

Chapter 16K-1, F.A.C.  
December 20, 1974 - November 17, 1975

Table of Contents

<u>Section, Title</u>	<u>Page</u>
16K-1.01, Policy, Objectives and Implementation Date	16K1-63
16K-1.02, Scope of Jurisdiction	16K1-64
16K-1.03, Powers and Duties	16K1-65
16K-1.04, Appropriation of Funds	16K1-67
16K-1.05, Definitions	16K1-68
16K-1.06, Permits Required	16K1-79
16K-1.061, Bond	16K1-80
16K-1.062, Reapplying for Permits	16K1-81
16K-1.07, Power to Enforce	16K1-82
16K-1.08, General Permit Procedure	16K1-83
16K-1.09, Filing of Citizen Objections or Complaints	16K1-89
16K-1.10, Administrative Enforcement Procedures	16K1-90
16K-1.11, Quasi-judicial Hearings Before the Board	16K1-92
16K-1.111, Parties to Proceedings	16K1-95
16K-1.112, Pleadings	16K1-97
16K-1.113, Witness Fees	16K1-98
16K-1.12, Request for Hearing	16K1-99
16K-1.13, Petitions for Declaratory Statements	16K1-100
16K-1.14, Administrative Determination of Validity of Regulation	16K1-101
16K-1.15, Procedure for Adoption of Regulations	16K1-102
16K-1.16, Description of Organization	16K1-103
16K-1.17, Agenda and Scheduling of Meetings and Workshops	16K1-104
16K-1.18, Procedures under Consultants' Competitive Negotiations Act	16K1-105



16CA-0.01 Policy, Objectives and Implementation Date. These regulations are promulgated, established and published by the Central and Southern Florida Flood Control District to effectuate its powers, duties and functions under the Florida Water Resources Act of 1972, Chapter 373, Florida Statutes and Chapter 25270, Laws of Florida, 1949. The purpose of the regulations is to effect the maximum utilization of the waters in the District by managing, regulating, and controlling the uses of such waters. The Governing Board of the District finds and declares these regulations reasonable and necessary to achieve that purpose. The implementation date of these regulations is March 1, 1974. General Authority ch. 25270, Laws of Florida, as amended; §20, part 1, ch. 72-299 (373.113 FS). Law Implemented §2, part 1, ch. 72-299 (373.016 FS); §20, part 1, ch. 72-299 (373.113 FS); §28, part 1, ch. 72-299 (373.149 FS). History-New 12-14-73.

16CA-~~1~~.02 Scope of Jurisdiction. The District shall regulate and control all ground and surface water, including the use of such water and the construction, alteration, maintenance, and operation of all water wells, dams, impoundments, reservoirs, appurtenant works, and works within the geographical boundaries of the District, as defined in Section 373.069, Florida Statutes, unless such use, construction, alteration, maintenance, or operation is specifically exempted from regulation or control by general law or special act.

General Authority 378.151 FS (373.044 FS); §20, part 1, ch. 72-299 (373.113 FS). Law Implemented 378.17 FS (373.085 FS); §4, part 1, ch. 72-299 (373.023 FS); §12, part 1, ch. 72-299 (373.069 FS); §6, ch. 73-190 (373.069 FS). History-New 12-14-73.

16CA-7.03 Powers and Duties. The powers and duties of the District, include, but are not limited to, the following:

- (1) to require such permits as deemed necessary and authorized by law;
- (2) to adopt, promulgate, and enforce such regulations as may be required to perform the statutory duties of the District;
- (3) to contract with any person;
- (4) to sue and be sued;
- (5) to make surveys and investigations of the water in the District;
- (6) to cooperate with the United States in the manner provided by Congress for flood control, reclamation, conservation and allied purposes in protecting the inhabitants, the land and other property within the District from the effects of a surplus or a deficiency of water when the same may be beneficial to the public health, welfare, safety and utility;
- (7) to plan, construct, operate and maintain project works and to expend District tax moneys for provision of recreational facilities;
- (8) to determine, establish, maintain and control water levels in all canals, lakes, rivers, channels, reservoirs, streams or other bodies of water controlled by the District;
- (9) to regulate and control discharge into or withdrawal from all waters in the District;
- (10) to buy, exchange, and distribute water;
- (11) to require any user of water to install and maintain a substantial and serviceable measuring device acceptable to the District at any point designated by the Board to measure the water discharged or diverted;
- (12) to require any user of water to submit, on such forms and

for such periods as required by the District, reports as to the amount of water measured by any device installed pursuant to Regulation 16CA-1.03(11), or to provide such other information as the District may request;

