

Chapter 16K-4, F.A.C.
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16CA-4.01 General. This chapter deals with the management and storage of surface waters in the District and the works necessary to these ends. Unless expressly exempted, permits are required to construct, alter, operate, maintain, or abandon any dam, impoundment, reservoir, appurtenant work or works in the District. Headgates, valves, and measuring devices may be required to be installed by the owner. The District has the duty to make periodic inspections of surface water works and the power to enter on land for the purpose of making such inspections. Provision is made for the correction of unsafe dams or other works and the District has the authority to make repairs if the owner fails to do so within a reasonable time.

General Authority §20, part I, ch. 72-299 (373.113 FS). Law Implemented Part IV, ch. 72-299 (part IV, ch. 373 FS). History-New 12-14-73).

16CA-4.02 Exemptions.

(1) Nothing in this chapter shall be construed to affect the right of any natural person to capture, contain, discharge, and use water for the purposes permitted by law.

(2) Nothing in this chapter shall be construed to affect the right of any person engaged in the occupation of agriculture, floriculture, or horticulture to alter the topography of any tract of land for purposes consistent with the practices of such occupation provided, however, that such alteration shall not be for the sole or predominant purpose of impounding or obstructing surface waters or changing the water level.

(3) Nothing in this chapter shall be construed to be applicable to construction, operation, maintenance, (or abandonment) of any closed system as defined in Regulation 16CA-~~4~~.05. However, chapter 16CA-2 shall be applicable to the taking and discharging of water for filling, replenishing, and maintaining the water level in any such closed system.

(4) Nothing in this chapter shall be construed to apply to the construction, alteration, operation, maintenance or abandonment of works which do not connect to project works and which are subject to regulation through a permitting process of another state agency which has affirmatively taken action by granting a permit for such activity and which:

(a) drain to or involve physical connection (by means of channels, ditches, culverts or similar facilities) with the Atlantic Ocean; or

(b) are in other coastal zones and are to be located within 500 feet of the mean high water line, unless said works:

(i) are proposed to serve a gross land area in excess of 100 acres; or

(ii) involve excavation to a depth greater than six (6) feet below mean sea level.

General Authority §20, part I, ch. 72-299 (373.113 FS). Law Implemented §2,
part IV, ch. 72-299 (373.406 FS). History-New 12-14-73.

General Authority 373.113 FS. Law Implemented part IV, ch. 373 FS. History-
Amended 7-12-74.

16CA-4.03 Permits for Construction or Alteration.

(1) Unless expressly exempted by law or District regulation:

(a) no person shall, without a permit from the Board construct or alter any dam, impoundment, reservoir or appurtenant works thereof where such impoundment is located on a surface watercourse or relies on a surface watercourse for its supply or such impoundment is greater than 320 acres in area.

(b) no person shall construct or alter any works within the District without having obtained a permit from the Board.

(2) A person proposing to perform any act for which a permit is required under subsection (1) above shall file an application with the District in accordance with the procedure provided for in Regulation 16CA-1.08. The application shall contain the following:

- (a) name and address of the applicant;
- (b) name and address of the owner or owners of the land upon which the construction or alteration is to take place, and a legal description of such land;
- (c) location of the work;
- (d) plans and specifications. When required by the District, such plans and specifications shall be prepared by a Professional Engineer registered in the State of Florida;
- (e) name and address of the person who prepared the plans and specifications;
- (f) name and address of the person who will construct the proposed work, when available;
- (g) general purpose of the proposed work; and
- (h) such other information related to water resources as the Board may require.

(3) The Board may impose on any permit granted under subsection (1) above such reasonable conditions as are necessary to assure that the permitted construction or alteration will not be harmful to the water resources of the District.

General Authority §20, part I, ch. 72-299 (373.113 FS). Law Implemented
§4, part IV, ch. 72-299 (373.413 FS); §19, ch. 73-190 (373.413 FS). History-
New 12-14-73.

General Authority 373.113 FS. Law Implemented 373.413 FS. History-Amended
7-12-74.

16K-4.04 Notice and Hearing Requirements.

