuracy with a standard of known accuracy. Units not meeting the accuracy or other requirements of Rule 25-6.52 at the time of the test shall be corrected to meet such requirements and adjusted to within the required accuracy and as close to 100% accurate as practicable or the use discontinued.

(2) New instrument transformers shall be tested before [illegible] installation. Instrument transformers which have been removed from service shall be tested prior to reinstallation if the reason for removal, or physical appearance, or record of performance gives cause to doubt its reliability.

(3) All watt-hour meters and demand meters associated with them shall be tested:

(a) Before initial and each successive installation, with the exception of watt-hour meters which are statistically sample tested under an approved Random Sampling Plan.

(b) When they are suspected by the utility of being inaccurate or damaged.

(c) New single-phase and polyphase, self contained watt-hour meters shall be tested, either on a one-hundred percent (100%) basis or a statistically sampled basis under an approved Random Sampling Plan, upon receipt from the manufacturer.

(d) In service, single-phase and polyphase, self contained watt-hour meters may be sample tested under an approved Random Sampling Plan.

(e) In service, single-phase and polyphase self contained watt-hour meters which are not included in an approved Random Sampling Plan, and single-phase and polyphase meters used with instrument transformers shall be tested periodically, according to the following schedule:

1. meters with surge proof magnets — at least once in sixteen (16) years.

2. meters without surge proof magnets — at least once in eight (8) years.

(f) In service block-interval demand-register equipped watt-hour meters shall be tested periodically according to the following schedule:

1. meters with surge proof magnets — at least once in twelve (12) years.

2. meters without surge proof magnets — at least once in eight (8) years.

(g) Block-interval graphic watt-hour demand meters shall be tested at least once in two (2) years.

(h) Lagged-demand meters shall be tested at least once in eight (8) years.

(i) Pulse recorders and pulse operated demand meters used for billing in combination with pulse-initiator-equipped watt-hour meters shall be tested at least once in two (2) years. If a comparison is made between the watt-hour meter registration and the recording registration each billing period, and the recorder registration agrees within one percent (1%) of that registered by the associated watt-hour meters the schedule for pulse recorders and pulse-operated demand meters should be as follows:

1. Meters with surge proof magnets — at least once in sixteen (16) years.

2. Meters without surge proof magnets — at least once in eight (8) years.

If the recorder-meter registration checks do not agree within one percent (1%), the demand metering equipment should be tested.
Specific Authority 366.05(1) FS. Law Implemented 366.05(3) FS. History—New 7-29-69, Amended 4-13-80.

25-6.57 Methods of Meter Test.

(1) In all tests of watt-hour meters where comparison of revolutions is made, at least nine (9) revolutions shall be taken at heavy load and two separate checks shall be made. The accuracy of the meter under test shall be the average accuracy determined from the two checks and they must agree within .2 of 1%. If, however, watt-hour meters are tested on electronic test equipment, only one revolution and one check need be made.

(2) If the watt-hour meter has a contact device other than a solid-state pulse initiator which operates a demand mechanism, the disk revolutions when testing should be multiples of the number of revolutions per contact in order to take account of the varying friction which may be present during the movement of the contact cam from one contact to the next.

(3) Polyphase meters shall be tested by one of the following three methods:

(a) Single-phase test with voltage coils in parallel and current coils in series.

(b) Individual element test with voltage coils all simultaneously energized from the same or different phases. The current shall be of such magnitude that heavy load test current on each element will be between 0.5 N and 1 N times the rated current of the meter but not more than twice the rated current, and the light load current shall be 0.1 N times the rated current of the meter. (N equals the number of elements in the polyphase watt-hour meter.)

The average of the registration for each element shall be taken as the meter registration at heavy or light load, respectively.

(c) Polyphase test with a polyphase portable standard watt-hour meter. The opposition method of testing for balance is satisfactory for adjusting purposes only, and then only if properly made to avoid error due to anti-creep holes in disk. It must be made with at least full load current through the meter. The opposition check must be followed up with an individual element test according to method (b) above, to ascertain the registration of each element where such registration must be obtained. Means for obtaining 50% lagging power factor shall be provided for the method used.
Specific Authority 366.05(1) FS. Law Implemented 366.05(3) FS. History—Amended 7-29-69.

25-6.58 Determination of Average Meter Error. Whenever a metering installation is tested and found to exceed the accuracy limits, the average error shall be determined in one of the following ways:

(1) If the metering installation is used to measure a load which has practically constant characteristics, such as a street-lighting load, the meter shall be tested under similar conditions of load and the accuracy of the meter "as found" shall be considered as the average accuracy.

(2) If a single-phase metering installation is used on a varying load, the average error shall be the weighted algebraic average of the error at approximately 10% and at approximately 100% of the rated test amperes of the meter, the latter being given a weighting of 4 times the former.

(3) If a polyphase metering installation is used on a varying load, the average error shall be the weighted algebraic average of its error at light load (approximately 10% rated test amperes) given a weighting of 1, its error at heavy load (approximately 100% rated test amperes) and 100% power factor given a weighting of 4, and at heavy load (approximately 100% rated test amperes) and 50% lagging power factor given a weighting of 2.
Specific Authority 366.05(1) FS. Law Implemented 366.05(3) FS. History—Amended 7-29-69.

25-6.59 Meter Test by Request.

(1) Upon request of a customer, the utility shall, without charge, make a test of the accuracy of the meter in use at his premises provided that the meter has not been tested by the utility or the Commission within twelve (12) months previous to such request. This may be a shop test.

(2) Should any customer request a meter test more frequently than provided for in (1) of this rule, the utility may require a deposit to defray costs of testing, such deposit not to exceed fifteen dollars ($15.00) for each test. If the meter is found to be running fast in excess of the allowable limit the deposit shall be refunded, but if below the allowable limit, the deposit may be retained by the utility as a service charge for conducting the test.

(3) If the customer so desires, he or his authorized representative shall have the privilege of witnessing the test. A written report giving the results of the test shall be furnished the customer upon request.
Specific Authority 366.05(1) FS. Law Implemented 366.05(4) FS. History—New 7-29-69.

25-6.60 Meter Test — Referee.

(1) In the event of a dispute, upon written application to the Commission by any customer, a test of the customer's meter will be made by the utility as soon as practicable. Said test will be supervised by a representative of the Commission.

(2) A meter shall in no way be disturbed after the utility has received notice that application has been made for such referee test unless a representative of the Commission is present or unless authority to do so is first given in writing by the Commission or by the customer.

(3) A report of the results of the test will be made by the Commission to the customer.
Specific Authority 366.05(1) FS. Law Implemented 366.05(3) FS. History—New 7-29-69.

25-6.61 Relocation of Poles.

(1) When a utility is required by governmental or other valid authority to move poles, as, for example, the widening of [illegible]s or from public to privately-owned right-of-[illegible] the utility is not required to furnish a n[illegible]ervice entrance. It shall, however, run a service drop to the nearest point that meets local or national code

requirements on each building served from the new pole location and remove the old service drop without expense to the customer.

(2) If the utility relocates its poles of its own volition, the utility shall supply and connect a new service entrance and remove the old without cost to the customer; or the utility may attach its system to the existing service entrance without expense to the customer, provided that local or national code requirements are met.

(3) If a utility is required by governmental or other valid authority to install underground distribution, and abandon overhead distribution, the utility shall not be required to bear any of the cost of making the necessary changes on the customer's premises, except for the removal of the overhead service drop.

(4) If the utility elects to change an existing customer's service drop from overhead to ground, the utility shall bear all of the costs d with the necessary changes.

thority 366.05(1) FS. Law Implemented 05(1) FS. History—Amended 7-29-69.

Inspection of Wires and Equipment. Where inpsection is required by law to insure that the wiring and equipment of the customer is installed and maintained in accordance with National Code, local and utility requirements, the utility shall not make service connection until approval is granted by the authorized inspecting authority.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69.

25-6.63 Temporary Service. In the case of temporary service for short-term use, the utility may require the customer to pay all costs of making the service connection and removing the material after service has been discontinued, or to pay a fixed amount in advance to cover such expense provided, however, that the customer shall be credited with reasonable salvage realized by the utility when service is terminated.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69.

25-6.64 Extension of Facilities.

(1) Each utility shall develop a standard policy governing the amount of facility extension which will be made free to connect a new customer. The amount of free extension made should recognize such factors as: the amount of construction along paved roads; the type of construction of the premise to be served; permanency of the prospective customer; anticipated additional applicants within the near future, and the investment that can prudently be made for the expected revenue to be received.

(2) A detailed statement of its standard extension policy shall be filed by each utility as part of its tariffs. This policy shall have uniform application and shall be nondiscriminatory.

(3) If a utility and applicant are unable to agree in regard to an extension, either party may appeal to the Commission for a review.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69.

PART V RULES FOR RESIDENTIAL ELECTRIC UNDERGROUND EXTENSIONS

25-6.74 Applicability.

(1) Extensions of electric distribution lines applied for after the effective date of these rules, and necessary to furnish permanent electric service to all structures within a new residential subdivision, or to new multiple-occupancy buildings, shall be made underground when requested by an applicant or required by governmental authority.

(2) Such extensions of service shall be made by the utility in accordance with the provisions in these rules.

Specific Authority 366.05(1) FS. Law Implemented 366.03 FS. History—New 4-10-71.

25-6.75 Definitions. The following words and terms, when used in these rules, shall have the meaning indicated:

(1) "Applicant." Any person, partnership, association, corporation, or governmental agency controlling or responsible for the development of a new subdivision and applying for the construction of an underground electric distribution system in such subdivision.

(2) "Building." Any structure, within a subdivision, designed for residential occupancy and containing less than five (5) individual dwelling units.

(3) "Feeder mains." A three-phase primary installation which serves as a source for primary laterals or loops.

(4) "Distribution system." Electric service facilities consisting of primary and secondary conductors, transformers, and necessary accessories and appurtenances for the furnishing of electric power at utilization voltage.

(5) "Multiple-occupancy building." A structure erected and framed of component structural parts and designed to contain five (5) or more individual dwelling units.

(6) "Subdivision." The tract of land which is divided into five (5) or more building lots or upon which five (5) or more separate dwelling units are to be located, or the land on which is to be constructed new multiple-occupancy buildings.

(7) "Designated underground area." That geographical area in which by mutual agreement between the utility and the applicant existing distribution facilities have been installed underground and/or in which proposed distribution facilities shall be installed pursuant to the requirements and exceptions contained in Rule 25-6.77(2).

Specific Authority 366.05(1) FS. Law Implemented 366.03 FS. History—New 4-10-71, Amended 4-13-80.

25-6.76 Rights of Way and Easements.

(1) Within the applicant's subdivision the utility shall construct, own, operate and maintain

distribution lines only along easements, public streets, roads, and highways which the utility has the legal right to occupy, and on public lands and private property across which rights of way and easements satisfactory to the utility may be obtained without cost or condemnation by the utility.

(2) Rights of way and easements suitable to the utility must be furnished by the applicant in reasonable time to meet service requirements and must be cleared of trees, tree stumps, paving and other obstruction, staked to show property lines and final grade, and must be graded to within six (6) inches of final grade by the applicant before the utility will commence construction, all at no charge to the utility. Such clearing and grading must be maintained by the applicant during construction by the utility.

Specific Authority 366.05(1) FS. Law Implemented 366.03 FS. History—New 4-10-71.

ANNOTATIONS

Necessity

Court did not exclude possibility of electric utility attaining easement to property at such time when utility could establish county's plans to widen road; however, evidence presented was insufficient to establish necessity of condemning such property, where utility merely referred to county's letter, which indicated that county maintained option to widen road if increased traffic made that action necessary. Klatt v. Florida Power & Light Co., App., (4th) 414 So. 2d 213 (1982).

25-6.77 Installation of Underground Distribution System Within Subdivision.

(1) When required. After acceptance by the utility of a proper application, the utility shall define the geographical area described and entailed by said application a "Designated Underground Area." The utility shall design and install a suitable underground electric distribution system with sufficient capacity and suitable materials which, in its judgment, will assure that the applicant will receive reasonably safe and adequate electric service for the reasonably foreseeable future.

(2) Facilities required to be underground.

(a) All service, secondary, and primary distribution conductors with the possible exception of feeder mains shall be underground. Appurtenances such as transformers, pedestal mounted terminals, switching equipment, and meter cabinets may be placed above ground at the discretion of the utility.

(b) At the option of the applicant and subject to requirements of governmental authorities and Rule 25-6.78, new feeder mains or portions thereof required to supply service within the subdivision, supply location distribution, or to serve spot loads may be either overhead or underground.

(3) Service connection. The service connection to the building will normally be at or near the part of the building nearest the point at which the underground secondary electric supply is available to the property to be served. If the service connection point selected on any building requires the installation of a service lateral in excess of seventy-five (75) feet, then the applicant may be required to pay for the service lateral and installation in excess of seventy-five (75) feet in accordance with the utility's tariff rules and regulations on file with the Commission; except as provided under Rule 25-6.78(5) herein.

Specific Authority 366.05(1) FS. Law Implemented 366.03 FS. History—New 4-10-71, Amended 4-13-80.

25-6.78 Schedule of Charges.

(1) Each utility shall file, within sixty (60) days of the adoption a written policy with the Commission to become a part of the utility's tariff rules and regulations. Such policy shall be subject to review and approval of the Commission, shall include an Estimated Average Cost Differential, if any, and shall indicate the basis upon which the utility will provide underground service and its method for recovering the difference in cost of an underground system and an equivalent overhead system. The charges to the applicant shall be not more than the estimated difference in cost of an underground system and an equivalent overhead system.

(2) Differences in operating and maintenance costs between underground and overhead systems, if any, shall be taken into consideration in determining the overall Estimated Average Cost Differential.

(3) Detailed supporting data and study results used to determine the Estimated Average Cost Differential for underground and overhead distribution systems shall be concurrently filed by the utility with the Commission and shall be updated annually using cost data developed from the most recent twelve (12) month period.

(4) Subject to the provisions of Rule 25-6.79(a), service for a new multiple-occupancy building shall be constructed underground within the property to be served to the point of delivery at or near the building by the utility at no charge to the applicant, provided the utility is free to construct its service extension or extensions in the most economical manner.

(5) The method of recovering the cost differential as filed by the utility and approved by the Commission may not be waived or refunded unless it is mutually agreed by the applicant and the utility that the applicant will do all of the trenching and backfilling, in which case the applicant shall receive a credit per trench foot for each foot of trenching and backfilling provided by him in accordance with provisions set forth in the utility's tariff rules and regulations, such credit to be no more in amount than the total charges applicable.

(6) The difference in cost as determined by the utility in accordance with its tariff shall be based on reasonably full use of the subdivision for building lots or multiple-occupancy buildings. If any given subdivision is designed to include large open areas, the utility or the applicant may refer

the matter to the Commission for a special ruling as provided under Rule 25-6.83.

(7) The utility shall not be obligated to install any facilities within a subdivision until satisfactory arrangements for the construction of facilities and payment of applicable charges, if any, have been completed between the applicant and the utility by written agreement. A standard agreement form shall be filed with the company's tariff.

(8) Nothing herein contained shall be construed to prevent any utility from assuming all cost differential of providing underground distribution systems, provided, however, that such assumed cost differential shall not be chargeable to the general body of rate payers, and any such policy adopted by a utility shall have uniform application throughout its service area.

Specific Authority 366.05(1) FS. Law Implemented 366.03 FS. History—New 4-10-71, Amended 4-13-80.

ANNOTATIONS

Damages

[illegible]trine of "supervening government activity" did [illegible]ply in breach of contract suit brought by [illegible]on developers against Florida Power Company; [illegible] would be entitled to recover damages only as [illegible]ound service that Company should have [illegible]or to Public Service Commission's approval [illegible]underground service charge, which was action [illegible] company claimed as "supervening governmental [illegible]ity." Winter Springs Development Corporation v. Florida Power Corporation, App., (5th) 402 So. 2d 1225 (1981).

Court reversed summary judgment for subdivision developers in breach of contract suit against Florida Power Corporation where genuine issues of fact existed, but held that power company could not assert defense of developers' failure to exhaust administrative remedies. Since Public Service Commission could not have awarded money damages, remedy would have been inadequate, and developers were not obliged to take controversy before Commission. Id.

25-6.79 Connection to Supply System.

Specific Authority 366.05(1) FS. Law Implemented 366.03 FS. History—New 4-10-71, Repealed 4-13-80.

25-6.80 Advances by Applicant.

(1) Where, due to the manner in which a subdivision is developed, the utility is required to construct an underground electric distribution system through a section or sections of the subdivision where service will not be connected for at least two (2) years, then, in accordance with approved tariffs relating to extension of facilities the utility may require a reasonable deposit from the applicant before construction is commenced, in order to guarantee performance.

(2) Where the subdivision is developed in a uniform manner, so that the utility may restrict the construction of its underground electric distribution system to the areas in which buildings are being cons[illegible]d, then the utility may not require a dep[illegible]eater in amount than the charges calcula[illegible] accordance with the tariffs approved by the Commission.

the charges permitted under the utility's approved tariff, then the excess deposit, without interest, shall be returned to the applicant on a pro-rata basis at quarterly intervals on the basis of installations of service to new customers.

(4) Any portion of a deposit remaining unrefunded five (5) years from the date the utility is first ready to render service from the extension will be retained by the utility as liquidated damages and credited to an appropriate account.

Specific Authority 366.05(1) FS. Law Implemented 366.03 FS. History—New 4-10-71.

25-6.81 Construction Practices.

(1) The provisions in these rules are based on the premise that each applicant and utility will provide a cooperative effort to keep the cost of construction and installation of underground systems as low as possible.

(2) Each utility shall undertake to further improve underground construction proficiency toward the end that the downward trends in underground construction costs may be continued.

(3) To the extent practicable, joint use of trenches by all utilities shall be undertaken where economies can be realized without impairment to safety or service, care being taken to conform to any applicable Code and utility specification.