(13) to establish the minimum flow of all surface watercourses and the minimum level of all ground and surface water in the District;

(14) to formulate a plan for implementation during periods of water shortage, and to impose restrictions in accordance with such plan when necessary to protect the water resources of the area;

(15) to determine the existence of an emergency in the District and to require such action as the District deems necessary in accordance with the Act;

(16) to develop a District water use plan.

General Authority ch. 25270, Laws of Florida, as amended; 378.151 FS (373.044 FS); §20, part 1, ch. 72-299 (373.113 FS). Law Implemented ch. 25270, Laws of Florida, as amended; 378.16 FS (373.086 FS); §16(1) part 1, ch. 72-299 (373.083(1) FS); §17(2) (3) (4) (7), part 1, ch. 72-299 (373.103(2) (3) (4) (7) FS).  
History-New 12-14-73.

16CA-~~p~~.04 Appropriation of Funds. The District reserves the right to discontinue any or all of the regulatory procedures established herein if, in the opinion of the Board, the Department of Natural Resources does not allocate to the District such funds as are necessary to defray the costs of administering these regulations.

General Authority §20, part 1, ch. 72-299 (373.113 FS). Law Implemented §11, part 1, ch. 72-299 (373.501 FS); §5 ch. 73-190 (373.501 FS). History-New 12-14-73.

16CA-~~β~~.05 Definitions.

- (1) "Act" means the Florida Water Resources Act of 1972, Chapter 373, Florida Statutes, and any amendments thereto that may be made from time to time.
- (2) "Alter" means to extend a dam or works beyond maintenance in its original condition, including changes which may increase or diminish the flow or storage of surface or ground water which may affect the safety of such dam or works.
- (3) "Appurtenant works" means any artificial improvement to a dam which might affect the safety of such dam, or, when employed, might affect the holding capacity of such dam, or of the reservoir or impoundment created by such dam.

(4) "Artificial recharge" means the intentional introduction of any fluid substance into any underground formation. This definition includes fluid substances from facilities such as injection wells, percolation ponds, land spreading, but does not include fluid substances from septic tanks for residential use.

- (5) "Closed system" means any reservoir or works located entirely within lands owned or controlled by the user and which requires water only for the filling, replenishing, and maintaining the water level thereof.
- (6) "Dam" means any artificial or natural barrier, with appurtenant works, raised to obstruct or impound, or which does obstruct or impound, any of the surface waters in the District.
- (7) "Department" means the Department of Natural Resources or its successor agency or agencies.
- (8) "District" or "Water Management District" means the Central and Southern Florida Flood Control District or its successor agency.
- (9) "Domestic use" means any use of water for individual personal needs or for household purposes such as drinking, bathing, heating, cooking or sanitation.
- (10) "Emergency" means that situation where the public health,

safety or welfare, or the health of animals, fish or aquatic life, or a public water supply or recreational, commercial, industrial, agricultural or other reasonable use of water is immediately endangered or threatened by an insufficient supply, restricted source, deleterious quality or other condition of the waters in the District.

(11) "Emergency due to water shortage" means that situation when an emergency exists due to a water shortage and the powers exercisable under Section 373.246(1), Florida Statutes, are not sufficient to protect the public health, safety, or welfare, or the health of animals, fish or aquatic life, or a public water supply, or recreational, commercial, industrial, agricultural, or other reasonable uses.

(12) "Executive Director" means the Executive Director of the District.

(13) "Governing Board" or "Board" means the Governing Board of the District.

(14) "Ground water" means water beneath the surface of the ground, whether or not flowing through known and definite channels.

(15) "Impoundment" means any lake, reservoir, pond, or other containment of surface water occupying a bed or depression in the earth's surface and having a discernible shoreline.