(1) Within forty-five (45) days after receipt of an application for a permit under the provisions of Regulation 16K-4.03 where the impounded or diverted waters will exceed six hundred forty (640) acres in the area, the Board shall cause notice thereof to be published in accordance with the provisions of Regulation 16K-1.08 (4). Said notice shall contain such information as required by the Act. No final action shall be taken by the Board on the application without holding a hearing in accordance with the provisions of Regulation 16K-1.11.

(1) After receipt of an application for a permit required in this chapter, the Board shall cause notice thereof to be published in a newspaper having general circulation in or within the affected area. The notice shall be published once a week for two consecutive weeks. In addition, the Board shall send a copy of the notice to any person who has filed a written request for notification of any pending applications affecting this particular designated area. This notification shall be sent by regular mail prior to the date of last publication.

(2) If no substantial objection is received, the Board in its discretion may approve without a hearing any application for a permit under the provisions of Regulation 16K-4.03 where the impounded or diverted waters will not exceed six hundred forty (640) acres in area. Otherwise the Board shall provide for a hearing in accordance with the provisions of Regulation 16K-1.11.

(2) The notice shall include all information required by the Act and District regulations. No final action shall be taken by the Board on the application without holding a hearing:

(a) where an application for permit is required by Regulation 16K-4.03 (1)(a) and the impounded or diverted waters exceed six hundred forty (640) acres in area; or

(b) when any person whose substantial interests are affected makes a timely request for a hearing.

General Authority 373.113 FS. Law Implemented 120.57 (1), 373.116, 373.413 FS.

16CA-4.05 Completion Report. Within thirty (30) days after the completion of construction or alteration of any dam, impoundment, reservoir, appurtenant work or works for which a permit was granted by the Board, the permittee shall file with the District a written statement of completion on the appropriate form provided by the Board.

General Authority §20, part I, ch. 72-299 (373.113 FS). Law Implemented §6, part IV, ch. 72-299 (373.419 FS). History-New 12-14-73.

16CA-4.06 Inspections.

- (1) During the construction or alteration of any permitted dam, impoundment, reservoir, appurtenant work or works, the Board may cause to be made at its expense such periodic inspections as it deems necessary to insure conformity with the approved plans and specifications included in the permit.
 - (2) If during construction or alteration the Board 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. Failure to act in accordance with the orders of the Board after receipt of written notice shall result in the initiation of revocation proceedings in accordance with the provisions of Regulation 16CA-4.10.
 - (3) Upon completion of the work the Executive Director shall have inspections made annually (or more frequently as deemed necessary) of permitted dams, reservoirs, impoundments, appurtenant work or works. No person shall refuse immediate entry or access to any authorized representative of the Board who requests entry for purposes of such inspection and who presents appropriate credentials.
- General Authority §20, part I, ch. 72-299 (373.113 FS). Law Implemented §7, part IV, ch. 72-299 (373.423 FS); §21, ch. 73-190 (373.423 FS). History-
Revised 12-14-73.

16CA-4.07 Permits for Operation or Maintenance.

(1) Unless expressly exempted by law or District regulation:

(a) no person shall, without a permit from the Board, operate or maintain any dam, impoundment, reservoir or appurtenant works thereof where such impoundment is located on a surface watercourse or relies on a surface watercourse for its supply or such impoundment is greater than 320 acres in area:

(b) no person shall operate or maintain any works within the District without having obtained a permit from the Board.

- (2) Applications for permits required by subsection (1) above shall be filed with the District in accordance with the procedure provided for in Regulation 16CA-1.08
- (3) The Board may impose on any permit granted under subsection (1) above such reasonable conditions as are necessary to assure that the permitted operation or maintenance will not be inconsistent with the overall objectives of the District and will not be harmful to the water resources of the District.
- (4) Except as otherwise provided in Regulations 16CA-4.09 and 4.10, a permit issued under subsection (1) above shall be permanent. The sale or conveyance of such dam, impoundment, reservoir, appurtenant work, or works or the land on which the same is located, shall in no way affect the validity of the permit so long as the use remains the same provided that the owner in whose name the permit was granted notifies the Board of such change of ownership within thirty (30) days of such transfer.
- General Authority §20, part I, ch. 72-299 (373.113 FS). Law Implemented §5, part IV, ch. 72-299 (373.416 FS); §20, ch. 73-190 (373.416 FS).
History-New 12-14-73.