(4) To the extent practicable, where existing aerial facilities are being retired and removed from service, replacement will be made with underground construction whenever economically feasible.

Specific Authority 366.05(1) FS. Law Implemented 366.03 FS. History—New 4-10-71.

25-6.82 Records and Reports.

(1) To insure the development and availability of appropriate data necessary to satisfy the annual reporting requirements of Rule 25-6.78(2) herein, each utility will undertake to establish and maintain separate records or sub-accounts for underground distribution construction, operation and maintenance costs.

(2) Records shall also be maintained of experienced results obtained in the use of joint trenching, in such manner and detail as will afford an opportunity to evaluate the economies available using this practice.

Specific Authority 366.05(1) FS. Law Implemented 366.03 FS. History—New 4-10-71.

25-6.83 Special Conditions. When the application of these rules appears impracticable or unjust to either party, or discriminatory to other customers, the utility or applicant shall refer the matter to the Commission for special ruling or for the approval of special conditions which may be mutually agreed upon prior to commencing construction.

Specific Authority 366.05(1) FS. Law Implemented 366.03 FS. History—New 4-10-71.

ANNOTATIONS

Foreign cooperatives

Where Florida rural electric cooperatives enjoyed [illegible] domain, foreign cooperative meeting

F. S. A. § 425.27 requirements was also entitled to exercise this power in order to construct electrical transmission line over appellants' land, and no abuse of discretion was found in that choice of locations; further, since F. S. A. § 425.04(4) authorized rural electric cooperatives to serve up to ten percent non-rural areas, and cooperative had not violated "central station" provisions, foreign corporation's service to four municipalities did not deprive it of its "rural" character. Alabama Electric Cooperative, Inc. v. First National Bank of Akron, Ohio, 684 F. 2d 789 (11th Cir. 1982).

PART VI CUSTOMER RELATIONS

25-6.93 Information to Customers.

(1) Each utility shall, upon request, of any customer, give such information and assistance as is reasonable, in order that the customer may secure and receive safe and efficient service. Upon request, the utility shall provide any customer information as to the method of reading meters and the derivation of billing therefrom, the billing cycle and approximate date of monthly meter reading.

(2) Upon request of any customer, the utility is required to provide to the customer a copy and/or explanation of the utility's rates and provisions applicable to the type or types of service furnished or to be furnished such customer, and to assist him, the customer, in obtaining the rate schedule which is most advantageous to the customer's requirements.

(3)(a) By bill insert or other appropriate means of communication, the utility shall give to each of its customers a summary of major rate schedules which are available to the class of which that customer is a member, and

(b) The utility shall provide the information contained in paragraph (a) to all its customers:

1. not later than sixty (60) days after the commencement of service, and
2. not less frequently than once each year, and
3. not later than sixty (60) days after the utility has received approval of its new rate tariff applicable to such customer.

(c) In this subsection, "rate schedule" shall mean customer charge, energy charge, demand charge, and fuel costs, as set forth in Rule 25-6.100, F. A. C.

(4) Upon request of any customer, but not more frequently than once each calendar year, the utility shall transmit a concise statement of the actual consumption of electric energy by that customer for each billing period during the previous twelve (12) months.

(5) Within thirty (30) days after filing a rate application, the utility shall furnish each of its customers, by means of a bill insert or other appropriate communication, a brief explanation of the filing, advising that copies of the proposed rates (or filing) are available for the customer's inspection at each of the utility's local offices.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—Amended 7-29-69, 11-26-80, 6-28-82.

25-6.94 Complaints and Service Requests.

(1) The utility shall make a full and prompt investigation of all customer complaints and other service requests. The word "complaints" as used in this rule shall be construed to mean substantial objection made to a utility by a customer as to its charges, facilities, or service, the disposal of which complaint requires investigation or analysis.

(2) Reports of electrical conditions wherein property damage or personal injury is reasonably foreseeable are to be considered as emergencies requiring immediate attention commensurate with ability to provide performance in situations resulting from acts of God.

Specific Authority 366.05(1) FS. Law Implemented 366.03, 366.05(1) FS. History—New 7-29-69.

25-6.95 Initiation of Service.

(1) Anyone desiring service may be required to make application in writing in accordance with practices prescribed by the utility. Such application shall be considered as notice to utility that the applicant desires service and an expression of his willingness to conform to such reasonable rules and regulations regarding service as are in effect.

(2) Upon compliance by the applicant with the provisions governing utility service, the utility shall undertake to initiate service without unreasonable delay. To be effective, the policy adopted by each utility for the initiation of service shall have uniform application and shall be set forth in its filed tariff.

(3) When service is initiated, the utility may charge a reasonable fee to defray the cost of establishing service provided such charge is specified in its filed tariff.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69.

25-6.96 Termination of Service by Customer. Any customer may be required to give reasonable notice of his intention to discontinue service. Until the utility is notified, the customer may be held responsible for all energy used on the premises.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69.

25-6.97 Customer Deposits.

(1) Deposit required; establishment of credit. — Each company's tariff shall contain their specific criteria for determining the amount of initial deposit. Each utility may require an applicant for service to satisfactorily establish credit, but such establishment of credit shall not relieve the customer from complying with utilities' rules for prompt payment of bills. Credit will be deemed so established if:

(a) The applicant for service furnishes a satisfactory guarantor to secure payment of bills for the service requeste[illegible]tisfactory guarantor shall, at the minimum, [illegible]stomer of the utility with a satisfactory pay[illegible] record.

(b) The applicant pays a cash deposit.

(c) The applicant for service furnish[illegible]

irrevocable letter of credit from a bank or a surety bond.

(2) Refund of deposit. — After a residential customer has established a satisfactory payment record and has had continuous service for a period of 25 months, the utility shall refund the customer's deposit provided the customer has not, in the preceding 12 months, (a) made more than one late payment of a bill (after the expiration of 20 days from the date of mailing or delivery by the utility), (b) paid with a check refused by a bank, (c) been disconnected for nonpayment, or at any time, (d) tampered with the electric meter, or (e) used service in a fraudulent or unauthorized manner. Nothing in this rule shall prohibit the company from refunding a deposit in less than 25 months.

(3) New or additional deposits. — A utility may require, upon reasonable written notice of not less than thirty (30) days, a new deposit, where ...sly waived or returned, or additional ...n order to secure payment of current bills. ...st shall be separate and apart from any ...ice and shall explain the reason for ... or additional deposit, provided, ...wever, that the total amount of the required deposit shall not exceed an amount equal to twice the average charges for actual usage of electric service for the twelve month period immediately prior to the date of notice. In the event the customer has had service less than twelve months, then the utility shall base its new or additional deposit upon the average actual monthly usage available.

(4) Interest on deposits. — Each electric utility which requires deposits to be made by its customers shall pay a minimum interest on such deposits of 8 percent per annum. The deposit interest shall be simple interest in all cases and settlement shall be made annually either in cash or by credit on the current bill. This does not prohibit any utility paying a higher rate of interest than 8 percent. No customer depositor shall be entitled to receive interest on his deposit until and unless the customer relationship and the deposit has been in existence for a continuous period of six months, then he shall be entitled to receive interest from the day of the commencement of the customer relationship and the placement of deposit.

(5) Record of deposits. — Each utility having on hand deposits from a customer or hereafter receiving deposits from them shall keep records to show:

(a) The name of each customer making the deposit;

(b) The premises occupied by the customer;

(c) The date and amount of deposit;

(d) Each transaction concerning the deposits such as interest payments, interest credited or similar transactions.

(6) Receipt for deposit. — A non-transferrable certificate of deposit shall be issued to each customer and means provided so that the customer may claim the deposit if the certificate is lost. Where a new or additional deposit is required under Section 3 of this rule a customer's cancelled check or validated bill coupon may serve as a deposit receipt.

(7) Refund of deposit when service is discontinued. — Upon termination of service, the deposit and accrued interest may be credited against the final account and the balance, if any, shall be returned promptly to the customer but in no event later than fifteen (15) days after service is discontinued.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69, Amended 5-9-76, 7-8-79, 6-10-80.

25-6.98 Interest on Deposits.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—Amended 7-29-69, Repealed 5-9-76.

25-6.99 Meter Readings. Each service meter shall be clearly marked to indicate the units measured. Unless special circumstances warrant, meters shall be read at monthly intervals on the approximate corresponding day of each meter-reading period.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—Amended 7-29-69, 4-13-80.

25-6.100 Customer Billings.

(1) Bills shall be rendered monthly and as promptly as possible following the reading of meters.

(2) By January 1, 1983, each customer's bill shall show at least the following information:

(a) The meter reading and the date the meter is read, in addition to the meter reading for the previous period. If the meter reading is estimated, the word "estimated" shall be prominently displayed on the bill.

(b) 1. Kilowatt-hours (KWH) consumed including on and off peak if customer is time-of-day metered.

2. Kilowatt (KW) demand, if applicable, including on and off peak if customer is time-of-day metered.

(c) The dollar amount of the bill, including separately:

1. Customer charge.

2. Energy (KWH) charge, exclusive of fuel, in cents per KWH, including amounts for on and off peak if the customer is time-of-day metered, and energy conservation costs.

3. Demand (KW) charge, exclusive of fuel, in dollar cost per KW, if applicable, including amounts for on and off peak if the customer is time-of-day metered.

4. Fuel cost in cents per KWH (no fuel costs shall be included in the base charge for demand or energy).

5. Total electric cost which is the sum of the customer charge, total fuel cost, total energy cost, and total demand cost.

6. Franchise fees, if applicable.

7. Taxes, as applicable on purchases of electricity by the customer.

8. Any discount or penalty, if applicable.

9. Past due balances shown separately.

10. The gross and net billing, if applicable.

(d) Identification of the applicable rate schedule.

(e) The date by which payment must be made in order to benefit from any discount or avoid any penalty, if applicable.

(f) The average daily KWH consumption for the current period and for the same period in the previous year, for the same customer at the same location.

(g) The delinquent date or the date after which the bill becomes past due.

(h) Any conversion factors which can be used by customers to convert from meter reading units to billing units. Where metering complexity makes this requirement impractical, a statement must be on the bill advising that such information may be obtained by contacting the utility's local business office.

(i) Where budget billing is used, the bill shall contain the current month's consumption and charges separately from budgeted amounts.

(j) The name of the utility plus the address and telephone number of the local office where the bill can be paid and any questions about the bill can be answered.

(3) When there is sufficient cause, estimated bills may be submitted provided that with the third consecutive estimated bill the company shall contact the customer explaining the reason for the estimated billing and who to contact in order to obtain an actual meter reading. An actual meter reading must be taken at least once every six months. If an estimated bill appears to be abnormal when a subsequent reading is obtained, the bill for the entire period shall be computed at a rate which contemplates the use of service during the entire period and the estimated bill shall be deducted. If there is reasonable evidence that such use occurred during only one billing period, the bill shall be computed.

(4) The regular meter reading date may be advanced or postponed not more than five days without a pro-ration of the billing for the period.

(5) Whenever the period of service for which an initial or opening bill is rendered is less than the normal billing period, the charges applicable to such service, including minimum charges, shall be pro-rated except that initial or opening bills need not be rendered but the energy used during such period may be carried over to and included in the next regular monthly billing.

(6) The practices employed by each utility regarding customer billing shall have uniform application to all customers on the same rate schedule.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 2-25-76, Amended 4-14-80, 12-29-81, 6-28-82.

25-6.101 Delinquent Bills. Bills shall not be considered delinquent prior to the expiration of twenty (20) days from the date of mailing or delivery by the utility.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 2-25-76.

25-6.102 Conjunctive Billing.

(1) Conjunctive billing means totalizing metering, additive billing, plural meter billing, conjunctional metering, and all like or similar billing practices which seek to combine, for billing purposes, the separate consumptions and registered demands of two or more points of delivery serving a single customer.

(2) A single point of delivery of electric service to a user of such service is defined as the single geographical point where a single class of electric service, as defined in a published rate tariff, is delivered from the facilities of the utility to the facilities of the customer.

(3) Conjunctive billing shall not be permitted. Bills for two or more points of delivery to the same customer shall be calculated separately for each such point of delivery.

(4) A customer operating a single intergrated business* under one name in two or more buildings and/or energy consuming locations may request a single point of delivery and such request shall be complied with by the utility providing that:

(a) Such buildings or locations are situated on a single unit of property; or

(b) Such buildings or locations are situated on two or more units of property which are immediately adjoining, adjacent, or contiguous; or

(c) Such buildings or locations are situated on two or more units of property which would be immediately adjoining, adjacent or contiguous except for intervening streets, alleys or highways.

In all cases arising in sub-paragraph (a), (b), or (c), it shall be the customer's responsibility to provide the electrical facilities necessary for distributing the energy beyond the single delivery point.

*The word "business" as used in this section shall be construed as including residences and educational, religious, governmental, commercial and industrial operations.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69.

25-6.103 Adjustment of Bills for Meter Error.

(1) Fast meters. Whenever a meter tested is found to have an error in excess of the plus tolerance allowed in Rule 25-6.52, the utility shall refund to the customer the amount billed in error as determined by Rule 25-6.58 for one half the period since the last test, said one half period shall not exceed twelve (12) months; except that if it can be shown that the error was due to some cause, the date of which can be fixed, the overcharges shall be computed back to but not beyond such date based upon available records. The refund shall not include any part of any minimum charge.

(2) Slow meters.

(a) Except as provided by this paragraph, a utility may backbill in the event that a meter is found to be slow, non-registering or partially registering. A utility may not backbill for any period greater than twelve (12) months from the date it notifies a customer that his or her meter is slow, non-registering or partially registering. If it can be ascertained that the meter was slow, non-registering or partially registering for less than twelve (12) months prior to notification, then the utility may backbill only for the lesser period of time. In any event, the customer may extend the payments of the backbill over the same amount of time for which the utility issued the backbill. Nothing in this subsection shall be construed to limit the application of Rule 25-6.104, or prohibit a utility from backbilling for four years pursuant to subsection (5) of this rule.

(b) Whenever a meter tested and not subject to Rules 25-6.104 or 25-6.105(5) and is found to have an error in excess the minus tolerance [illegible]ed by Rule 25-6.52, the utility may bill the [illegible]r an amount equal to the unbilled error as [illegible]d by Rule 25-6.58 in accordance with [illegible]ction. In order to determine the amount [illegible]harge, the recorded consumption shall be [illegible]usted using the amount of error found by the meter to determine the correct consumption and the customer's bills in question shall be recalculated and computed to the actual bills rendered. If the utility has required a deposit for a meter test as permitted under Rule 25-6.59(2), the customer may be billed only for that portion of the unbilled error which is in excess of the deposit retained by the utility.

(c) In the event of a non-registering or a partially registering meter, unless the provisions of subsection (3) of this rule apply, the utility may bill the customer on an estimate based on previous bills for similar usage or on other sources of available data provided.

(3) It shall be understood that when a meter is found to be in error in excess of the prescribed limits, the figure to be used for calculating the amount of refund or charge in (1) or (2)(b) above shall be that percentage of error as determined by the test.

(4) Creeping. Whenever a meter, upon proper testing, is found to have a registration error due to "creep" in excess of the tolerance allowed by Rule 25-6.52, the error shall be calculated by timing the rate of "creeping" and assuming that the creeping affected the registration of the meter for 25% of the time, unless a more accurate estimate of the percentage of time the meter should have been inactive can be obtained.

(5) Where a utility determines that a service location has not previously been properly metered through errors of an electrical contractor, the utility may bac[illegible]r up to four years from the date of notice [illegible]ustomer that the error has been discovered. The customer may extend the payments of the backbill over the same amount of time for which the utility issued the backbill.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69, Amended 4-13-80, 5-3-82.

25-6.104 Unauthorized Use of Energy. In the event of unauthorized or fraudulent use, or meter tampering, the utility may bill the customer on a reasonable estimate of the energy used.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 7-29-69, Amended 4-13-80, 5-3-82, 11-21-82.

25-6.105 Refusal or Discontinuance of Service by Utility.

(1) Until adequate facilities can be provided, each utility may refuse to serve an applicant if, in the best judgment of the utility, it does not have adequate facilities to render the service applied for.

(2) Each utility may refuse to serve any person whose service requirements or equipment is of a character that is likely to affect unfavorably service to other customers.

(3) Each utility may refuse to render any service other than that character of service which is normally furnished, unless such service is readily available.

(4) Each utility shall not be required to furnish service under conditions requiring operation in parallel with generating equipment connected to the customer's system if, in the opinion of the utility, such operation is hazardous or may interfere with its own operations or service to other customers or with service furnished by others. Each utility may specify requirements as to connection and operation as a condition of rendering service under such circumstances.

(5) If the utility refuses service for any reason specified in this subsection, the utility shall notify the applicant for service as soon as practicable, pursuant to subsection (7), of the reason for refusal of service. If the utility will discontinue service, the utility shall notify the customer at least five (5) days prior to discontinuance, that service will cease unless the deficiency is corrected in compliance with the utility's regulations, resolved through mutual agreement, or successfully disputed by the customer. The five-day notice provision does not apply to paragraphs (h), (i), or (j). In all instances involving refusal or discontinuance of service the utility shall advise in its notice that persons dissatisfied with the utility's decision to refuse or discontinue service may register their complaint with the utility's customer relations personnel and to the Florida Public Service Commission at 1-800-342-3552, which is a toll free number. As applicable, each utility may refuse or discontinue service under the following conditions:

(a) For non-compliance with and/or violation of any State or municipal law or regulation governing electric service.

(b) For failure or refusal of the customer to correct any deficiencies or defects in his wiring and/or equipment which are reported to him by the utility.

(c) For the use of energy for any other property or purpose than that described in the application.

(d) For failure or refusal to provide adequate space for the meter and service equipment of the utility.

(e) For failure or refusal to provide the utility with a deposit to insure payment of bills in accordance with the utility's regulation, provided that written notice, separate and apart from any bill for service, be given the customer.