(16) "Other watercourse" means any canal, ditch, or other artificial watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted.

(17) "Person" means any and all persons, including, but not limited to, any individual, firm, association, organization, partnership, business trust, corporation, company, the United States of America, the state, and all political subdivisions, regions, districts, municipalities and public agencies thereof.

(18) "Project Works" means all natural or artificial surface watercourses, impoundments, levees, dikes, dams, floodways, pumping stations, bridges, highways and other works and facilities owned, operated or adopted by the Board.

(19) "Reasonable-beneficial use" means the use of water in such quantity as is necessary for economic and efficient utilization, for a purpose and in a manner which is both reasonable and consistent with the public interest.

(20) "Reservoir" means any artificial or natural holding area which contains or will contain the water impounded by a dam.

(21) "Stream" means any river, creek, slough, or natural watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted. The fact that some part of the bed or channel shall have been dredged or improved does not prevent the watercourse from being a stream.

(22) "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 exists from the spring or well onto the earth's surface.

(23) "Surface watercourse" means water upon the surface of the earth, whether contained in bounds created naturally or artificially, which usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted.

(24) "Underground formation" means a unit of earth material with distinct physical and chemical characteristics, including the stratigraphic extensions over voids and cavities.

(25) "Water" or "Waters in the District" means any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds, or diffused surface water

and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the geographical boundaries of the District, as defined by law.

(26) "Water shortage" means that situation within all or part of the District when insufficient water is available to meet the requirements of the permit system, or when conditions are such as to require temporary reduction in total use within the area to protect water resources from serious harm.

(27) "Well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location, acquisition, development, or artificial recharge of groundwater, but such term does not include sand point wells or any well for the purpose of obtaining or for prospecting for oil, natural gas, minerals, or products of mining or quarrying, or for inserting media to dispose of oil brines or to repressure an oil or natural gas bearing formation or for storing petroleum, natural gas, or other products.

(28) "Works" means all artificial structures not included in the definition of dams and appurtenant works, and including, but not limited to, ditches, canals, conduits, channels, culverts, pipes, and other construction that connects to, draws water from, drains water into, or is placed in or across the waters in the District, but shall not include wells.

(29) "Coastal zone" means that area of land and water from the territorial limits landward to the most inland extent of maritime influences.

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General Authority 378.151 FS (373.044 FS); 620, part I, ch. 72-299 (373.113 FS). Law Implemented 378.16(1) (2) FS (373.086 FS); §18, part I, ch. 72-299 (373.106 FS); 620, part I, ch. 72-299 (373.113 FS); parts II, III, IV, ch. 72-299 (parts II, III, IV, ch. 373 FS). History-New 12-14-73.

General Authority 373.113 FS. Law Implemented 373.106 (1) FS; part IV, ch.  
373 FS. History-Amended 7-12-74.

16CA-~~1~~.06 Permits Required. Except as provided by law or District regulation no person shall, without obtaining a permit from the Board:

- (1) use, divert, or withdraw any water in the District;
- (2) construct, alter, operate, maintain, or abandon any dam, impoundment, reservoir, appurtenant work or works in the District;
- (3) begin construction on any project involving artificial recharge or the intentional introduction of water into any underground formation in the District;
- (4) discharge into the waters in the District;
- (5) connect to, place structures in or across project works or otherwise make use of project works or lands of the District;
- (6) perform any other act in the District for which a permit from the Board may be required by law or District regulation.

General Authority 378.151 FS (373.044 FS); §20, part I, ch. 72-299 (373.113 FS). Law Implemented 378.17 FS (373.085 FS); parts II, III, IV, ch. 72-299 (parts II, III, IV, ch. 373 FS). History-New 12-14-73.

liability insurance be maintained as a condition of the continued validity of the permit.  
Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.219, 373.413, 373.416 FS. History—New 12-20-74.

**16K-1.061 Bond.**

(1) The Board may require the applicant for a permit to furnish a bond made payable to the District and its successors, with a reputable bonding corporation authorized to do business in this State as surety, conditioned upon full compliance with terms of the permit, including the proper construction, operation, and maintenance of the facility by the applicant so it will not be detrimental to the operation and maintenance of works of the District existing or planned. The amount of the bond shall be in such amount as the Board shall determine to be adequate.