General Authority 373.113 FS. Law Implemented 373.416 FS. History-Amended
7-12-74.

16CA-4.08 Headgates, Valves and Measuring Devices.

(1) The owner of any dam, impoundment, reservoir, appurtenant work or works subject to the provisions of this chapter shall, if required by the Board, install and maintain a substantial and serviceable headgate or valve at the point where the water is discharged or diverted, and shall if required by the Board, install a measuring device which meets the requirements and specifications of the Board at the point designated by the Board for measuring the water discharged or diverted.

(2) If any owner shall not have constructed or installed such headgate, valve or such measuring device within sixty (60) days after the Board has ordered its construction, the Board shall have constructed or installed such headgate, valve or measuring device, and the costs of installing the headgate, valve or measuring device shall be a lien against the owner's land upon which such installation takes place until the Board is reimbursed in full.

(3) No person shall alter or tamper with a measuring device so as to cause it to register other than the actual amount of water diverted, discharged or taken. Violation of this subsection shall be a misdemeanor in the second degree, punishable under Florida Statute Section 775.082(5)(b).

General Authority §20, part I, ch. 72-299 (373.113 FS). Law Implemented §3, part IV, ch. 72-299 (373.409 FS). History-New 12-14-73.

16CA-4.09 Abandonment.

(1) Unless expressly exempted by law or District regulation:

(a) no person shall, without a permit from the Board, abandon any dam, impoundment, reservoir, or appurtenant works thereof where such impoundment is located on a surface watercourse or relies on a surface watercourse for its supply or such impoundment is greater than 320 acres in area;

(b) no person shall abandon any works within the District without having obtained a permit from the Board.

(2) Applications for permits required by subsection (1) above shall be filed with the District in accordance with the procedure provided for in Regulation 16CA-1.08

(3) The Board may impose on any permit granted under subsection (1) above such reasonable conditions as are necessary to assure that such abandonment will not be inconsistent with the overall objectives of the District.

(4) (a) Where it is determined by the District that any permitted dam, impoundment, reservoir, appurtenant work or works is not used or maintained under the authority of the owner for a period of three (3) years, it shall be presumed that the owner has abandoned such dam, impoundment, reservoir, appurtenant work or works, and has dedicated the same to the District for the use of the people of the District.

(b) The title of the District to any such dam, impoundment, reservoir, appurtenant work or works may be established and determined in the court appointed by statute to determine the title to real estate.

(c) Nothing in this subsection shall apply to any permitted dam, impoundment, reservoir, appurtenant work or works owned or directly controlled by the state or any of its agencies.

General Authority §20, part I, ch. 72-299 (373.113 FS). Law Implemented
§8, part IV, ch. 72-299 (373.426 FS); §22 ch. 73-190 (373.426 FS).
History-New 12-14-73.

General Authority 373.113 FS. Law Implemented 373.426 FS. History-Amended
7-12-74.

16CA-4.10 Revocation and Modification of Permits.

(1) The Board may revoke or modify a permit at any time if it determines that a dam, impoundment, reservoir, appurtenant work or works has become a danger to the public health or safety or if its operation has become inconsistent with the objectives of the District or is in violation of any regulation or order of the District, or the conditions of the permit.

(2) Before any such revocation or modification the Board shall give written notification thereof by registered or certified mail to all affected parties. Such notification shall contain a statement of the reasons why the permit may be revoked or modified, and a reference to any applicable District objective, regulation, order or permit condition. An affected party may file a written petition no later than ten (10) days after notice of proposed revocation or modification is served for a hearing in accordance with Regulation 16CA-1.11. No permit shall be revoked or modified before an affected party is afforded an opportunity for a hearing before the Board.

(3) If the Executive Director determines that the danger to the public is imminent, he may order a temporary suspension of the construction, alteration or operation of the works until the hearing is concluded, or may take such action as authorized under Regulation 16CA-4.14.

General Authority §20, part I, ch. 72-299 (373.113 FS). Law Implemented 59, part IV, ch. 72-299 (373.429 FS). History-New 12-14-73.

16CA-4.11 Abatement. Any dam, impoundment, reservoir, appurtenant work or works which violates the laws of this state or which violates the standards, regulations, or orders of the Board, or the conditions of the permit shall be declared a public nuisance. The operation of such dam, impoundment, reservoir, appurtenant work or works may be enjoined by suit by the Board, or by a private citizen. The Board shall be a necessary party to any such suit. Nothing herein shall be construed to conflict with the provisions of Regulation 16CA-4.10.