(f) For neglect or refusal to provide safe and reasonable access to the utility for the purpose of reading meters or inspection and maintenance of equipment owned by the utility, provided that written notice, separate and apart from any bill for service, be given the customer.

(g) For non-payment of bills or non-compliance with the utility's rules and regulations, and only after there has been a diligent attempt to have the customer comply, including at least five (5) days' written notice to the customer, such notice being separate and apart from any bill for service, provided, that those customers who so desire may designate a third party in the company's service area to receive a copy of such delinquent notice.

(h) Without notice in the event of a condition known to the utility to be hazardous.

(i) Without notice in the event of tampering with meters or other facilities furnished and owned by the utility.

(j) Without notice in the event of unauthorized or fraudulent use of service. Whenever service is discontinued for fraudulent use of service, the utility may, before restoring service, require the customer to make at his own expense all changes in facilities or equipment necessary to eliminate illegal use and to pay an amount reasonably estimated as the loss in revenue resulting from such fraudulent use.

(6) Service shall be restored when cause for discontinuance has been satisfactorily adjusted.

(7) In case of refusal to establish service or whenever service is intentionally discontinued by the utility for other than routine maintenance, the utility shall notify the applicant or customer in writing of the reason for such refusal or discontinuance.

(8) The following shall not constitute sufficient cause for refusal of service to an applicant or customer:

(a) Delinquency in payment for service by a previous occupant of the premises to be served.

(b) Failure to pay for merchandise purchased from the utility.

(c) Failure to pay for a service rendered by the utility which is non-regulated.

(d) Failure to pay for a different type of utility service, such as gas or water.

(e) Failure to pay for a different class of service.

(f) Failure to pay the bill of another customer as guarantor thereof.

(9) When service has been discontinued for proper cause, each utility may charge a reasonable fee to defray the cost of restoring service, provided such fee is included in its filed tariff.

(10) No utility shall discontinue service to any non-commercial customer between 12:00 noon on a Friday and 8:00 a.m. the following Monday or between 12:00 noon on the day preceding a holiday and 8:00 a.m. the next working day. Provided, however, this prohibition shall not apply when:

(a) Discontinuance is requested by or agreed to by the customer; or

(b) A hazardous condition exists; or

(c) Meters or other utility owned facilities have been tampered with; or

(d) Service is being obtained fraudulently or is being used for unlawful purposes.

Holiday as used in this subsection shall mean New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day and Christmas Day.

(11) Each utility shall submit, as a tariff item, a procedure for discontinuance of service when that service is medically essential.

Specific Authority 366.05 FS. Law Implemented 366.05(1) FS. History—New 2-25-76, Amended 2-3-77, 2-6-79, 4-13-80, 11-26-80.

25-6.106 Underbillings and Overbillings of Energy.

(1) A utility may not backbill customers for any period greater than twelve (12) months for any undercharge in billing which is the result of the utility's mistake. The utility shall allow the customer to pay for the unbilled service over the same time period as the time period during which the underbilling occurred or over some other mutually agreeable time period. Nor may the utility recover in a ratemaking proceeding any lost revenues which inure to the utility's detriment on account of this provision. This rule shall not apply to underbillings provided for in Rules 25-6.103 or 25-6.104.

(2) In the event of other overbillings not provided for in Rule 25-6.103, the utility shall refund the overcharge to the customer for the period during which the overcharge occurred based on available records. If commencement of the overcharging cannot be fixed, then a reasonable estimate of the overcharge shall be made and refunded to the customer. The amount and period of the adjustment shall be based on the available records. The refund shall not include any part of a minimum charge.

(3) In the event of an overbilling, the customer may elect to receive the refund as a credit to future billings or as a one time payment.

Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History—New 4-13-80, Amended 5-3-82, 11-21-82.

PART VI[illegible]ERVED

CHAPTER 39-27
RULES RELATING TO ENDANGERED OR THREATENED SPECIES

39-27.01	Definitions. (Repealed)
39-27.02	General Prohibition.
39-27.03	Designation of Endangered Species.
39-27.04	Designation of Threatened Species.
39-27.05	Designation of Species of Special Concern.
39-27.06	Reward Program.

39-27.01 Definitions.

Specific Authority Art. IV, Sec. 9, Fla. Const., 372.021 FS. Law Implemented Art. IV, Sec. 9, Fla. Const., 120.53 FS. History—New 8-1-79, Transferred to 39-1.04, 2-1-81, Repealed 6-21-82.

39-27.011 Killing Endangered or Threatened Species

No person shall kill, attempt to kill or wound any endangered or threatened species.

Specific Authority: Art. IV, Sec. 9, Fla. Const. Law Implemented: Art. IV, Sec. 9, Fla. Const. History: New—7-1-84

39-27.02 General Prohibition; Permits

(1) Endangered or threatened species—No person shall pursue, molest, capture or possess any endangered or threatened species or parts thereof or their nests or eggs except as authorized by specific permit, permits being issued only when the permitted activity will clearly enhance the survival potential of the species.

(2) Permits for endangered or threatened species—Permits to capture or possess those endangered species designated in s. 39-27.03(1), (3), (5), (6), (7), (8), (28), (30), (31), (32), (33) or (34) or threatened species designated in s. 39-27.04(4) may be issued by the executive director of the Department of Natural Resources. Permits to capture or possess any other endangered or threatened species may only be issued by the executive director of the commission.

(3) Species of special concern—No person shall take, possess, transport, or sell, any species of special concern or parts thereof except as authorized by specific commission regulations or by specific permit from the executive director or by statute or regulation of any other state agency, permits being issued upon reasonable conclusion that the permitted activity will not be detrimental to the survival potential of the species.

(4) No person shall feed key deer by hand or by placing any food that serves to attract such deer.

Specific Authority: Art. IV, Sec. 9, Fla. Const., 372.021, F.S. Law Implemented: Art. IV, Sec. 9, Fla. Const. History: New—8-1-79, Amended 6-21-82, 7-1-84

39-27.03 Designation of Endangered Species

The following species are hereby declared to be endangered:

(1) Key silverside (*Menidia conchorum*)
(2) Okaloosa darter (*Etheostoma okaloosae*)
(3) Shortnose sturgeon (*Acipenser brevirostrum*)
(4) American crocodile (*Crocodylus acutus*)
(5) Atlantic green turtle (*Chelonia mydas mydas*)
(6) Atlantic hawksbill (*Eretmochelys imbricata imbricata*)
(7) Atlantic ridley (*Lepidochelys kempi*)
(8) Leatherback turtle (*Dermochelys coriacea*)
(9) Atlantic salt marsh water snake (*Nerodia fasciata taeniata*)
(10) Key mud turtle (*Kinosternon bauri bauri*)
(11) Wood stork (*Mycteria americana*)
(12) Snail kite (*Rostrhamus sociabilis plumbeus*)
(13) Peregrine falcon (*Falco peregrinus*)
(14) Cuban snowy plover (*Charadrius alexandrinus tenuirostris*)
(15) Ivory-billed woodpecker (*Campephilus principalis*)
(16) Bachman's warbler (*Vermivora bachmanii*)
(17) Kirtland's warbler (*Dendroica kirtlandii*)
(18) Florida grasshopper sparrow (*Ammodramus savannarum floridanus*)
(19) Dusky seaside sparrow (*Ammospiza maritima nigrescens*)
(20) Cape Sable seaside sparrow (*Ammospiza maritima mirabilis*)
(21) Gray bat (*Myotis grisescens*)
(22) Indiana bat (*Myotis sodalis*)
(23) Goff's pocket gopher (*Geomys pinetis goffi*)
(24) Silver rice rat (*Oryzomys argentatus*)
(25) Pallid beach mouse (*Peromyscus polionotus decoloratus*)
(26) Key Largo cotton mouse (*Peromyscus gossypinus allapaticola*)
(27) Key Largo woodrat (*Neotoma floridana smalli*)
(28) Caribbean manatee (*Trichechus manatus latirostris*)
(29) Florida panther (*Felis concolor*) (except those specimens held in captivity under permit)
(30) Atlantic right whale (*Eubalaena glacialis*)
(31) Finback whale (*Balaenoptera physalus*)
(32) Sei whale (*Balaenoptera borealis*)
(33) Humpback whale (*Megaptera novaeangliae*)
(34) Sperm whale (*Physeter catodon*)
(35) Schaus' swallowtail butterfly (*Heraclides aristodemus ponceanus*)

Specific Authority: Art. IV, Sec. 9, Fla. Const., 372.021, F.S. Law Implemented: Art. IV, Sec. 9, Fla. Const., 372.072, F.S. History: 8-1-79, Amended 6-22-80, 7-1-83, 7-1-84

39-27.04 Designation of Threatened Species

The following species are hereby declared to be threatened:

(1) Bluestripe shiner (*Notropis callitaenia*)
(2) Blackmouth shiner (*Notropis* undescribed species)
(3) Crystal darter (*Ammocrypta asprella*)
(4) Atlantic loggerhead (*Caretta caretta caretta*)
(5) Blue-tailed mole skink (*Eumeces egregius lividus*)
(6) Sand skink (*Neoseps reynoldsi*)
(7) Big Pine Key ringneck snake (*Diadophis punctatus acricus*)
(8) Miami black-headed snake (*Tantilla oolitica*)
(9) Short-tailed snake (*Stilosoma extenuatum*)
(10) Florida brown snake (*Storeria dekayi victa*) (lower keys population only)
(11) Florida ribbon snake (*Thamnophis sauritus couperi*) (lower keys population only)
(12) Eastern indigo snake (*Drymarchon corais couperi*)
(13) Eastern brown pelican (*Pelecanus occidentalis carolinensis*)
(14) Bald eagle (*Haliaeetus leucocephalus*)
(15) Southeastern kestrel (*Falco sparverius paulus*)
(16) Audubon's caracara (*Caracara cheriway auduboni*)
(17) Florida sandhill crane (*Grus canadensis pratensis*)
(18) Roseate tern (*Sterna dougalli*)
(19) Least tern (*Sterna albifrons*)
(20) White-crowned pigeon (*Columba leucocephala*)
(21) Florida scrub jay (*Aphelocoma coerulescens coerulescens*)
(22) Red-cockaded woodpecker (*Picoides borealis*)
(23) Mangrove fox squirrel (*Sciurus niger avicennia*)
(24) Choctawhatchee beach mouse (*Peromyscus polionotus allophrys*)
(25) Perdido Bay beach mouse (*Peromyscus polionotus trissyllepsis*)
(26) Florida mouse (*Peromyscus floridanus*)
(27) Florida black bear (*Ursus americanus floridanus*) (except in Baker and Columbia counties and Apalachicola National Forest)
(28) Key Vaca raccoon (*Procyon lotor auspicatus*)
(29) Everglades mink (*Mustela vison evergladensis*)
(30) Key deer (*Odocoileus virginianus clavium*)
(31) Stock Island tree snail (*Orthalicus reses*)

Specific Authority: Art. IV, Sec. 9, Fla. Const., 372.021, F.S. Law Implemented: Art. IV, Sec. 9, Fla. Const., 372.072, F.S. History: New—Effective date 8-1-79. Amended 6-22-80, 7-1-83

39-27.05 Designation of Species of Special Concern

The following species are hereby declared to be of special concern:

(1) Atlantic sturgeon (*Acipenser oxyrhynchus*) (1)
(2) Common snook (*Centropomus undecimalis*) (1, 4)
(3) Lake Eustis pupfish (*Cyprinodon variegatus hubbsi*) (1)
(4) Saltmarsh topminnow (*Fundulus jenkinsi*) (1)
(5) Rivulus (*Rivulus marmoratus*) (1)
(6) Southern tessellated darter (*Etheostoma olmstedi maculaticeps*) (1)
(7) Harlequin darter (*Etheostoma histrio*) (1)
(8) Shoal bass (*Micropterus* undescribed species) (1, 2)
(9) Suwannee bass (*Micropterus notius*) (1)
(10) Key blenny (*Starksia starcki*) (1)
(11) Gopher frog (*Rana areolata*) (1, 2)
(12) Suwannee cooter (*Chrysemys concinna suwanniensis*) (1, 2)
(13) Barbour's map turtle (*Graptemys barbouri*) (1, 2)
(14) Gopher tortoise (*Gopherus polyphemus*) (1, 2, 3)
(15) American alligator (*Alligator mississippiensis*) (1, 3)
(16) Florida key mole skink (*Eumeces egregius egregius*) (1)
(17) Red rat snake (*Elaphe guttata guttata*) (lower keys population only) (1)
(18) Little blue heron (*Florida caerulea*) (1, 4)
(19) Snowy egret (*Egretta thula*) (1)
(20) Reddish egret (*Dichromanassa rufescens*) (1, 4)
(21) Louisiana heron (*Hydranassa tricolor*) (1, 4)
(22) Roseate spoonbill (*Ajaia ajaja*) (1, 4)
(23) Limpkin (*Aramus guarauna pictus*) (1)
(24) American oystercatcher (*Haematopus palliatus*) (1, 2)
(25) Florida burrowing owl (*Athene cunicularia floridana*) (1)
(26) Marian's marsh wren (*Cistothorus palustris marianae*) (1)
(27) Worthington's marsh wren (*Cistothorus palustris griseus*) (1)
(28) Scott's seaside sparrow (*Ammospiza mari-*

tima peninsulae)(1)

(29) Wakulla seaside sparrow (*Ammospiza maritima juncicola*) (1)

(30) Sherman's fox squirrel (*Sciurus niger shermani*) (1, 2)

(31) Eastern chipmunk (*Tamias striatus*) (1)

(32) Chadwick Beach cotton mouse (*Peromyscus gossypinus restrictus*) (2)

(33) Pine Barrens treefrog (*Hyla andersonii*) (1)

(34) Florida tree snail (*Liguus fasciatus*) (only on Big Cypress National Preserve) (1)

The above listed species have been further categorized by the numbers in parentheses under the following criteria:

(1) Occurs disjunctly or continuously in Florida and has a unique and significant vulnerability to habitat modification, environmental alteration, human disturbance, or substantial human exploitation which, in the foreseeable and predictable future, may result in its becoming a threatened species unless appropriate protective or management techniques are initiated or maintained.

(2) May already meet certain criteria for consideration as a threatened species but for which conclusive data are limited or lacking.

(3) May occupy such an unusually vital and essential ecological niche that should it decline significantly in numbers or distribution other species would be adversely affected to a significant degree.

(4) Has not sufficiently recovered from past population depletion.

Specific Authority: Art. IV, Sec. 9, Fla. Const., 372.021, F.S. Law Implemented: Art. IV, Sec. 9, Fla. Const. History: New—8-1-79, Amended 6-22-80, 7-1-84

39-27.06 Reward Program

In order to implement a reward program for the illegal killing, wounding or wrongful possession of endangered or threatened species as defined herein the commission establishes the following schedule and procedures.

(1) The commission will receive information through its WATS lines in the respective regional offices of the five regions. The party calling in the information will be identified by a code only and all names, if given, will be kept confidential unless the party specifically authorizes the use of his name. Information will be given to the party on the method to maintain contact with the commission in order to properly pursue the matter.

(2) Upon conviction based upon the information received the party supplying information which leads to such conviction will be transmitted funds determined by a predetermined schedule in the following manner.

(a) If the party authorizes the use of his name a check in the appropriate amount will be forwarded directly to the party.

(b) If this party desires to remain anonymous a check in the appropriate amount will be made out to the regional enforcement supervisor and the regional manager of the involved region. After endorsement by both parties the check will be cashed and the money delivered by the regional enforcement supervisor and the regional manager to the party at a mutually agreeable time and place.

(3) Payment for information received which leads to a conviction will be according to the following schedule.

(a) Category I—Conviction for the unlawful taking or attempting to take or possesion of an endangered or threatened species will be $250.

(b) Category II—Conviction for selling or attempting to sell or for the unlawful taking or attempting to take or for possession of more than one endangered or threatened species will be $500.

(c) Category III—Conviction for either a category I or a category II offense where the circumstances of the case show a flagrant or total disregard for the concept of the threatened or endangered species program, payment of an amount to be determined by the commission on an individual case basis.

Specific Authority: Art. IV, Sec. 9, Fla. Const., 372.021, F.S. Law Implemented: Art. IV, Sec. 9, Fla. Const., 372.073, F.S. History: New—10-23-79, Amended 7-1-83

39-28 Omitted.

CHAPTER 8-16
FLORIDA SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM — ECONOMIC DEVELOPMENT CATEGORY

8-16.01 Purpose. The purpose of this chapter is to provide procedures for the Department of Commerce's implementation and administration of the Economic Development portion of the Florida Small Cities Community Development Block Grant Program Act, Chapter 83-205, Laws of Florida. This Act gives the Department of Commerce the authority to administer and implement the Economic Development category of the Small Cities CDBG Program and sets forth guidelines for the distribution of funds in the form of grants to units of general local government as is authorized by Title I of the Housing and Community Development Act of 1974, as amended (42 U. S. C. Section 5301 et seq.). The intent of the Florida Act is to provide local governments with the means to undertake community development activities to arrest and reverse community decline and restore community vitality by providing decent housing and a suitable living environment and expanding economic opportunities, principally for low and moderate income persons. This chapter and the Act shall be liberally construed by the Department of Commerce to effectuate the statement of policy and purpose found in the Act. It is the intent of the Department of Commerce that these rules permit maximum flexibility within the limits of the Act, yet define procedures consistent with the need to apprise potential applicants, fund recipients, and the public of the Department's policy governing administration of the program.
Specific Authority 290.045 F.S. Law Implemented 290.043, 120.53(1)(a) F.S. History—New 12-19-83, Amended 1-2-85.

8-16.02 Agency Responsibilities.

(1) The Department of Community Affairs (DCA) has been designated as the responsible agency to administer the Small Cities CDBG Program. The Florida Department of Commerce (FDC) has been assigned the responsibility for the Economic Development portion of this Program, including authority to promulgate rules, administer and implement this category of the Small Cities CDBG Program pursuant to Chapter 83-205, Section 14, Laws of Florida, and as further specified in the Interagency Agreement executed by the two agencies on August 16, 1983.