(2) In the alternative to subsection (1), the Board may require liability insurance in such amount as the Board shall determine endorsed in favor of the District or a hold harmless agreement satisfactory to the Board.

(3) The Board may require that such bond or

16K-1.062 Reapplying for Permits. When an application for a permit has been denied by the District, a new application for permit shall not be re-submitted within six (6) months of such denial unless the applicant can show a substantial change in conditions or unless the permit applied for is substantially modified and in compliance with the District's reasons for denial. General Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.219, 373.413, 373.416 FS. History - New 12-13-74.

16CA-~~0~~.07 Power to Enforce. The Board and any officer or agent thereof may enforce those provisions of the Florida Water Resources Act of 1972, chapter 373, Florida Statutes, these regulations, or any order issued thereunder to the same extent as any peace officer is authorized to enforce the law. Any officer or agent of the Board may appear before any magistrate empowered to issue warrants in criminal cases and make an affidavit and apply for the issuance of a warrant in the manner provided by law. The magistrate, if such affidavit shall allege the commission of an offense, shall issue a warrant directed to any sheriff, deputy or constable for the arrest of any offender. General Authority §20, part I, ch. 72-299 (373.113 FS). Law Implemented §2, part VI, ch. 72-299 (373.603 FS). History-New 12-14-73.

**16K-1.08 General Permit Procedure.**

(1) The regulations in this Chapter provide the procedure to be followed in applications for permits required under Regulation 16K-1.06, the filing of citizen objections and complaints, the enforcement of the Act and regulations thereunder and the requesting and holding of administrative hearings, and the obtaining of judicial review of District actions.

(2) Procedures for permit applications shall be in accordance with the provisions of the Act and the regulations in this part. The Board shall determine, subject to appropriate review, whether any act requires a permit as specified in Regulation 16CA-~~1~~.06.

(3) Applications for permits shall be:

(a) filed with the District on the appropriate form provided by the Board; and

(b) accompanied by the appropriate fee in accordance with the schedule of fees if established by the Board. The failure of any person to pay the required fee(s) shall be grounds for denial or revocation of his permit.

(4) Upon receipt of an application of the type referred to in subsection (3) above, the Board, where required by law, shall cause a notice thereof to be published within the affected area in a newspaper having general circulation as defined in Chapter 50, Florida Statutes. The notice shall be published at least once a week for two consecutive weeks. In addition, the Board shall send a copy of such notice to any person who has filed a written request for notification of any pending applications affecting the particular designated area. This notification shall be sent by regular mail prior to the date of last publication.

(5) In the event a hearing is required by the Act or these regulations, such a hearing shall be conducted in accordance with the provisions of Section 373-126 Florida Statutes, and regulations thereunder, these regulations and Chapter 120, Florida Statutes.

(6) A defective application may be rejected without prejudice to the applicant's right to file a new application under subsection (3) of this section.

(7) The Board will consider the water quality and quantity impact and the land use implications of the application.

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General Authority § 20, part I, ch. 72-299 (373.113 FS). Law Implemented  
§ 19, part I, ch. 72-299 (373.109 FS); § 21 part I, ch. 72-299 (373.116 FS);  
§ 27, part I, ch. 72-299 (373.146 FS). History-New 12-14-73.

16CA-1.09 Filing of Citizen Objections or Complaints

(1) Objections:--All objections to the issuance of any permit applied for under the provisions of Chapters 16CA-2 and 16CA-4 of these regulations shall be filed in writing with the District. All such objections must particularly specify the grounds for objection and must be filed by the date specified in the notice of application. All objections must be signed by the objector or his agent. Upon request the Board shall provide the applicant a copy of all objections to his application filed under this subsection. The Board may, in its discretion, require the objector to furnish any additional information reasonably necessary to ascertain the nature of the objections and shall provide a reasonable time for the furnishing thereof.