General Authority §20, part I, ch. 72-299 (373.113 FS). Law Implemented §10, part IV, ch. 72-299 (373.433 FS). History-New 12-14-73.

16CA-4.12 Remedial Measures.

(1) Upon completion of any inspection provided for by Regulation 16CA-4.06(3), the Executive Director shall determine what alterations or repairs are necessary and order that such alterations and repairs shall be made within a time certain, which shall be a reasonable time. The owner of such dam, impoundment, reservoir, appurtenant work or works shall be served with the order to make such alterations or repairs. The holder of any lesser interest in such dam, impoundment, reservoir, appurtenant work or works shall be notified by registered or certified mail of the order to make such alterations or repairs. The owner of such dam, impoundment, reservoir, appurtenant work or works may file a written petition within ten (10) days after such order is served for a hearing before the Board in accordance with Regulation 16CA-1.04. If, after such order becomes final, the owner of such dam, impoundment, reservoir, appurtenant work or works shall fail to make the specified alterations or repairs, the Board may, in its discretion cause such alterations or repairs to be made.

(2) Any cost to the District of alterations or repairs made by it under the provisions of subsection (1) of this section shall be a lien against the property of the landowner on whose land the alterations or repairs are made until the Board is reimbursed, with reasonable interest and attorney's fees, for its costs.

General Authority §20, part I, ch. 72-299 (373.113 FS). Law Implemented §11, part IV, ch. 72-299 (373.436 FS). History-New 12-14-73.

16CA-4.13 Emergency Authorization for Construction of Works.

(1) Permission to begin construction of works prior to the issuance of a permit may be applied for, in writing, when emergency conditions would justify such permission. However, no such permission shall be granted unless the construction of the works is already under consideration for a permit under Regulation 16CA-4.03(1).

(2) The Executive Director may grant emergency authorization at his discretion. However, a serious set of unforeseeable and unforeseen circumstances must exist to create an emergency. Here carelessness or lack of planning on the part of the applicant shall not be sufficient grounds to warrant the granting of emergency authorization.

General Authority §20, part I, ch. 72-299 (373.113 FS). Law Implemented §20, part I, ch. 72-299 (373.113 FS); §4(1), part IV, ch. 72-299 (373.413 FS); §19, ch. 73-190 (373.413 FS). History-New 12-14-73.

16CA-4.14 Emergency Measures.

(1) The Executive Director, with the concurrence of the Board, shall immediately employ any remedial means to protect life and property if either:

(a) the condition of any dam, impoundment, reservoir, appurtenant work or works is so dangerous to the safety of life or property as not to permit time for the issuance and enforcement of an order relative to its maintenance or operation: or

(b) passing or imminent floods threaten the safety of any dam, impoundment, reservoir, appurtenant work or works.

(2) In applying the emergency measures provided for in this section, the Executive Director may in an emergency do any of the following:

(a) lower the water level by releasing water from any impoundment or reservoir;

(b) completely empty the impoundment or reservoir;

(c) take such other steps as may be essential to safeguard life and property.

(3) The Executive Director shall continue in full charge and control of such dam, impoundment, reservoir, and its appurtenant works until they are rendered safe or the emergency occasioning the action has ceased.

General Authority §20, part I, ch. 72-299 (373.113 FS). Law Implemented §12, part IV, ch. 72-299 (373.439 FS). History-New 12-14-73.

16K-4.15 Conditions for a Permit.

(1) In order to obtain a permit under this chapter, an applicant must show that the requested act:

- (a) will not be harmful to the water resources of the District; and
- (b) will not interfere with the legal rights of others; and
- (c) is not against public policy.

(2) The Board will consider the water quality and quantity impact and land use implications of the requested act.

(3) In addition to the information required to be filed in order to make a complete application, the Board may request further information from either the applicant or objector in order that a complete evaluation may be made. Failure to provide requested information may be grounds for denial of the permit or dismissal of the objection.

General Authority 373.113 FS. Law Implemented 373.413, 373.416, 373.426 FS.

History - New 12-13-74.