(2) The Housing and Urban Rural Recovery Act of 1983, which amends further Title I of the Housing and Community Development Act of 1974, requires that states administering the Small Cities CDBG Program certify to the following:

(a) The State has consulted with local elected officials from among units of general local government located in nonentitlement areas of the State in determining the method of distribution for nonentitlement Community Development Block Grant funds described in the Final Statement.

(b) The State has furnished citizens or, as appropriate, units of general local government information concerning the amount of funds available for proposed community development, economic development and housing activities, and the range of activities that may be undertaken, including the estimated amount of funds proposed to be used for activities that will benefit persons of low and moderate income and the plans of the State for minimizing displacement of persons as a result of

activities assisted with such funds and plans to assist persons actually displaced as a result of such activities.

(c) The State has published a proposed statement in such a manner as to afford affected citizens or, as appropriate, units of general local government an opportunity to examine its content and to submit comments on the proposed statement and on the community, economic development, and housing performance of the State.

(d) The State has held one or more public hearings to obtain the views of citizens on community and economic development and housing needs.

(e) The State has made the Final Statement available to the public.

(f) The grant will be conducted and administered in conformity with Public Law 88-352 (Title VI of the Civil Rights Act of 1964) and Public Law 90-284 (Title VIII of the Civil Rights Act of 1968), and that the State will affirmatively further fair housing.

(g) The State will also provide citizens or, as appropriate, units of general local government with reasonable access to records regarding past use of CDBG funds.

(h) The projected use of funds has been developed so as to give maximum feasible priority to activities which will benefit low and moderate income families or aid in the prevention or elimination of slums and blight and the projected use of funds may also include activities which the State certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs, except that the aggregate use of the State's CDBG funds received by the State during the period of Federal Fiscal Year 1984 shall principally benefit persons of low and moderate income in a manner that ensures that not less than 51 percent of these funds are used for activities that benefit such persons.

(i) The State will also provide citizens or, as appropriate, units of general local government with reasonable notice of, and an opportunity to comment on, any substantial change proposed to be made in the use of CDBG funds.

(j) The State will comply with the other provisions of Title I of the Housing and Community Development Act of 1974, as amended, and with other applicable laws.

(k) The State engages or will engage in planning for community development activities.

(l) The State provides or will provide technical assistance to units of general local government in connection with community development programs.

(m) The State has developed a community development plan for the period selected by the State of up to three years, which identifies community development and housing needs and specifies both short-and-long-term objectives that have been developed in accordance with the primary objective and the requirements of Title I of the Housing and Community Development Act, as amended.

(n) The State will require each unit of general local government funded with CDBG funds to identify community development and housing needs, including the needs of low and moderate income persons, and the activities that will be undertaken to meet such needs.

(o) The State will not refuse to distribute funds to any unit of general local government on the basis of the particular eligible activity selected by such unit of general local government to meet its community development needs, except that this may not be considered to prevent the State from establishing priorities in distributing funds on the basis of the activities selected.

(p) The State will require each unit of general local government requesting funds through the CDBG Program to certify that such unit of general local government will:

1. Minimize displacement of persons as a result of activities assisted with CDBG funds;

2. Conduct and administer its program in conformance with Public Law 88-352 (Title VI of the Civil Rights Act of 1964) and Public Law 90-284 (Title VIII of the Civil Rights Act of 1968), and that it will affirmatively further fair housing;

3. Provide opportunities for citizen participation, hearings, and access to information with respect to its community development program, including amendments to same, that are comparable to those required of the State;

4. Not attempt to recover any capital costs of public improvements assisted in whole or in part with CDBG funds by assessing any amount against properties owned and occupied by low and moderate income persons, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless

a. CDBG funds are used to pay the proportion of such fee or assessment that relates to non-CDBG funding;

b. The local government certifies to the State that, for the purposes of assessing properties owned and occupied by low and moderate income persons who are not persons of very low income, the local government does not have sufficient funds to pay the proportion of such fee or assessment that relates to non-CDBG funding.

Specific Authority 290.045 FS. Law Implemented 290.043 FS. History—New 12-19-83, Amended 1-2-85.

8-16.03 Florida Small Cities Community Development Block Grant Advisory Council.

(1) Purpose. To review and make recommendations on program policies related to program implementation, administration, and distribution of funds among program categories.

(2) Composition. The Advisory Council shall be composed of elected and appointed local officials from eligible local governments of the State, representatives of organizations knowledgeable and experienced in serving the needs of low and moderate income persons, minorities, and other individuals knowledgeable about community and economic development.

(a) Appointment. The Secretary of DCA shall appoint seven members to the Advisory Council and the Secretary of FDC shall appoint four members, for a total of eleven members plus the chairperson. The Advisory Council shall be chaired by the Secretary of Community Affairs or a person designated by the Secretary of Community Affairs.

(b) Term. Members shall serve for a term of one federal Fiscal Year and may be reappointed without limit to the number of terms served.

(c) Compensation. Members shall receive no compensation for services, but may be paid for travel in accordance with Section 8-16.03(3) of this rule.

(d) Replacement. A council member may be removed when, in the judgment of the Chairperson, continued absences or conduct impair the performance of the Advisory Council. Replacements will be chosen in accordance with Section 8-16.03(2)(a) of this rule.

(e) Subcommittees. The four members appointed to the Advisory Council representing Economic Development shall also serve as a Technical Assistance Committee for advisory purposes regarding the development, administration, and implementation of the Economic Development Program category. Other subcommittees may be formed as necessary.

(3) Travel. Subject to availability of funds, members may be reimbursed for travel to attend meetings or for other legal purposes as authorized by the Secretary of Community Affairs according to Section 112.061, Florida Statutes.

(4) Meetings. Meetings will be called by the Chairperson as needed.

(a) Prior to each meeting, an agenda will be prepared by the Chairperson and distributed to each Advisory Council member. Requests for consideration and inclusion of agenda items must be received by the Chairperson no later than two weeks prior to the meeting date.

(b) All meetings will be open to the public, and will be noticed as required by Chapter 120, Florida Statutes.

(c) Written minutes of all meetings will be maintained by the Department of Community Affairs.

(d) A quorum will consist of six members and the Chairperson present after due notice.

Specific Authority 290.045 FS. Law Implemented 290.043 FS. History—New 12-19-83, Amended 1-2-85.

8-16.04 FDC Grants Review Committee.

(1) Purpose and Process. To advise the Secretary of Commerce on CDBG economic development grant awards. FDC staff shall review submitted applications for completeness, accuracy, and eligibility; eligible applications will be scored according to rule criteria and presented to the Grants Review Committee. The Grants Review Committee shall be responsible for reviewing and evaluating the eligible applications and based thereon shall make award recommendations to the Secretary of Commerce. The Grants Review Committee shall consider whether the CDBG funds being requested for project and administrative costs are reasonable and necessary to carry out the proposed program's objectives. In the event that an application funding request is determined to be either an amount excessive or deficient of the amount necessary to complete the project activities contained in the application, the Grants Review Committee shall advise and make adjusted award recommendations to the Secretary. The Secretary may offer an applicant an award amount different from that requested in the application or

recommended by the Grants Review Committee. The Secretary may direct the Grants Review Committee (or its designated representative) to assist an eligible applicant in restructuring its program proposal to best meet the program's objectives.

(2) Composition. The FDC Grants Review Committee shall be composed of individuals serving in the following capacity:

(a) Assistant Secretary of Commerce or Deputy Secretary, who shall act as Chairperson;

(b) Director, Division of Economic Development, or Assistant Director, Division of Economic Development;

(c) Bureau Chief, Division of Economic Development;

(d) Bureau Chief, Division of Economic Development;

(e) Florida League of Cities Representative;

(f) Community Economic Development Specialist;

(g) Community Economic Development Specialist; and

(h) Ex-Officio DCA Member.

(3) Quorum. In order for the Grants Review Committee to officially meet to evaluate applicants and make award recommendations, at least four members, excluding the ex-officio member, must be present. In addition, at least one of those four members must not be employed by the FDC.

Specific Authority 290.045 FS. Law Implemented 290.043 FS. History—New 12-19-83, Amended 1-2-85.

8-16.05 Funds Availability. The amount of funds available shall be that amount allocated each federal fiscal year to the State of Florida by the Federal Government under the Housing and Community Development Act of 1974, as amended, and as approved through the State budget process.

Specific Authority 290.045 FS. Law Implemented 290.043 FS. History—New 12-19-83, Amended 1-2-85.

8-16.06 Definitions.

(1) "FDC" means the Florida Department of Commerce.

(2) "DCA" means the Department of Community Affairs.

(3) "Administrative Costs" means all reasonable costs of management, coordination, monitoring and evaluation, and similar costs and carrying charges related to the planning and execution of economic development activities funded in whole or in part under the Florida Small Cities Community Development Block Grant Program whether charged to the program on a direct or indirect basis. Administrative costs as defined under this subsection shall include all eligible general administrative costs as outlined in Section 105(a)(13) of Title I of the Housing and Community Development Act of 1974, P.L. 93-383, as amended, and 24 C.F.R. Section 570.206. The total amount of funds allowed to be applied toward the administrative costs of state administered programs is 20 percent. This includes both state and local administrative costs. A two percent cap placed on state administrative costs allows local governments to use up to 18 percent. However, Chapter 83-205, section 12(3), Laws of Florida (1983), has set aside one percent of CDBG funds for Regional Planning Councils to provide assistance to eligible local governments in planning local community development activities. This one percent set-aside must be considered, as required by federal law, as administrative costs. As a result, no more than 17 percent may be budgeted for local government general administrative expenses.

(4) "Secretary" means the Secretary of the Florida Department of Commerce.

(5) "Low and Moderate Income Families" means "lower income families" and "very low-income families" as defined under the U. S. Department of Housing and Urban Development (HUD) Section 8 Assisted Housing Program. A lower income family is a family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD. A very low-income family is a family whose annual income does not exceed 50 percent of the median income for the area as determined by HUD. These income figures, updated on an annual basis, will be developed by HUD and provided by the State to its applicants and recipients.

(6) "Low and Moderate Income Persons" means members of families or unrelated individuals whose incomes are within the income limits of "lower income families" and "very low-income families" as defined in Section 8-16.05(5) of this rule.

(7) "Funding Cycle" means the annual basis upon which applications will be accepted and reviewed and grants will be awarded by FDC.

(8) "HUD" means the U. S. Department of Housing and Urban Development.

(9) "CDBG" means the State-administered Small Cities Community Development Block Grant Program.

(10) "Act" means the Florida Small Cities Community Development Block Grant Program Act, Chapter 83-205, Laws of Florida, codified in part as Sections 290.041—290.049, Florida Statutes.

(11) "Community Development Program" means the annual program of projects and activities to be carried out by the applicant with funds provided under the Act and its implementing rules.

(12) "Program Year" means the 18-month period following the initial receipt of grant funds, during which all community and economic development activities must be completed.

(13) "Fiscal Capacity" or "General Tax Effort" as a measure of community need means the general capacity of a local government to generate revenues to provide basic and necessary services to its citizens.

(14) "Permanent Full-Time Equivalent Jobs" means the total number of jobs created or retained as a result of the project. To convert any part-time jobs to full-time equivalent jobs, add the total number of hours to be worked by all part-time employees for a one-month period, and divide by 174 hours.

(15) "Construction Jobs" means the total number of jobs created which are dependent on, and time limited by, the duration of the project.

(16) "Retained Jobs" means the total number of jobs "maintained" or "saved" as a result of the project. Jobs are considered retained when, without the project, those jobs would be abolished by layoffs, plant closings, or other severe economic or natural conditions.

(17) "Net Jobs" means the total number of jobs created by an intrastate relocation of an employer minus the number of jobs lost in the jurisdiction from which the employer's move originated.

(18) "Chief Elected Official" means a person designated by State law and/or local ordinance to legally bind the local government.

(19) "Program Income" means interest earned on CDBG funds prior to disbursement in accordance with OMB Circular A-102, Attachment E, "Program Income", and 24 C.F.R. Section 570.506, "Program Income". Any principal and interest received from the repayment of a loan made with CDBG funds shall be used solely for economic development activities as prescribed in 24 C.F.R. Part 570 and this chapter.

(20) "Project" means the activities described in a local government's application which are proposed to be carried out to meet the objectives of the CDBG program.

Specific Authority 290.045 FS. Law Implemented 290.043 FS. History—New 12-19-83, Amended 1-2-85.

8-16.07 Eligible Applicants.

(1) General. Eligible applicants include units of general local government which qualify as eligible to participate in the Florida Small Cities Community Development Block Grant Program in accordance with Sections 102(a)(1) and (7) of Title I of the Federal Housing and Community Development Act of 1974, as amended, and applicable federal regulations. Eligible applicants are incorporated cities and counties, excluding:

(a) Those metropolitan cities and urban counties eligible to participate in the CDBG Entitlement program of U. S. HUD, and

(b) Cities participating in an urban county's CDBG entitlement program. Those cities which have elected to withdraw from the urban county's entitlement program in order to compete in the State CDBG Program may apply for State Program funds if they are in the final year of their three year cooperation agreement with the urban county and if all city CDBG projects funded by the county are at least 75 percent expended.

(2) Interlocal Agreements. When proposing to conduct a project in the jurisdiction of another local government, applicants must execute an interlocal agreement authorizing the work to be performed. A project conducted outside an applicant's jurisdiction must benefit the persons residing within the applicant's jurisdiction.

(3) Joint Applications. Local governments, including counties, may submit joint applications which address problems shared by the local governments. A joint application must address a common problem, the solution to which requires the mutual action of the joint applicants. A written interlocal agreement shall be submitted with the application. The purpose of the agreement is to delineate the responsibilities and authorities of each participating local government with respect to the application and grant. The agreement must be in accordance with [illegible]

cooperate in undertaking the grant program and implementing the certifications submitted with the application. The agreement must authorize one of the participating local governments to submit the application as the lead agency and may include other responsibilities and obligations to which the participating local governments agree.

(4) Multiple Projects. Eligible applicants may apply for a grant for an economic development program which includes more than one project. However, all projects must contain eligible activities and each project must meet threshold requirements.

Specific Authority 290.045 FS. Law Implemented 290.043 FS. History—New 12-19-83, Amended 1-2-85.

8-16.08 Economic Development Program Activities.

(1) Eligible Activities. "Eligible activities" means those economic development activities authorized in Section 105(a) of Title I of the Housing and Community Development Act of 1974, as amended, and in regulations regarding the Federal Community Development Block Grant Program contained in Sections 570.200 through 570.206 of Title 24 of the Code of Federal Regulations. Assistance to private, for-profit entities are eligible when necessary or appropriate to carry out an economic development project. No activity included in Section 105(a) of Title I shall, in and of itself, be considered ineligible. However, this does not prevent the State from establishing priorities among the types of activities funded. Eligible activities may include:

(a) Acquisition of real property;

(b) Acquisition, construction or rehabilitation of commercial and industrial buildings and structures;

(c) Purchase of machinery and equipment with a useful life of at least five years;

(d) Energy conservation improvements designed to encourage the efficient use of energy resources; and

(e) Public, commercial or industrial real property improvements, including railroad spurs or similar extensions, tied to a specific project.

(2) Ineligible Activities. Ineligible activities will be determined by the FDC utilizing the guidelines contained in Title 24 of the Code of Federal Regulations, Section 570.207; however, Community Development Block Grant funds cannot be used for working capital, inventories or debt refinancing.

Specific Authority 290.045 FS. Law Implemented 290.043 FS. History—New 12-19-83, Amended 1-2-85.

8-16.09 Distribution of Funds.

(1) Eligible local governments, including those which have previously applied for planning assistance on behalf of a regional planning council pursuant to Chapter 83-205, Section 12(3)(d), Laws of Florida, may apply up to three times in any one phase of the annual funding cycle for an economic development grant, but shall receive no more than one of these grants per annual funding cycle pursuant to Section 290.046 (2)(b), Florida Statutes.

(a) FDC will distribute at least 20% of the total funds available for economic development grants in each of the three phases held annually provided that the amount requested in the eligible applications equals or exceeds 20% of the total funds. FDC may distribute up to 40% of the total funds in each of funding phases one and two of the annual funding cycle; FDC has the option to distribute all of the remaining dollars to fund eligible applicants in phase three of the annual funding cycle.

(b) Applications for economic development grants may be submitted to the FDC at any time during the federal annual funding cycle, and such applications will be reviewed in accordance with three formal review phases. Submission deadlines for meeting these review phases shall be established by the FDC. Any deadline changes will be noticed to eligible local governments at least 45 days in advance.

(2) Grant Size. Grant ceilings established by the FDC in this section relate to the population size of the applicant. Grant ceilings establish limits on the amount of funds that may be requested by communities of given sizes based on the most current available U. S. Census of Population counts. Joint applicants will base their grant ceiling on the population of the larger of the two applicants.

Population	Grant Ceiling
1-2,999	$600,000
3,000-9,999	$675,000
10,000-above	$750,000

There is no minimum amount for which a community may apply or be awarded funding. The FDC will consider the applicant's need, proposed activities, and ability to carry out the proposed activities when making awards.

(3) Competition Within Population Groups. All applicants will compete for funding within population groups. The population groups will be the same as those for grant ceilings established in Section 8-16.09(2) of this rule. Upon submission of an application for funding, applicants will be evaluated in comparison with other applicants competing within the same population group. Competition within population groups will occur with respect to program impact criteria and outstanding performance in equal opportunity in employment and housing. The highest scoring application within the economic development category and population group will serve as the standard against which others will be rated on program impact criteria and equal opportunity.

Specific Authority 290.045 FS. Law Implemented 290.043 FS. History—New 12-19-83, Amended 1-2-85.

8-16.10 General Application Procedures and Contents.