(2) Complaints:--All complaints under the provisions of Regulation 16CA-2.03(2) that a person is making a diversion withdrawal, impoundment, or use of water not expressly exempted by the Act and without a permit to do so shall be filed in writing with the District. Such complaint shall specify, to the best of complainant's knowledge, the identity of the alleged violator, the location of the alleged violation, and the nature of the alleged violation. All complaints must be signed by the complainant or his agent. The Board may, in its discretion, require the complainant to furnish any additional information reasonably necessary to aid in the investigation of the complaint.

General Authority § 20, part I, ch. 72-299 (373.113 FS). Law Implemented § 2(2), part II, ch. 72-299 (373.219(2) FS); § 5(2), part II, ch. 72-299 (373.229(2) FS). History-New 12-14-73.

16CA-1.00 Administrative Enforcement Procedures

(1) The Executive Director may cause a written complaint to be served upon any alleged violator(s) of:

- (a) any provision of the Act;
- (b) any regulation of the District; or
- (c) any permit or order issued pursuant to the regulations of the District.

Such complaints may be issued if there is reason to believe a violation has occurred or is about to occur. A complaint shall specify the provision, regulation, permit or order alleged to be violated, the facts constituting the alleged violation, and may order that corrective action be taken within a specified, reasonable time. Such an order shall become final unless the alleged violator files a written petition requesting a hearing before the Board, as provided in Regulation 16CA-1.04 within fourteen (14) days of the date such order is served.

(2) Whenever the Executive Director, with the concurrence of the Board, finds that an emergency exists requiring immediate action to protect the public health, safety or welfare, or the health of animals, fish or aquatic life, or a public water supply, or recreational, commercial, industrial, agricultural, or other reasonable uses, the Executive Director may, without prior notice, issue an order stating the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency.

(3) Any person to whom an emergency order is directed pursuant to subsection (2) above shall comply therewith immediately, but on petition to the Board shall be afforded a hearing within fifteen (15) days from the receipt of such petition by the Board.

(4) A declaration of emergency and any measures adopted pursuant thereto may be rescinded by order of the Executive Director with the concurrence of the Board.

General Authority § 20, part I, ch. 72-299 (373.113 FS). Law Implemented  
§ 22, part I, ch. 72-299 (373.119 FS). History-New 12-14-73.

16K-1.11 Quasi-judicial Hearings before the Board. (1) All fact finding hearings before the Board concerning the issuance, modification, or revocation of permits, ordering of remedial work, or enforcement of any provision of Regulation 16K-1.10 shall be conducted in accordance with Chapter 120, Florida Statutes. The Board or hearing officer may exercise powers enumerated in Sections 373.126 and 120.58 (1) (b), Florida Statutes. Hearings shall be conducted as follows:

(1) The presiding officer, who shall be the Chairman of the Board or a hearing officer, shall call the hearing to order and state the nature and purpose of the hearing.

(2) (a) The Board may subpoena witnesses and require the production of books, papers or other documents.

(b) Any witness appearing by order of the Board shall be paid fees and mileage allowed by law to witnesses in civil cases, which shall be paid by the parties who request the witness to appear.

(c) If any person refuses to attend, testify, or produce books, papers, or other documents required by the subpoena, the Board may petition the circuit court of the county where such person is served or resides to issue its rule nisi compelling such person to obey unless cause be shown for failing to obey said subpoena. In such cases per diem and mileage allowance shall be deposited with said court by the Board.

(2) The presiding officer shall record appearances of the parties or their representatives. Persons who wish to make a statement but not be a party will be recorded.

(3) The Board may hold conferences for the purpose of consolidating applications for a hearing, selecting dates for a hearing satisfactory to the parties and exploring all feasible methods to eliminate surprise and delay and to shorten the hearing.

(3) The presiding officer shall call for the presentation of evidence. The presentation of evidence at a hearing for a permit from the District shall

be in the following order:

- (a) Applicant
- (b) Intervenors who are proponents of the application
- (c) Members of the general public not parties to the proceeding
- (d) Intervenors who are opponents of the application
- (e) Rebuttal by the applicant and intervenors
- (f) District staff

~~(4)~~ If a number of permit applications having a common factual background are pending, the Board may consolidate such applications for hearing and report such hearing by a common transcript.