(1) Submission of Applications. Applications for economic development grants may be submitted at any time during the annual funding cycle. However, FDC shall establish deadlines for submission of applications consistent with three formal review phases. Submission schedules will be announced by publication in the Florida Administrative Weekly at least 45 days in advance of the deadlines. Any amendments to the submission deadlines will be noticed to eligible local governments at least 45 days in advance of the deadlines. If hand delivered, applications must be received by FDC in Tallahassee by 5:00 p.m. on the deadline date; if mailed, applications must be legibly postmarked by midnight of the deadline date. Applications which do not meet these deadlines can be considered during the next review phase if resubmitted by the applicant. No waivers will be granted by the FDC for applications that do not meet the established deadline date.

(2) Omissions from Applications. Materials and information necessary to assess the quality and feasibility of a project proposal omitted from a submitted application may be added to the application package until the application submission deadline date. It will be the responsibility of the applicant to assure receipt of the additional material by the application submission deadline date.

(3) Technical Assistance. FDC staff is available to assist eligible local governments with the development of their proposed projects prior to the application submission deadline date for each phase and during scheduled workshops. Staff will cease to provide technical assistance for submitted applications once the phase submission deadline has passed. However, technical assistance regarding a submitted project proposal may resume once official notification of grant awards for the respective phase has been completed.

(4) Recipient Implementation Guide. A Recipient Implementation Guide will be developed by DCA to provide guidance to grant recipients in the implementation of their Community Development program.

(5) Applicant Manual. The FDC shall publish a manual that contains application forms, instructions, procedures, application schedules, selection criteria, certification requirements, applicable laws and regulations, and other information pertinent to the review and scoring of applications. The FDC hereby adopts by reference the 1984-85 Applicant Manual as part of this chapter.

(6) General Contents. Selection of grantees will be based primarily on information contained in the application; thus, applicants must provide sufficient information for the FDC to rate them against the selection criteria. At a minimum, applications must contain:

(a) A summary page which identifies the applicant and briefly describes the program proposed in the application and cost of the project;

(b) A narrative statement describing the need for the proposed economic development project or projects to be carried out with CDBG assistance, the needs each project will address, and the anticipated results of each project;

(c) A narrative description of the applicant's community development and housing needs on a community-wide basis, including the needs of low and moderate income persons, and a summary of the extent to which the proposed project will directly benefit low and moderate income persons;

(d) A project budget that estimates the total cost of the project, general administrative expenses at 17% or less, and

the amount of CDBG and other private or public funds required to carry out the project;

(e) A schedule identifying the estimated completion date of the project, and key milestones;

(f) A management plan describing the roles, responsibilities, and qualifications of all personnel which will be involved in the local program;

(g) Maps showing the location of the proposed projects and activities and the general location of the project in the community;

(h) Other information appropriate for evaluating the proposed projects;

(i) Expenditure projections;

(j) Relationship of projects to statutory objectives;

(k) Certification from the Chief Elected Official that the program will be carried out in a manner consistent with all relevant federal and State laws, regulations, and Executive Orders;

(l) Business plans and financial statements of all participating private entities being assisted by a proposed project; and

(m) Any and all information necessary to establish whether the threshold requirements have been met.

(7) Past Performance. As per the Interagency Agreement between the Department of Commerce and the Department of Community Affairs, dated August 16, 1983, the Department of Commerce shall determine if the applicant has performed satisfactorily in carrying out past CDBG funded activities prior to approving an application for a grant. The FDC may examine the following areas in making this determination:

(a) Audit and Monitoring Findings. When examining past performance, FDC will consider all outstanding or unresolved audit and monitoring findings for previous HUD-funded programs. Applicants must complete a status report for each CDBG grant not closed out. Applicants are required to identify any outstanding monitoring or audit finding giving the nature of the findings, actions that have been taken to resolve the findings, and the current status of such findings.

(b) Rate of Progress in Achieving Objectives. All applicants with open HUD or State funded CDBG programs must submit a status report in the form prescribed by the FDC which shows the applicant's rate of progress in meeting program objectives. The applicant should also submit, if available, the program schedules approved by HUD or the State for previous grants and show what progress has been made in meeting the various milestones and expenditure projections.

(c) Rate of Expenditure and Obligation of Funds for Previously Funded CDBG Programs. All applicants who have previously participated in the HUD or State Small Cities program must have achieved the following rate of progress in expending and obligating CDBG funds by the time applications are submitted to FDC for consideration.

FY 75-79	program completed and closed out.
FY 80	85% of funds drawndown or obligated.
FY 81	75% of funds drawndown or obligated.
FY 82	65% of funds drawndown or obligated.
FY 83	rate of progress meeting or exceeding the program schedule approved by HUD or the State.

(d) New Applicants. Those applicants that have never received CDBG funds previously will not be examined for past performance. However, the management plans and work plan schedules of such applicants will be carefully screened to ensure that adequate plans have been made for the successful implementation of a grant.

(e) Score Reduction. Up to 30 percent of the applicant's total score will be deducted if one or more of the following conditions exist for the last previously funded HUD or State CDBG grant:

1. Outstanding or unresolved HUD or State monitoring findings for which inadequate or no resolution has been proposed.

2. Outstanding or unresolved audit finding for which inadequate or no resolution has been proposed.

3. Outstanding monetary obligation to HUD or the State as a result of a monitoring or audit finding.

4. Rate of expenditure and obligation of funds does not meet those prescribed by the FDC in Subsection (7)(c) of this section.

5. Rate of progress in achieving objectives and output does not meet those prescribed by the FDC.

Specific Authority 290.045 FS. Law Implemented 290.043 FS. History—New 12-19-83, Amended 1-2-85.

8-16.11 Selection System Considerations for All Program Categories. Applications will be rated and scored against three basic program factors. The various measures and criteria set out herein appropriate to each factor will be used by the FDC in evaluating applications and assigning scores. The maximum total score possible is 1,000 points. The program rating factors against which applications will be rated and scored are:

Program Rating Factors		Points
Community Wide Needs		400
Program Impact		500
Job Creation-Retention	70	
Low and Moderate Income Benefit	210	
Ratio of Other Funds to CDBG Funds	50	
Relationship of Requested Funds to Results	120	
CDBG Dollars Per Permanent Jobs	50	
Outstanding Performance in Equal Opportunity Employment and Promoting Fair Housing		100
Total Points		1,000

Specific Authority 290.045 FS. Law Implemented 290.043 FS. History—New 12-19-83, Amended 1-2-85.

8-16.12 Threshold Requirements. All Economic Development applications submitted to the FDC will be reviewed for completeness, accuracy, and eligibility before they are rated for their program impact score. The following areas will be included:

(1) Application Completeness. Applications will be screened for completeness, and applications which do not contain all items specified in Section 8-16.10(5) and (6) will not be rated for funding.

(2) Need for Assistance to Private for-Profit Businesses. Applications for grants to assist private for-profit businesses must contain evidence to demonstrate that without such public assistance the creation or retention of such jobs would not occur. This evidence should indicate the problem, how the project will help solve the problem, what alternatives have been attempted, and the consequences of inaction. The applicant must certify that the amount of CDBG funds being requested to assist businesses is necessary or appropriate and that the applicant has carried out an analysis of the businesses' needs, including a calculation of the minimum amount of CDBG funds necessary to accomplish the economic development objective. Applications which do not provide sufficient justification of this need will not be considered.

(3) Financial Feasibility. A financial feasibility analysis will be conducted on applications to determine if the applicant has the ability to meet the proposed debt service, given historical data and reasonable projections of revenues and operating expenses. If the project is a business startup, sufficient market data and feasibility data must be provided to substantiate that projections of revenues and expenses are reasonable. If the proposed project is for assistance to a private for-profit business in the form of a loan, certain minimum requirements will be required including, but not limited to: a current financial statement, historical financial information, and projections. All loans made to private businesses must include a "due on sale" provision, and the terms of the loan may not exceed the life of the assets for which the loan was made. Applications which fail to demonstrate the ability to meet the proposed debt service will not be considered. This determination will be based primarily on the information provided by the applicant in the business plan.

(4) Strength of Commitment. Applications must contain legally binding commitments from financial institutions, lessors, and other participants in the project without whom the project could not be completed as proposed. Applications without commitment documents will not be considered.

(5) Benefit to Low and Moderate Income Persons. As a minimum of standard criteria, one permanent job equivalent for each $12,000 dollars of CDBG funds must be created and/or retained. At least 51 percent of the jobs created by a project assisted with CDBG funds must be for low and moderate income persons. Applications must contain sufficient information to assure that at least 51 percent of jobs created and/or retained are for low and moderate income persons residing in the applicant's jurisdiction. This information must be presented in a hiring plan which specifies a timetable for hiring and designates which jobs will be filled by

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low and moderate income persons. Applications not meeting this requirement will not be considered.

(6) Leveraging of CDBG Dollars. The ratio of the total dollar amount of all other funds to CDBG funds to be used or proposed to be used must be at least 2:1. The other funds used to meet the leverage requirement shall constitute newly created investments directly linked to the proposed project. Applications which do not meet this leveraging requirement will not be considered.

(7) Evidence of Citizen Participation. The applicant will provide a certification signed by the Chief Elected Official that the local government has complied with the citizen participation requirements outlined in Section 290.046, Florida Statutes. The local citizen advisory task force mandated in Section 290.046(b), Florida Statutes, is to be established prior to preparation of the application to involve citizens in the developmental stages of the proposal. Applicants must also furnish to citizens information on the following and demonstrate to the FDC that these requirements have been met:

(a) The estimated amount of funds, not less than 51 percent, proposed to be used for activities that will benefit low and moderate income persons;

(b) The applicant's plans to minimize displacement of persons and to assist displaced persons;

(c) Hold a minimum of two public hearings to obtain input from citizens on community development needs and on the proposed application prior to submission to the FDC. Publish notice of public hearings not more than fourteen (14) days prior to each hearing and no less than five (5) days before each hearing in the nonlegal section of a local newspaper of general circulation. Public hearings must be held on separate dates;

(d) Maintain on file and include in the application to the FDC documentary evidence that the required public notices and hearings were published and held, including copies of the actual notices with date of publication intact or proof of publication from the publishing newspaper and any comments and views expressed by citizens on the proposed application;

(e) Names and addresses of the local citizen advisory task force members; and

(f) Insure that the applicant will provide opportunities for citizen participation, hearings, and access to information comparable to the requirements outlined in Section 104(A)(2) of Title I, as amended.

(8) Certification. The applicant will provide additional certifications signed by the Chief Elected Official that:

(a) The local government has complied with Titles VI and VIII of the Civil Rights Acts and that the local government will affirmatively further fair housing;

(b) The local government will minimize displacement of persons as a result of activities assisted with CDBG funds;

(c) The local government will provide opportunities for citizen participation, hearings, and reasonable access to information with respect to its community development program, including amendments;

(d) The local government will not attempt to recover any capital costs of public improvements assisted in whole or in part with CDBG funds by assessing any amount against properties owned and occupied by low and moderate income persons, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:

1. CDBG funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are non-CDBG funded; or

2. The local government certifies that it lacks sufficient CDBG funds to pay the assessment against properties owned and occupied by lower income persons who are not persons of very low income to recover the cost of the non-CDBG share of the capital costs of such public improvements.

(9) Achievement of National Objectives. An applicant must demonstrate and certify that each of the activities in its proposed program is aimed at achieving one of the three national objectives of the CDBG program. At least 51 percent of the CDBG funds requested for program activities must address benefit to low and moderate income persons. However, meeting the 51 percent funding to benefit low and moderate income persons requirement does not automatically qualify as achievement of the national objective of benefit to low and moderate income families. To meet the national objective of benefit to low and moderate income families, the design and primary objective of proposed activities must be to principally benefit low and moderate income persons. The national objectives are:

(a) Benefit to low and moderate income families;

(b) Aid in the prevention or elimination of slums or blight; or

(c) Meet other urgent community development needs where there is a serious and immediate threat to the health and welfare of the community, and other financial resources are not available.

(10) Preliminary Environmental Assessment and Historical Review Completeness. Applicants are required to conduct a preliminary environmental assessment and preliminary historical resources inventory review to identify potential environmental impacts and the existence of historical properties that might be affected by the proposed project or projects, and complete the appropriate forms in the FDC Applicant Manual.

(11) Intergovernmental Coordination and Review. The applicant will submit six copies of the application summary form, maps, Preliminary Environmental Assessment and Historical Review, and narrative description of the proposed activities to FDC. FDC will submit these documents to the state clearinghouses as required by Florida's Intergovernmental Coordination and Review Process. Applicants must also submit a certification that three copies of these materials have been delivered to the regional planning council which has jurisdiction over the applicant.

Specific Authority 290.045 FS. Law Implemented 290.043 FS. History—New 12-19-83, Amended 1-2-85.

8-16.13 Community-Wide Needs.

(1) General. Applicants need not submit poverty, structure condition, or unemployment data for calculating those portions of the community-wide needs score. The most recent and uniformly available federal and state data for all jurisdictions eligible to apply will be collected and analyzed by the DCA. Current U.S. census data will be used unless otherwise noted. Applicants must provide prior year and current year local government budget information to the FDC as part of the CDBG application submitted to the FDC for analysis of fiscal capacity and in order to receive points for the fiscal capacity portion of the community-wide needs score.

$$\frac{\text{statistic on factor}}{\text{highest statistic on factor}} = \%\text{ to be used as factor multiplier}$$

Applicable data shall be further defined as:

(a) For city applicants, the data relevant for the entire incorporated area, except for unemployment data which shall be county-wide;

(b) For county applicants, the data for all unincorporated areas within the county will be used to determine poverty, fiscal capacity and structure condition and data for the total county will be used to determine unemployment data;

(c) For joint applicants, data will be averaged for the applicant jurisdictions.

(2) Factors. Ten factors will be used to determine the community-wide needs score with the following maximum points available for each:

(a) Number of persons below poverty (50 points);

(b) Percent of persons below poverty (50 points);

(c) Number of year-round housing units with 1.01 or more persons per room (30 points);

(d) Percent of year-round housing units with 1.01 or more persons per room (30 points);

(e) Number of year-round housing units with no or 1/2 bath (50 points);

(f) Percent of year-round housing units with no or 1/2 bath (50 points);

(g) Number of pre-1950 year-round housing units (30 points);

(h) Percent of pre-1950 year-round housing units (30 points);

(i) Unadjusted unemployment rate average over the past federal fiscal year based on Florida Department of Labor and Employment Security data (50 points);

(j) Fiscal capacity score (30 points).

(3) Method of Calculation. All jurisdictions eligible to apply for CDBG funding will be compared on the factors identified in Sections 8-16.13(2)(a—i). Except for unemployment, county data will be compared only with county data, and city data with city data. Calculating each applicant's score shall include the following steps:

(a) The highest statistic for each factor identified in Sections 8-16.13(2)(a—i) shall be the basis for relative comparison of all other jurisdictions eligible to apply.

(b) For each jurisdiction, the percentage calculated in Section 8-16.13(3)(a) will be multiplied by the maximum number of points available for the particular factor (% × maximum points available = sub-score for eligible jurisdiction on that factor).

(c) Once applications have been submitted, all applicants that have passed the threshold tests will again be compared on the factors identified in Sections 8-16.13(2)(a—i). The method of calculation will be the same as outlined in Sections 8-16.13(3)(a) and (b).

(d) After the comparison of applicants on the community-wide need factors identified in Sections 8-16.13(2)(a—i), fiscal capacity subscores will then be calculated for each applicant and the subscores on all factors summed for a final subscore total for that applicant.

(4) Data Revisions. Data will be revised no less often than annually for unemployment and fiscal capacity calculations. The most recent and uniformly available census data for all eligible local governments will be used for poverty and structure/condition factors.

Specific Authority 290.045, F.S. Law Implemented 290.043, F.S. History—New 12-19-83, Amended 1-2-85.

8-16.14 Program Impact Criteria for Economic Development Activities.

(1) Job Creation/Retention.

(a) Significant emphasis will be placed on proposed economic development projects that are directed towards job creation activities that strengthen the local economic base, either by assisting existing businesses to expand or continue production, or attract new businesses to locate within the applicant's jurisdiction.

(b) The number of permanent full-time equivalent jobs (excluding construction workers) created or retained as a result of the proposed project will be prioritized and assigned points accordingly: The highest ranking among applications for the number of full time equivalent jobs will be identified and assigned a score of 70 points. All other applications will be assigned a score based upon their relative position to the highest ranking application as per Section 8-16.14(6) of this rule. In the case of jobs being created due to an intrastate relocation where jobs are lost in another jurisdiction, the net jobs calculation described in Section 8-16.06(17) will be utilized.

(2) Benefit to Low and Moderate Income

made by measuring the number of total permanent jobs created by the project which will be held by low and moderate income persons. Included in this measurement will be recruiting and/or training of persons from Private Industry Councils/Service Delivery Area (PIC/SDA), The Job Training Partnership Act (JTPA), or other such generally recognized programs. Direct benefit is provided if such persons are permanently employed (excluding construction workers) within twelve months or implementation of project hiring or job retention.

(b) A total of up to 210 points are available for applications that demonstrate a significant direct benefit to low and moderate income persons. The number of permanent full-time equivalent jobs (excluding construction workers) held by low and moderate income persons as a result of the proposed project will be assigned points as follows: The highest ranking among applications for number of low and moderate income persons employed will be identified and assigned a score of 150 points, and all other applications will be assigned a score based upon their relative positions as calculated pursuant to Section 8-16.14(6) of this rule. The number of permanent full-time positions held by low and moderate income persons that will be recruited and/or trained from PIC/SDA, JTPA, or other such generally recognized programs will be assigned points as follows: The highest ranking among applications for low and moderate income persons recruited and/or trained will be identified and assigned a score of 60 points, and all other applications will be identified and assigned a score based upon their relative positions as per Section 8-16.14(6) of this rule.

(3) Ratio of Other Funds to CDBG Funds.

(a) The ratio of the total dollar amount of all other funds, both public and private, to CDBG funds to be used or proposed to be used must be at least 2:1. Assessment will be made by measuring the ratio of the total dollar amount of all other funds, both public and private, with respect to the requested dollar amount of CDBG funds to be used in the proposed project. The higher the ratio, the greater the leverage of CDBG funds.

(b) The application with the highest leveraging ratio will be identified and assigned a score of 50 points. All other applications will be assigned a score based upon their relative positions as calculated pursuant to Section 8-16.14(6) of this

(4) CDBG Dollars Per Permanent Job.

(a) This factor measures CDBG funds that will be invested in relation to permanent full-time equivalent jobs created and/or retained.

(b) The proposed project will be assessed and assigned points for minimizing CDBG funds per job. The maximum acceptable CDBG dollar cost per job will be $12,000. The project with the lowest CDBG cost per job will be assigned a score of 50. All other applications will be assigned a score based upon their relative positions as calculated pursuant to Section 8-16.14(6) of this rule.

(5) Relationship of Requested Funds to Results. The relationship of funds to results will measure the extent to which the amount of funds requested correspond to the resolution of economic development problems. The proposed project will be assessed by the impact it will have upon the applicant's economic base and unemployment rate.

(a) The amount of impact upon applicant's unemployment problems will be assessed by the number of jobs created and/or retained per capita multiplied by the unemployment rate, unadjusted average over the past federal fiscal year, based on Florida Department of Labor and Employment Security data. The highest ranking among applications for impact on unemployment will be identified and assigned a score of 30 points. All other applications will be assigned a score based upon their relative positions as per Section 8-16.14(6) of this rule.

(b) The amount of impact a proposed project will have upon the applicants' tax base will be assessed by the proportion of tax value added by the project to applicant's existing taxable revenues. The highest ranking among applications for tax value added will be identified and assigned a score of 30 points. All other applications will be assigned a score based upon their relative positions as calculated pursuant to Section 8-16.14(6) of this rule.

(c) Applicants with proposed projects, located in Enterprise Zones approved by the Department of Community Affairs, will receive 30 points.

(d) Local governments receiving grants will have the option of requiring that businesses repay CDBG funds to the local government entity for use in other economic development projects and activities. The interest rate and terms of such repayment will be at the discretion of the local government except that the term of repayment shall have a direct relationship to the economic life of the assets purchased. Because repayment of CDBG funds for recycling into other economic development projects will provide a greater economic impact over time, applications requiring repayment will be awarded up to 30 points. Points will be assigned to this criteria based upon the return value of the loan as calculated by the commonly accepted Amortization Table. The loan made by the applicant that yields the highest annual return of principal and interest in proportion to the total amount CDBG dollars requested will be assigned 30 points. All other applications will be assigned a score based upon their relative positions as calculated pursuant to Section 8-16.14(6) of this rule.

(6) Method of Calculation. All program impact criteria, except the location of projects in Enterprise Zones approved by the Department of Community Affairs, will be scored on a percentile basis. With this methodology, applications can be ranked competitively relative to one another on each discrete criterion. Calculation of each applicant's score shall include the following steps:

(a) All applications meeting the threshold requirements will be reviewed to determine the degree to which each program impact criterion is met in terms of a raw score, e.g., number of permanent full-time jobs created and/or retained.

(b) On each criterion, the application with the highest degree of impact will receive a percentile score of 100.

(c) All other applications will receive a percentile score derived from raw scores as follows:

$$\text{Percentile} = \frac{\text{Given Applicant Raw Score}}{\text{Highest Raw Score}}$$

(d) The percentile score will be converted to represent that percent of the total available points which corresponds exactly with the percentile ranking.

Examples: Maximum points available for full-time jobs created and/or retained is 70 points. Therefore, to convert the percentile ranking to points, the percentile ranking will be multiplied by .7. Similarly, in a criterion worth 50 points, the percentile ranking will be multiplied by .5 to convert percentile ranking to points.

(c) Once each item is evaluated, the total points for each application will be summed and applications will be competitively ranked based on point totals. The applicant receiving the highest number of points will receive the highest ranking.

Specific Authority 290.045 FS. Law Implemented 290.043 FS. History—New 12-19-83, Amended 1-2-85.

8-16.15 Performance in Equal Opportunity in Employment and Housing. Ten percent of the total available points will be based on performance related to equal opportunity in employment and housing in the community. Points will be determined as follows:

(1) Employment. Up to 50 points shall be awarded to each applicant based on the following criteria:

(a) Employing minority persons, as evidenced by active recruitment practices, an increasing number of minority employees over the past five years, or a comparison of the number of minority employees and the minority population in the jurisdiction — up to 25 points;

(b) Encouraging minority employment through the use of minority contractors, as evidenced by an increase in the number of minority contractors, suppliers, or service providers utilized or an increase in the dollar amount contracted to minority-owned firms over the past five years — up to 25 points.

(2) Housing. Up to 50 points shall be awarded to an applicant based on its actions relative to the following criteria:

(a) Adoption of a fair housing ordinance which is compatible with or complements State and federal law — 25 percent;

(b) Documentation of efforts to publicize the ordinance and make its provisions known to residents and housing providers — 25 percent;

(c) Existence of an enforcement system to implement the ordinance — 15 percent;

(d) Provision of housing choice outside areas of minority and low and moderate income concentration — 10 percent; and

(e) Written evaluation of local building and land use regulatory practices for effects upon housing affordability and availability and written strategy of positive actions to be taken to reduce identified discriminatory practices and create affordable housing opportunities — 25 percent.

Specific Authority 290.045 FS. Law Implemented 290.043 FS. History—New 12-19-83, Amended 1-2-85.

8-16.16 Ties. In the event that two or more applications receive an equal final score, the application demonstrating the highest score for benefit to low and moderate income persons according to rule criteria will be ranked the highest.

Specific Authority 290.045 FS. Law Implemented 290.043 FS. History—New 12-19-83, Amended 1-2-85.

8-16.17 Grant Administration.

(1) Grant Award Agreement.

(a) Upon approval of the application by the FDC, a written grant award agreement will be executed between the FDC and the applicant specifying the terms and conditions of the grant award.

(b) These rules, a FDC approved work plan setting forth milestones, out-puts and expenditure projections, the approved program budget, and any subsequent amendments to the approved application, work plan and program budget shall become a part of the grant award agreement.

(c) The FDC may condition the initial receipt of funds and the continued receipt of funds in the grant award agreement until the recipient demonstrates, to the satisfaction of the FDC, compliance with all applicable laws, rules, regulations, and guidelines governing the program.

(2) Method of Administration.

(a) Recipients may delegate to any unit or department of the local government the responsibility to undertake or carry out specific economic development activities. The recipient may also, by written agreement, designate one or more autonomous public agencies, including existing agencies and other local governments, to undertake or carry out economic development activities for the recipient. All autonomous public bodies so designated shall be considered subrecipients.

(b) Recipients may contract with any person, association, or corporation in undertaking specified economic development activities. All contracts shall be made in conformance with the procurement standards set forth in Section 8-16.17(6) with the exception of the selection of subrecipients as described in Section 8-16.17(2)(a).

(c) Subrecipients undertaking or carrying out economic development activities shall do so in conformance with Sections 8-16.17(3) through (12) and all applicable state and federal laws, rules, and regulations.

(d) Designations and contractual arrangements as authorized under this section shall in no way relieve the unit of local government receiving funds under this chapter of its responsibilities in assuring that the CDBG program is administered in accordance with all State and Federal requirements.

(3) Method of Payment. Advance payments will be made by the FDC to recipients in accordance with U. S. Treasury Circular 1075 and Chapter 216, F.S., when the following conditions are met:

(a) The recipient has demonstrated to the Secretary, initially through certification in a form prescribed by the FDC and subsequently through performance, that procedures have been established to ensure that, generally, no more than five days time will elapse between its receipt of funds and its disbursement of such funds, except as provided under Section 8-16.17(3)(d).

(b) The recipient's financial management system meets the standards for fund control and accountability prescribed in Attachment G of the Federal Office of Management and Budget (OMB) Circular No. A-102, Revised, "Standards for Grantee Financial Management Systems" and Section 8-16.17(3)(a).

(c) No payment from the FDC shall be for an amount less than five thousand dollars ($5,000).

(d) Recipients may maintain cash-on-hand in amounts of five thousand dollars ($5,000) or less for more than five days to meet daily cash needs.

(e) All requests for advance payments must meet immediate disbursing needs. The timing and amount of cash advances shall be as close as feasible to the actual disbursement by the recipient except as described in Section 8-16.17(3)(d).

(f) Recipients who do not meet or adhere to the conditions in Section 8-16.17(3) of this rule will receive grant payments on a reimbursement basis rather than on an advance funding basis.

(4) Financial Management. Recipient's financial management systems shall provide for accurate, current and complete disclosure of all financial records for each economic development project. Each recipient shall be required to maintain a financial management system which complies with U. S. Treasury Circular 1075, OMB Circular No. A-102, Attachment G, "Standards for Grantee Financial Management Systems", and OMB Circular No. A-87, "Cost Principles Applicable to Grants and Contracts with State and Local Governments."

(5) Program Income. Recipients shall be required to return to the FDC all program income realized as a result of any grant made by the FDC from CDBG funds except that the recipient may, in accordance with the Housing and Rural Recovery Act of 1983, retain such income if:

(a) It was realized after the initial disbursements of CDBG funds received from the FDC; and

(b) The recipient agrees that while it is participating in the CDBG program it will utilize program income to continue the same type of activity as that from which such income was derived. Proceeds from the sale of personal property shall be handled in accordance with OMB Circular No. A-102, Attachment N, "Property Management Standards".

(6) Procurement Standards. Recipients shall follow the procurement standards established in Attachment O of OMB Circular No. A-102, "Procurement Standards," and relevant State laws applicable to the procurement of supplies, equipment, construction and services.

(7) Property Management Standards. Recipients shall follow the uniform standards governing the utilization and disposition of property prescribed in Attachment N of OMB Circular No. A-102, "Property Management Standards".

(8) Program Amendments.

(a) The recipient may amend any grant budget line item, increasing or decreasing it, by up to ten (10) percent if the amendment does not change the impact on direct beneficiaries of the project and if the cumulative effect of a number of such changes does not exceed ten (10) percent of the total approved grant amount. All such amendments must be documented in the recipient file and be accounted for in subsequent periodic and other required reports to be submitted to the FDC.

(b) Prior written approval from FDC of amendments must be obtained when:

1. The recipient proposes to change the approved grant budget line item by more than ten (10) percent.

2. The recipient proposes to add or delete any activity or activities; change the scope, objectives or scale of the program or individual projects; or impact beneficiaries of previously approved activities.

3. The cumulative effect of a number of grant budget line item changes involving the approved activities exceeds ten (10) percent of the total approved grant amount.

(c) All amendments requiring prior written FDC approval must be reviewed by the Citizen Advisory Task Force required in Section 8-16.12(8), must involve at least one public hearing to consider comments and views expressed by citizens on the proposed amendment prior to submitting the amendment to the FDC for approval, and have the approval of the local government.

(d) All requests for program amendments submitted to the FDC for approval must include the following.

1. Copy of the current budget and proposed changes;

2. Detailed narrative description of the proposed changes and their effect upon the approved project;

3. Maps showing any change in location; and

4. Signature of approval by the Chief Elected Official of the recipient on a form prescribed by the FDC.

(9) Recordkeeping. Recipients shall maintain records and supporting documents for self-monitoring and State and federal monitoring in accordance with 24 C.F.R. Section 570.907, "Records to be Maintained by the Recipient", and Section 570.510, "Retention of Records", OMB Circular No. A-102, Attachment C, "Retention and Custodial Requirements for Records."

(a) All records shall be sufficient to determine compliance with the requirements and primary objectives of the CDBG Program and all other applicable laws and regulations.

(b) The Secretary of the Department of Commerce, the Secretary of HUD, the Secretary of the Department of Community Affairs, or any of their duly authorized representatives shall have access to all books, accounts, records, reports, files, and other papers or property of recipients or their subrecipients and contractors pertaining to funds provided under this chapter for the purpose of making surveys, audits, examinations, excerpts and transcripts.

(10) Audit.

(a) The recipient shall provide for an audit of its CDBG Program to be initiated within 60 days after the termination of the grant award agreement and to be completed within 90 days thereafter or to be conducted during an interim period if deemed necessary and so directed by the FDC. The audit may be paid for from CDBG funds.

(b) Audits shall be made in accordance with the U.S. HUD Handbook JG 6505.2, "Audit and Standards for Community Development Block Grant Recipients", U.S. General Accounting Office (GAO), "Standards for Audit of Governmental Organizations, Programs, Activities and Functions", any compliance supplement approved by OMB, and generally accepted auditing standards established by the American Institute of Certified Public Accountants.

(c) The FDC may undertake such further or additional audits as determined necessary or appropriate.

(11) Grant Closeout. The FDC will advise the recipient to initiate closeout procedure when the FDC determines, in consultation with the recipient, that there are no impediments to closeout and that the criteria prescribed in 24 C.F.R. Section 570.512, "Grant Closeouts", have been met.

(12) Performance.

(a) Reporting. Upon completion of the activities contained in the recipient's CDBG application including any amendments or upon the submission of a subsequent application to the FDC, whichever is earlier, the recipient shall submit to the FDC a performance status report containing completed copies of all forms and narratives prescribed by the FDC.

1. The recipient shall make the report available to citizens at no charge and shall make public notice of the report and its availability at the time it is submitted to the FDC.

2. Recipients shall also submit such reports as may be necessary, pursuant to 24 C.F.R. Section 570.905, "Reports to be Submitted by the Recipient", Section 570.906(b), "Performance Report", and other applicable laws governing the CDBG program as outlined in Section 8-16.18 of this chapter or as may be further required by the FDC.

(b) Monitoring by the Recipient. Recipients shall constantly monitor their own performance under grant-supported activities to ensure that time schedules are being met, projected out-puts are being accomplished within specified time periods, and other performance goals are being achieved. This review shall be made for each program, function, or activity as set forth in the approved grant application and the grant award agreement.

(c) Monitoring by the FDC.

1. The FDC shall review each recipient's performance periodically to determine whether the recipient has carried out the program substantially as described in the approved application, and any subsequent amendments, the grant award agreement and requirements of the Act, this chapter, other applicable laws and regulations, and prescribed guidelines and requirements of the FDC.

2. The FDC will review each recipient's performance in accordance with applicable portions of 24 C.F.R. Section 570.909, "Secretarial Review of Recipients Performance".

3. The FDC's review of the recipient's performance shall include site visits as frequently as practicable to evaluate program accomplishments and management and fiscal control systems.

4. Recipients will be required to supply data and make available records as are necessary for the accurate completion of the evaluation.

(d) Remedies. When the FDC determines on the basis of a review of the recipient's performance that the objectives of the program as described in the application have not been met, the FDC may take one or more of the actions prescribed in 24 C.F.R. Section 570.910(b), "Corrective and Remedial Actions", and Section 570.911, "Reduction or Withdrawal of Grant".

(e) Administrative Hearings. The provisions of Chapter 120.57, Florida Statutes, shall be followed when recipients contest FDC actions with respect to this chapter or when the FDC takes action against a recipient.

(f) Displacement and Relocation.

1. Recipients causing direct or indirect displacement of low and moderate income persons as a result of activities assisted with CDBG funds are required to develop a plan for assisting such persons and to set forth actions that the recipient will take to mitigate any adverse effects resulting from CDBG funded activities that cause displacement either directly or indirectly.

2. If the CDBG funded activity involves the acquisition of real property by the local government, which causes displacement of persons, the federal "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" shall apply. For activities resulting in displacement of persons that do not involve the acquisition of real property, and thus not subject to the "Uniform Act," the local government will be required to develop a local policy setting forth the assistance it elects to provide for such persons.

3. The recipient shall make its displacement and relocation policy available to the public.

Specific Authority 290.045 F.S. Law Implemented 290.041 F.S. History—New 12-19-83, Amended 1-2-85.

8-16.18 Compliance Requirements. Certain federal and State laws and regulations are applicable in part or in whole to the Florida Small Cities CDBG program. To assist recipients in meeting the applicable requirements, the Department of Commerce will provide guidance and technical assistance. The applicable laws and regulations include as a minimum, but are not limited to:

FINANCIAL MANAGEMENT

(a) Cost Principles Applicable to Grants and Contracts with State and Local Governments, OMB Circular A-87;

(b) Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects, OMB Circular A-95, Attachments A, B, and C;

(c) Uniform Administration Requirements for Grants-in-Aid to State and Local Governments, OMB Circular A-102 Revised, Attachments A-O;

(d) Letter of Credit Procedures, HUD Handbook 1900.23 REV;

(e) Close-Out Procedures for Discretionary Grant Recipients, HUD Handbook, 6505.3;

(f) Guidelines for Financial and Compliance Audits of Federally Assisted Programs, GAO Stock, 020-000-00181-0.

EQUAL OPPORTUNITY

(a) Title VI of the Civil Rights Act of 1964, P.L. No. 88-352;

(b) Title VIII of the Civil Rights Act of 1968, P.L. No. 90-284;

(c) Section 109 of the Housing and Community Development Act of 1974, 42 USC 5309;

(d) Executive Order 11063, Equal Opportunity in Housing, 24 CFR 11527;

(e) Section 3 of the Housing and Urban Development Act of 1968;

(f) Executive Order 11246; 30 CFR 12319-24; 41 CFR 60;

(g) Executive Order 12086 (functions under 11246); 41 CFR 60

(h) Age Discrimination Act of 1975;

(i) Rehabilitation Act of 1973.

LABOR STANDARDS

(a) Davis-Bacon Fair Labor Standards Act, 40 USC 276a—276a-5;

(b) Contract Work Hours Standards Act, 40 USC 327-332;

(c) Copeland Anti-Kickback Act, 18 USC Stat

948, 40 USC 276 (c);

(d) HUD Labor Standards Administration and Enforcement Handbook;

(e) HUD Handbook 6500.3 and change 1, dated June 24, 1981.

ENVIRONMENT/HISTORIC

(a) The National Environmental Review Policy Act of 1969, P.L. 91-190;

(b) HUD Environmental Review Procedures, 24 CFR Part 58;

(c) The Clean Air Act of 1963, P.L. 90-148;

(d) Federal Water Pollution Control Act, Executive Order 11288, P.L. 92-500;

(e) Safe Drinking Water Act of 1974, P.L. 93-253,

(f) Fish and Wildlife Coordination Act of 1958 and the Act of July 9, 1965, P.L. 85-624;

(g) The Endangered Species Act of 1973, P.L. 93-205, P.L. 95-632;

(h) The Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act, P.L. 94-580;

(i) Noise Abatement and Control: Departmental Policy Implementation Responsibilities and Standards, 24 CFR Part 51, Subpart B;

(j) Flood Disaster Protection Act of 1973, P.L. 93-234;

(k) National Flood Insurance Act of 1968, P.L. 90-448;

(l) Executive Order 11990, Protection of Wetlands;

(m) Executive Order 11988, Protection of Floodplain;

(n) Protection of Historic and Cultural Properties under HUD Programs, 24 CFR Part 59;

(o) Coastal Zone Management Act of 1972, P.L. 92-583;

(p) Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, 44 CFR 1957;

(q) Section 106 of the National Historic and Archaeological Data Act of 1966, P.L. 93-291;

(r) Executive Order 11593, "Protection and Enhancement of the Cultural Environment";

(s) Coastal Barriers Resources Act of 1982;

(t) Farmland Protection Policy Act of 1981;

(u) Florida Coastal Barriers Executive Order 80-105.

ARCHITECTURAL AND CONSTRUCTION STANDARDS

(a) Architectural Barriers Act of 1968, 42 USC 4151;

(b) American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped, A-117, 1-R 1971;

(c) Lead Based Paint Poisoning Prevention Act, 42 USC 4831;

(d) Cost-Effective Energy Conservation Standards, 24 CFR Part 39;

(e) Section 8 Existing Housing Quality Standards, 24 CFR Part 882.

ACQUISITION/RELOCATION

(a) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1979, P.L. 91-646, Title II (Relocation), Title III (Acquisition);

(b) HUD Relocation and Real Property Acquisition Handbook, HUD Handbook 1376.1 with Changes 1, 2, 3 and 4.

Specific Authority 290.045 FS. Law Implemented 290.043 FS. History—New 12-19-83, Amended 1-2-85.

8-16.19 Rights Reserved by FDC. The Department of Commerce reserves the right to:

(1) Initiate a request for additional information as the FDC deems necessary, however, no applicant may supply additional information after the submission deadline date which has not been specifically requested.

(2) Offer to an applicant, otherwise eligible to receive grant funds, an amount which is different than that requested in the application.

(3) Examine the financial records of the local government as they relate to the Small Cities funds provided by the Act.

(4) Include in the grant award agreement a clause which would require the locality to return to the Department of Commerce part or all of the grant if the FDC or the U.S. Department of Housing and Urban Development determines the return necessary.

(5) Waive any requirement of this rule not required by the Act in cases of undue hardship and where application of the requirement would adversely affect the purposes of the Act, except as otherwise provided in this Chapter.

(6) Not fund any application, even if the minimum criteria for eligibility set forth herein have been met.

Specific Authority 290.045 FS. Law Implemented 290.043 FS. History—New 12-19-83, Amended 1-2-85.

DEPARTMENT OF COMMUNITY AFFAIRS

DIVISION OF EMERGENCY MANAGEMENT

CHAPTER 9G-2
COMPREHENSIVE EMERGENCY MANAGEMENT PLAN

9G-2.01 Comprehensive Emergency Management Plan. In order to provide a uniform plan in the event of emergencies, the Division of Emergency Management hereby adopts by reference as though the plan itself as amended were attached hereto, the Comprehensive Emergency Management Plan of the State of Florida, with the exception of Annexes P through S of the Radiological Emergency Plan. A copy of this plan and its amendments have been filed with the Secretary of State. The plan is available for inspection and reference at the Division of Emergency Management office in Tallahassee, and at the four Area Offices whose addresses are listed below:

North Florida Area Office
Division of Emergency Management
830 Edwards Road
Starke, Florida 32091

South Florida Area Office
Division of Emergency Management
14800 Southeast Federal Highway
Hobe Sound, Florida 33455

West Florida Area Office
Division of Emergency Management
1 Davis Lane South
DeFuniak Springs, Florida 32433

Central Florida Area Office
Division of Emergency Management
Post Office Box 207
Wildwood, Florida 32785

A copy may be obtained by writing to:
Director
Division of Emergency Management
Department of Community Affairs
1720 South Gadsden Street
Tallahassee, Florida 32301

Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(b) FS. History—New 11-14-77, Amended 7-31-78, 4-12-82, 7-29-84, 2-24-85.

CHAPTER 9G-6
REVIEW OF LOCAL EMERGENCY MANAGEMENT PLANS

Editorial Note: The 2-24-85 amendment changed the chapter name as set out above.

9G-6.01 Purpose. This chapter sets forth the standards and requirements for local emergency management plans, sets forth the procedures a county emergency management agency must follow in submitting its plan to the Division of Emergency Management of the Department of Community Affairs for review, and sets forth the requirements for adoption and implementation of local emergency management plans. It is promulgated as a companion to Chapter 9G-7. The Division of Emergency Management of the Department of Community Affairs is given broad authority to take precautions for protecting the citizens of the state from emergencies which may or do occur either naturally or as a result of manmade causes. The Division of Emergency Management is responsible for the preparation of a comprehensive plan and program for emergency management in the state and the coordination of federal, state and local emergency-related activities. The Division of Emergency Management is empowered to promulgate standards for local and interjurisdictional emergency plans and to review those plans periodically to determine compliance with the terms of this chapter.

Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(a), (b), (h), (i), (j) FS. History—New 1-18-81, Amended 2-24-85.

9G-6.02 Definitions.

(1) "Area Coordinator" refers to the professional staff member assigned to each of the area offices of the Division of Emergency Management.

(2) "County Emergency Management Agency" means the emergency management agency authorized and directed to be established and maintained by each county of the state pursuant to Section 252.38(2), Florida Statutes.

(3) "Division" means the Division of Emergency Management of the Department of Community Affairs.

(4) "State Plan" means the State Comprehensive Emergency Management Plan, as developed and adopted by the Division pursuant to the authority contained in Section 252.35(2)(b), Florida Statutes.

(5) "Local emergency management plans" are the county counterparts of the State Plan.

Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(i) FS. History—New 1-18-81, Amended 2-24-85.

***Editorial Note:** The 2-24-85 amendment entirely superseded the former rule.*

9G-6.03 State Comprehensive Emergency Management Plan — Process of Adoption.

Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(b) FS. History—New 1-18-81, Repealed 2-24-85.

9G-6.04 The Content of Local Emergency Management Plans.

(1) Each county emergency management agency shall prepare a local emergency management plan as set forth in this rule and in Chapter 9G-7.

(2) Local emergency management plans will consist of three separate but related contingency elements: the first to be the Peacetime Emergency Plan; the second, the Nuclear Civil Protection Plan; and the third, for those counties within a 50-mile radius of a commercial nuclear power plant, the Radiological Emergency Management Element for Nuclear Power Plants.

Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(b), (h) FS. History—New 1-18-81, Amended 2-24-85.

***Editorial Note:** The 2-24-85 amendment entirely superseded the former rule.*

9G-6.05 Schedule for Development and Review of Local Emergency Management Plans.

(1) Those local emergency management plan elements previously submitted and approved by the Division in accordance with the timetable established prior to the effective date of this chapter, will be resubmitted in accordance with the provisions of this chapter. Submission of other elements of the local emergency management plan will be in accordance with a timetable to be furnished by certified mail; however, no county will have less than six months to meet the requirements. Any changes of submission dates must be approved by the Director, Division of Emergency Management, on a case-by-case basis.

(2) Local Peacetime Emergency Plan elements which have been developed, submitted, reviewed and determined to be in compliance with the terms of this chapter shall be updated and resubmitted for review every three years.

(3) Each county shall develop and maintain a Nuclear Civil Protection (NCP) element. Local NCP elements will include a crisis relocation plan and an updated community shelter plan. Local NCP plan elements which have been developed, submitted, reviewed and determined to be in compliance with the terms of this chapter shall be updated and resubmitted for review every three years.

(4) Each county having any land which falls within a 50-mile radius of a commercial nuclear power plant shall develop and maintain a Radiological Emergency Management element for nuclear power plants, which after initial review and approval by the Federal Emergency Management Agency shall be updated and submitted for review annually.

(5) Local Emergency Operations Plans, or parts thereof, which are currently in effect, must be maintained in current status until replaced by elements of the local emergency management plans.

Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(b), (i) FS. History—New 1-18-81, Amended 2-24-85.

***Editorial Note:** The 2-24-85 amendment entirely superseded the former rule.*

9G-6.06 Local Emergency Management Plans — Review by Division. The provisions of this section shall apply to initial submission, resubmission as a result of a determination by the Division that a local emergency management plan or element thereof is not in compliance with the terms of this chapter, triennial submission, annual submission or any other submission.

(1) The county emergency management agency will forward two copies of plans to the Division, and the Division shall forward one copy to the appropriate regional planning council, which will review the plan and forward its comments thereon to the Director, Division of Emergency Management, within 60 days of receipt. Regional planning council reviews should be comprehensive with specific consideration of provisions for intergovernmental coordination, operational compatibility with plans and procedures of other jurisdictions within the region, and the impact of the plan on other regional programs.

(2) The Division shall review each county element and the comments of the regional planning council. The Division will provide the local jurisdiction with the details of its review and its finding as to the acceptability of the plan within 90 days of initial submission by the county. If the Division finds the county element meets the requirements of this chapter and Chapter 9G-7, it shall issue a letter of compliance.

(3) When the Division finds a county element is not in compliance with the requirements of this chapter and Chapter 9G-7, it shall issue a letter of non-compliance specifically stating the reasons for non-compliance. Upon receipt of a letter of non-compliance, the county shall either:

(a) Within 90 days, revise its element and resubmit the revised element to the Division; or

(b) Appeal non-compliance in accordance with Section 120.57, F.S.

(4) Appeals of non-compliance shall be filed in accordance with Section 120.57, F.S.

(5) If the Division is unable, for any reason, to complete its review within 90 days, it will forward a letter to the county stating its intent to extend the review period for an additional 30 days. If, after 90 days of submission of the county element neither comments nor extension letter has been received by the county, or if after 120 days no comments have been received by the county, all plans submitted by the county will automatically comply with the terms of this chapter.

Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(i), (j) FS. History—New 1-18-81, Amended 2-24-85.

***Editorial Note:** The 2-24-85 amendment entirely superseded the former rule.*

9G-6.07 Adoption by Local Government. After determination by the Division that the plan is in compliance with the terms of this chapter, the plan must be adopted by resolution of the governing body of the county before it becomes the emergency management plan for such local government. Notification of the date of adoption shall be sent to the Division. Failure to adopt or resubmit a revised plan as specified in 9G-6.06 will constitute non-compliance.

Specific Authority 252.35(2)(a) FS. Law Implemented

252.35(2)(i) FS. History—New 1-18-81, Amended 2-24-85.

9G-6.08 Implementation of Local Emergency Management Plans and Procedures. In order to ensure that the local emergency management plan can be implemented in the event of a disaster or emergency, each agency assigned responsibility in the plan must coordinate the development of implementation procedures.
Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(a), (h), (i) FS. History—New 1-18-81, Amended 2-24-85.

9G-6.09 Triennial Review by Division. Both the State and County Emergency Management Plans are intended to be dynamic contingency plans and should be continually revised to reflect such changes as population growth, industrial development, and advances in technology. Each county emergency management plan shall be reviewed at least triennially. Each county emergency management agency shall submit its revised plan, or complete element thereof, to the Division as provided in 9G-6.05. Attached to the updated plan or element shall be a report to the Division which shall explain in general terms the revisions that have been made.
Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(b), (h), (i), (j) FS. History—New 1-18-81, Amended 2-24-85.

***Editorial Note:** The 2-24-85 amendment entirely superseded the former rule.*

CHAPTER 9G-7
LOCAL EMERGENCY MANAGEMENT PLANS

***Editorial Note:** The 2-25-85 amendment changed the chapter name as set out above.*

9G-7.01 Local Plans.
Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(i) FS. History—New 1-18-81, Repealed 2-25-85.

9G-7.011 Purpose. The purpose of this chapter is to establish the content and format of local emergency management plans. It is promulgated as a companion to Chapter 9G-6, FAC.
Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(i) FS. History—New 2-25-85.

9G-7.012 Definitions.

(1) "County Emergency Management Agency" means an emergency management agency authorized and directed to be established and maintained by each county pursuant to Section 252.38(2), F. S.

(2) "Division" means the Division of Emergency Management of the Department of Community Affairs.

(3) "Local Emergency Management Plans" are the county counterparts of the State Plan.

(4) "State Plan" means the State Comprehensive Emergency Management Plan, which is the plan developed and adopted by the Division pursuant to the authority contained in Section 252.35(2)(b), F. S.

(5) "Local Peacetime Emergency Plan" means the element of the local plan providing a detailed description of procedures to be followed when a manmade or naturally caused emergency occurs.

(6) "Local Nuclear Civil Protection Plan" means the element of the local plan providing a detailed description of the procedures followed during operations at a time of the threat of international conflict or if a nuclear war attack occurs.

(7) "Local Radiological Emergency Plan for Nuclear Power Plants" means the element to be prepared by county governments within 50 miles of a commercial nuclear power plant.
Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(i) FS. History—New 2-25-85.

9G-7.02 Local Plans — Elements.
Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(i) FS. History—New 1-18-81. Repealed 2-25-85.

9G-7.03 Elements of Local Plans. Each county emergency management agency established pursuant to the authority contained in Section 252.38(2), Florida Statutes, shall develop and adopt a local emergency management plan in the form and according to the standards contained in this chapter. The procedure for submitting a local plan to the Division of Emergency Management for its review is contained in Chapter 9G-6. Each local emergency management plan shall consist of three separate elements:

(1) The Peacetime Emergency Plan. This element of the plan is concerned emergencies occurring where normal channels of governmental authority remain in operation. This element treats natural hazards resulting from the weather such as hurricanes, tornadoes, floods, and disasters resulting from manmade causes such as hazardous material spills and industrial emergencies, exclusive of nuclear power plants. It covers hazard mitigation, emergency preparedness, emergency response, and emergency recovery.

(2) The Nuclear Civil Protection Plan. This element of the plan is concerned with the sheltering or relocation of the population vulnerable to attack during a period of imminent hostilities. This element outlines extraordinary actions to be taken, and it assumes a state-centralized governmental power structure in which normal governmental operations would be extensively disrupted.

(3) The Radiological Emergency Plan for Nuclear Power Plants. This element of the plan outlines procedures to be used by emergency management personnel in counties within 50 miles of a commercial nuclear power plant to respond to and recover from the effects of a radiological emergency.
Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(i) FS. History—New 1-18-81, Amended 2-25-85.

9G-7.04 Basic Content and Format of Local Plans.

(1) The local plan should be specific, and it should confine itself to local responses and actions in the event of an emergency or disaster. It should clearly indicate those positions or agencies responsible for specific functions under given circumstances. Responsibilities must be assigned by job title or agency name, and specific duties for each position or agency must be listed for each major type of disaster or emergency which can reasonably be expected within the jurisdiction. Checklists and other readily accessible and easy-to-use guidelines are encouraged. Where appropriate, the plan should contain maps, diagrams and other visual aids. Copies of forms which the local government will use should be included.

(2) Each element of the plan will be divided into two major components: the basic plan and a set of annexes. The basic plan should be narrative in form and generally describe responsibilities within the emergency management framework. The various annexes should contain details of procedures for conducting emergency activities. In the annexes should be charts, maps, checklists, and other operational documents.

(3) The local plan should cover county agencies and resources as well as those of municipalities in the planning program. Plans shall interface with plans of contiguous jurisdictions.

Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(i) FS. History—New 1-18-81, Amended 2-25-85.

Editorial Note: The 2-25-85 amendment entirely superseded the former rule.

9G-7.05 The Local Peacetime Emergency Plan.

(1) This element of the local plan is intended to provide a detailed description of the procedures to be followed at the local level whenever an emergency occurs as a result of natural or manmade causes. Such emergencies include, but are not limited to, tornadoes, hurricanes, windstorms, flooding, hazardous material spills, and civil disturbances. This element should not be confined to post-disaster actions, but should also cover pre-disaster warning systems, evacuation plans, hazard mitigation and other anticipatory actions. This element will not be concerned with actions involving armed international conflict.

(2) Specific sections dealing with major hazards are recommended. All jurisdictions are required to include a hazardous materials annex and coastal counties must include a detailed hurricane evacuation plan. The Department hereby adopts and incorporates by reference "Peacetime Emergency Preparedness Planning: A Guide for Local Governments" as part of this chapter. This guide will be used in the development and review of local Peacetime Emergency Plan elements.

(3) The following is offered as a suggested format for the local Peacetime Emergency Plan. County emergency management agencies are not required to duplicate the suggested format, but should conform to it as closely as possible.

SAMPLE FORMAT

BASIC PLAN
- I. Introduction
- II. Situation
- A. Hazard Analysis
- B. Demographics
- III. Authorities
- IV. Organization
- V. Concept of Operations
- VI. Execution
- VII. Responsibilities
- A. County
- B. Municipal
- VIII. Administrative Information
- A. Increased Readiness Procedures
- B. Activation of Emergency Operations Center
- IX. Agreements and Understandings
- A. Interlocal
- B. Interagency

ANNEXES
- Annex I Training and Education
- Annex II Warning
- Annex III Public Information
- Annex IV Communications
- Annex V Evacuation, with appropriate contingency plans as appendices
- Annex VI Search and Rescue
- Annex VII Public Safety
- Annex VIII Public Health
- Annex IX Welfare Services, with appendices for shelter and mass care plans corresponding to specific evacuation plans.
- Annex X Damage Assessment and Reporting Procedures
  - a. Damage assessment procedures
  - b. Reporting requirements within the county
  - c. Reports to the Division of Emergency Management
- Annex XI Temporary Housing
- Annex XII Federal Public Assistance Procedures
- Annex XIII Debris Removal
- Annex XIV Emergency Transportation
- Annex XV Fire Suppression
- Annex XVI Hazardous Materials, with appropriate contingency plans as appendices
- Annex XVII Hazard Mitigation

Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(i) FS. History—New 1-18-81, Amended 2-25-85.

Editorial Note: The 2-25-85 amendment entirely superseded the former rule.

9G-7.06 The Local Nuclear Civil Protection Plan.

(1) This element of the local plan is intended to provide a detailed description of the procedures to be followed at the local level during either in-place or relocation operations, which could occur under circumstances of severe international crisis, such as hostilities involving the use of nuclear weapons, or when armed conflict occurs. The specific format of this element of the local plan will depend upon the classification of Host, Risk, or Risk and Host assigned each county.

(2) Host county planning should cover the following: housing and feeding alternatives; movement of large numbers of vehicles within and through the county; fallout shelter protection for both relocated and resident populations; medical support; law enforcement; fire protection; and, control of, and assistance in, the supply of essential goods and services. Risk county planning should cover the following: support to host counties; continued operation of essential activities within the risk area; the orderly evacuation of the risk area population; and assistance to host counties in meeting minimum augmentation requirements. Risk and host county plans will encompass both of these sets of requirements. In addition, all Nuclear Civil Protection Plans will include procedures for protecting the resident population in case of a sudden armed conflict.

(3) Local Nuclear Civil Protection elements will be developed with assistance from the Division of Emergency Management. The Department hereby adopts and incorporates by reference "Nuclear Civil Protection Planning Standards and Criteria" as part of this chapter. This guide will be used in the development and review of local Nuclear Civil Protection Plan elements.

(4) The following outline is offered as a suggested format for the local Nuclear Civil Protection Plan. County emergency management agencies need not duplicate the suggested format, but should conform to it as closely as possible.

SAMPLE FORMAT

BASIC PLAN

Part A — Crisis Relocation
- I. Direction and Control
- II. Emergency Public Information
- III. Communications
- IV. Warning

V. Reception and Care
VI. Law Enforcement
VII. Fire and Rescue Services
VIII. Health and Medical Services
IX. Resources Management and Transportation
X. Radiological Support Services
PART B — In-Place Protection
Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(i) FS. History—New 1-18-81, Amended 2-25-85.

***Editorial Note:** The 2-25-85 amendment entirely superseded the former rule.*

9G-7.07 The Local Plan for Management of Resources.
Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(b), (c), (i) FS. History—New 1-18-81, Repealed 2-25-85.

9G-7.08 The Local Radiological Emergency Plan for Nuclear Power Plants. This element of the local plan will provide a detailed description of the procedures to be used to protect the public from the potential health effects associated with a radiological emergency at a commercial nuclear power plant. Only those counties within a 50 mile radius of a commercial nuclear power plant are required to develop this element. Local plans will be developed with direct assistance from the Division of Emergency Management and will be incorporated into the appropriate site plan contained in the Florida Radiological Emergency Management Plan for Nuclear Power Plants. This plan will comply with the criteria specified in "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants" (NUREG-06541 FEMA REP-1 Rev. 1), and will be submitted to the Federal Emergency Management Agency for review and approval under the provisions of 44 CFR 350.
Specific Authority 252.60(3) FS. Law Implemented 252.60(1) FS. History—New 2-25-85.

DIVISION OF RESOURCE PLANNING AND MANAGEMENT

CHAPTER 9J-2
GENERAL

***Editorial Note:** Per the Department of Community Affairs. Chapter 9B-16 will be amended and transferred to Chapter 9J-2 under the Division of Resource Planning and Management.*

CHAPTER 9G-5
LOCAL DISASTER PREPAREDNESS AGENCIES APPROVAL OF LOCAL DIRECTOR

9G-5.01—5.07 Repealed 9-14-83.

[See this Chapter in the bound volume, or Historical Tracing Table volume, for statutory authority, law implemented, and history of each rule.]

CHAPTER 9G-6
APPROVAL OF LOCAL EMERGENCY MANAGEMENT PLANS

9G-6.02 Definitions.

* * *

(4) "Local Emergency Plans" are the county and municipal counterparts of the state plan.

* * *

Editorial Note: Paragraph (4) is reprinted to correct an error in the bound volume.

CHAPTER 9G-10
CRIMINAL JUSTICE BLOCK GRANT COMPETITIVE FUNDING PROGRAM

9G-10.01 Purpose.
Specific Authority 120.53(1), 23.153(6) FS. Law Implemented 23.153, 23.154, 943.405 FS. History—New 5-7-81, Transferred to 9B-31.01.

9G-10.02 Definitions.
Specific Authority 120.53(1), 23.153(6) FS. Law Implemented 23.153, 23.154, 943.405 FS. History—New 5-7-81, Transferred to 9B-31.02.

9G-10.03 Policy.
Specific Authority 120.53(1), 23.153(6) FS. Law Implemented 23.153, 23.154, 943.405 FS. History—New 5-7-81, Transferred to 9B-31.03.

9G-10.04 Notification Process.
Specific Authority 120.53(1), 23.153(6) FS. Law Implemented 23.153, 23.154, 943.405 FS. History—New 5-7-81, Transferred to 9B-31.04.

9G-10.05 Screening Process.
Specific Authority 120.53(1), 23.153(6) FS. Law Implemented 23.153, 23.154, 943.405 FS. History—New 5-7-81, Transferred to 9B-31.05.

9G-10.06 Selection Criteria.
Specific Authority 120.53(1), 23.153(6) FS. Law Implemented 23.153, 23.154, 943.405 FS. History—New 5-7-81, Transferred to 9B-31.06.

9G-10.07 Program Guidelines.
Specific Authority 120.53(1), 23.153(6) FS. Law Implemented 23.153, 23.154, 943.405 FS. History—New 5-7-81, Transferred to 9B-31.07.

9G-10.08 Final Authority.
Specific Authority 120.53(1), 23.153(6) FS. Law Implemented 23.153, 23.154, 943.405 FS. History—New 5-7-81, Transferred to 9B-31.08.

9G-10.09 Appeal.
Specific Authority 120.53(1), 23.153(6) FS. Law Implemented 23.153, 23.154, 943.405 FS. History—New 5-7-81, Transferred to 9B-31.09.

CHAPTER 9G-11
FUNDING FORMULA

9G-11.01 Purpose. The funding formula sets forth the guidelines and mechanism for the allocation of emergency management program funds to counties of the State of Florida. The funding formula is supplementary to any federal rules that are applicable.
Specific Authority 252.32(2)(a) FS. Law Implemented 252.35(2)(b) FS. History—New 2-15-82, Amended 10-1-84.

9G-11.02 Definitions.
(1) Allocation: Those funds necessary to provide personnel, travel and administrative expenses.
(2) Association of counties: Two or more counties that join together to carry out an emergency management program in a manner consistent with Chapters 252 and 163, Florida Statutes.
(3) Emergency Management Assistance (EMA): A federal reimbursement program

administered by the Federal Emergency Management Agency and the Division of Emergency Management which reimburses qualified counties for up to fifty percent of their personnel, travel and administrative expenses.
(4) Emergency Management Program: A program that works to assure that a county is prepared for, can respond to and recover from a wide range of emergencies in order to minimize disruptive and destructive effects.
(5) Population Figures: All population figures used in this funding formula are based upon Florida Estimates of Population as published annually by the Population Division, Bureau of Economic and Business Research, University of Florida.
(6) Work Elements: Those work items specified as projected program activities in an agreement to be negotiated between the Department of Community Affairs and a county, to include but not limited to, activities for plan development, training, communications, radiological defense, warning, tests and exercises, and public information.
Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(b) FS. History—New 2-15-82, Amended 10-5-82, 10-1-84.

9G-11.03 Eligibility. Each county or association of counties in the State of Florida is eligible to apply to the Florida Division of Emergency Management (Division) for matching funds in support of emergency management activities (Chapters 252 and 163, Florida Statutes).
Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(b) FS. History—New 2-15-82, Amended 10-1-84.

9G-11.04 Prerequisites. No application for matching funding will be considered unless an applying county complies with each of the following requirements:
(1) The applicant must have an emergency management director, or executive director, who devotes no less than one half of his/her time (20 hours per week) to the duties of the director.
(2) The applicant must have an emergency management program which has been approved by the Division. Program approval will require: compliance with appropriate federal and state laws, rules and regulations; satisfactory completion of work elements of the previous year, if funded by federal or state matching funds; and, a current proposal containing work elements commensurate with the needs (vulnerability) of that county and the proposed budget.
Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(b) FS. History—New 2-15-82, Amended 10-5-82, 10-1-84.

9G-11.05 Funding Limits to EMA funds.
Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(b) FS. History—New 2-15-82, Amended 10-5-82, Repealed 10-1-84.

9G-11.051 Use of Emergency Management Assistance (EMA) Funds. EMA funds shall be used by a county or association of counties only for personnel, travel and administrative expenses.
Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(b) FS. History—New 10-1-84.

9G-11.06 Municipal Eligibility.
Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(b) FS. History—New 2-15-82, Amended 10-5-82, Repealed 10-1-84.

9G-11.061 Funding. Counties in the state shall receive their EMA funding based on the following: Each county shall accumulate points derived from the factors (1 through 7) listed below. A dollar value per point shall be determined by dividing the total county EMA allocation by the total points given to all counties.

Example:

$$\text{Dollar value per point} = \frac{\text{Total EMA County allocation}}{\text{Total points allocated to all counties}}$$

Each county's EMA allocation shall be that amount derived by multiplying that county's point total times the dollar value per point.

Example:
A county's EMA allocation = That county's point total × dollar value per point

Factor 1. The percentage of the state's total population, rounded off to the nearest tenth of a percent, residing in a county shall be multiplied by four to obtain a county's population point total. A maximum of 45 points may be awarded.

Factor 2. The hosting of resident population requiring evacuation during a natural disaster. The points awarded for this factor will be based on the total population

residing within the county that is identified as requiring evacuation during a natural disaster divided into the total resident population hosted within that county. This figure will be based on related regional planning council evacuation studies and the Tri-State Corps of Engineers study.

Example:

$$\frac{\text{Resident Population Hosted}}{\text{Resident Population Requiring Evacuation}} \times 5 = \text{Points (rounded off to the nearest tenth)}$$

A maximum of five points may be awarded. This factor will not be used until all such evacuation studies are completed.

Factor 3. The hosting of non-resident population requiring evacuation during a natural disaster. This factor will be based on the total population residing in other counties of the state that is identified as requiring hosting during a natural disaster. The points awarded for this factor will be determined by dividing that number into the total non-resident population for which the county has agreed to host based on related regional planning council evacuation studies and the Tri-State Corps of Engineers study.

Example:

$$\frac{\text{Non-Resident Population Hosted}}{\text{Non-Resident Population Requiring Evacuation}} \times 5 = \text{Points (rounded off to the nearest tenth)}$$

A maximum of five points may be awarded. This factor will not be used until all such evacuation studies are completed.

Factor 4. The percent of the state's population that resides in the county defined as being at risk in the "population allocation and emergency public information documents" for Nuclear Civil Protection. One-half point will be awarded for each one percent of the state's at risk population residing in the county. A maximum of 5 points may be awarded.

Factor 5. The percentage of the state's population defined as being at risk in the "population allocation and emergency public information documents" for Nuclear Civil Protection that is allocated for hosting in the county. One-half point will be awarded for each one percent of the state's at risk population which will be hosted in the county. A maximum of 5 points may be awarded.

Factor 6. An evaluation of each county's comprehensive emergency management program will be completed annually by the Division. The items to be considered by the Division during its evaluation of each county's program will be furnished to each county no later than March 1 of each year for the funding period commencing October 1 of the following fiscal year. A maximum of 5 points may be awarded.

Factor 7. Five points may be awarded to each county whose border forms part of Florida's coastline.

Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(b) FS. History—New 10-1-84.

9G-11.07 Priorities.
Specific Authority 252.35(2)(a) FS. Law Implemented 252.35(2)(b) FS. History—New 2-15-82, Amended 10-5-82, Repealed 10-1-84.

9G-11.08 Effective Date.
Specific Authority 252.35(2)(a) FS. Law Implemented 252.49(1), 120.54(12)(a) FS. History—New 3-31-82, Repealed 10-1-84.

CHAPTER 9G-12
CONTRACT PROCEDURES FOR FUNDING OF RADIOLOGICAL EMERGENCY RESPONSE PLANS

9G-12.01 Purpose. In amendments to Chapter 252, the 1982 Legislature provided a means for operators of fixed nuclear facilities to fund planning and testing requirements imposed by federal law. State and local assistance to the operators in meeting those requirements is limited by the availability of funds from the operators. The purpose of these rules is to establish a procedure for negotiating contracts for funding of preparation, testing and implementation of radiological emergency response plans.
Specific Authority 252.46 FS. Law Implemented 252.60 FS. History—New 10-31-82.

9G-12.02 Definitions.
(1) "Department" means the Department of Community Affairs.
(2) "Division" means the Division of Public Safety Planning and Assistance of the Department of Community Affairs.

(3) "Host County" means a county designated to receive and care for evacuees from a risk county.
(4) "Ingestion County" means a county within a fifty-mile radius of a nuclear power plant which has the potential for significant contamination from a release at a nuclear power plant.
(5) "Risk County" means a county within the ten-mile plume exposure pathway.
(6) "Florida Radiological Emergency Preparedness Law" means Section 252.60, Florida Statutes (1982).
Specific Authority 252.46 FS. Law Implemented 252.60 FS. History—New 10-31-82.

9G-12.03 Contract Period. Each year, prior to January 1, the Department shall negotiate and execute contracts with operators, as defined in the Florida Radiological Emergency Preparedness Law and with host, ingestion and risk counties. The contract shall commence on January 1 and terminate on December 31, except as provided in Rule 9G-12.04(4)(d), below.
Specific Authority 252.46 FS. Law Implemented 252.60 FS. History—New 10-31-82.

9G-12.04 Procedures for Negotiating Contracts.
(1) Each year, prior to October 1, the Department shall prepare draft contracts to be executed between the Department and operators and the Department and host, ingestion and risk counties. Prior to November 1, each host, ingestion and risk county desiring to participate, shall send to the Department any changes to the draft contract and a draft budget for funding. Negotiations will be scheduled from November 1 through November 30 with representatives of the operators, counties and state present. Final copies of the contracts and budget will be mailed to each participating county no later than December 1. Two original copies of the executed county contract will be mailed back to the Department on or before January 1. In cases where an operator deems it necessary to contract directly with a county or other state agency pursuant to Section 252.60(5), F. S. (1982), the Department will not be a party nor will the Department administer the contract.
(2) The contracts between the operators and Department will include funds for the Department's activities and administrative expenses and funds for each participating county's activities and administrative expenses.
(3) Subject to the availability of funds through the contracts entered between the Department and operators, contracts between the Department and each participating county will include funds for the county's activities and administrative expenses.
(4) To the extent practicable, all contracts will be a uniform format and shall include:
(a) legal authority for the contract
(b) scope of activities
(c) total funds available
(d) term of contract, which term shall be for a full calendar year as stated in Rule 9G-12.03 above, unless either party exercises a 60-day advance notice of termination or unless the contract is breached by either party
(e) provisions for periodic fund releases
(f) provisions for audit and repayment
(g) provisions for amending the contract, including budget amendments
(h) detailed budget attachment incorporated by reference.
Specific Authority 252.46 FS. Law Implemented 252.60 FS. History—New 10-31-82, Amended 12-12-82.

9G-12.05 Limitation on Activities. Neither the Department nor any host, ingestion or risk county shall be required to engage in any activities relating to preparation, testing and implementation of radiological emergency response plans unless an appropriate contract has been executed as provided in these rules.
Specific Authority 252.46 FS. Law Implemented 252.60 FS. History—New 10-31-82.

9G-12.06 Resolution of Differences. In the event that operators, the Division and counties are unable to resolve differences regarding funding for preparation, testing and implementation of radiological emergency response activities, the Secretary of the Department shall convene an informal meeting to attempt to mediate the dispute. If informal mediation fails, the affected parties will be given the opportunity for a hearing pursuant to Section 120.57, F. S.
Specific Authority 252.45 FS. Law Implemented 252.60 FS. History—New 10-31-82.

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27E-3 OPB: Rules of Practice and Procedure, etc.
27F-2 Land Planning Part II-Developments Presumed to be of Regional Impact
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27F-10 Regulations for Keys ACSC - City of Key Colony Beach
27F-11 " " " " - City of Layton
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27G-1 Rules of Appeal Procedure
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CHAPTER 28, F.A.C. - ADMINISTRATION COMMISSION

28-1 Organization

CHAPTER 29, F.A.C. - REGIONAL PLANNING AGENCIES

(C - North Central Florida RPC)
(D - Northeast Florida RPC)
(E - Withlacoochee RPC)
(F - East Central Florida RPC)
(G - Central Florida RPC)
(H - Tampa Bay RPC)
(I - Southwest Florida RPC)

(J - South Florida RPC)
(K - Treasure Coast RPC)
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29C-2 Clearinghouse Committee: Organization
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29D-3 DRI's
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29E-2 DRI's
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CHAPTER 40, F.A.C. - WATER MANAGEMENT DISTRICTS

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(B - Suwannee River WMD)
(C - St. Johns River WMD)
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40A-2 Regulation of Consumptive Uses of Water
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CHAPTER 119, Florida Statutes)
CHAPTER 120, Florida Statutes) NOT included in this referencing
CHAPTER 201, Florida Statutes)

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