(4) The presentation of evidence at a hearing at which the initial pleading is either a complaint initiated by the Executive Director pursuant to Regulation 16K-1.10 or a notice of intent to revoke a permit shall be in the following order:

- (a) District staff
- (b) Intervenors in support of the District staff
- (c) Respondents
- (d) Intervenors in support of Respondents
- (e) Rebuttal.

~~(5)~~ A hearing examiner who has been appointed by the Board may preside over any proceeding before the Board under this section and exercise in the Board's name any powers enumerated in this section, except that the examiner may make only recommended orders, including findings of fact, to the Board. The Board shall in each instance make the final determination of matters and enter the proper orders.

(5) The presentation of evidence at a hearing at which the initial pleading is a complaint initiated pursuant to Regulation 16K-1.09 shall be in the following order:

- (a) Complainants
- (b) Intervenors in support of complaints

(c) Defendants

(d) Intervenors in support of defendants

(e) District Staff

(f) Rebuttal.

(6) All persons testifying must be sworn and subject to direct or cross-examination by all parties of record.

(7) The presiding officer may grant a continuance of a hearing.

(8) The Florida Rules of Civil Procedure shall be applicable to the extent that they are not inconsistent with Chapter 120, Florida Statutes, or these regulations.

(9) The Chairman of the Board or hearing officer may require the production of books, papers, or other documents and issue subpoenas to compel the attendance and testimony of witnesses.

(10) Within thirty (30) days after the conclusion of a hearing, or if a transcript of the hearing is requested, within thirty (30) days following receipt of the transcript, the hearing officer shall transfer his entire case file to the Board and file with the Board a written report consisting of his finding of facts, conclusions of law, interpretation of administrative rules and recommended order. The District will send copies of the hearing officer's report to all parties of record and allow each party at least ten (10) days to submit written exceptions to the report.

(11) After giving parties an opportunity to make written exceptions to the hearing officer's report, the Board will consider the report at a regularly scheduled meeting after giving notice to all parties. After considering the hearing officer's report, written exceptions, and oral arguments, if allowed, the Board will issue its order which shall be final.

General Authority 120.53 (1), 373.113 FS. Law Implemented 120.53, 129.58 (1), 373.126 FS.

16K-1.111 Parties to Proceedings.

(1) Parties in fact finding proceedings are designated as applicants, petitioners, complainants, defendants, respondents, or intervenors according to the Notices of the Proceeding and the relationship of the respective parties.

(2) Parties are defined as follows:

(a) Applicants and Petitioners: Persons filing formal written requests with the District for some right, privilege or authority within the jurisdiction of the District to grant.

(b) Complainants: Persons who complain of acts or things done or omitted to be done in violation of some law, regulation or order administered or issued by the District.

(c) Defendants: Persons against whom a complaint is filed.

(d) Respondents: Persons named in a complaint served by the District pursuant to Regulation 16K-1.10.

(e) Intervenors: Persons, other than the original parties to a pending proceeding, who have an interest therein and who desire to become parties thereto and who petition the Board for leave to intervene. Intervention may be filed at any time with the Board or hearing officer up to the recording of appearances of parties at the hearing. An intervenor may support or oppose the original parties, but must declare his position and allege sufficient facts in support thereof at the time of requesting intervention.

(3) Only parties of record shall be entitled to receive pleadings.

(4) For the purposes of the regulations in this chapter, the term "Party" or "Parties" shall be construed to include the District. District staff shall appear 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 agency.

(5) An individual or a designated representative may appear on behalf of himself. Any member of a partnership which is a party to a proceeding may appear for such partnership upon adequate identification. An officer of a corporation or association, or a full-time employee of an individual, corporation, or association may appear on behalf of such corporation, association, or individual. A person also may be represented by an attorney or other qualified representative.

General Authority 120.53 (1) FS. Law Implemented 120.53 (1) FS.

History - New 12-13-74.

16K-1.112 Pleadings.

(1) The initial pleading for an application for a permit required by the District shall be the public notice of application. All other initial pleadings shall either be a notice of revocation of permit or a complaint initiated pursuant to Regulation 16K-1.09 or 16K-1.10.

(2) All pleadings shall be typewritten on white legal size paper and the lines shall be double spaced.

(3) All pleadings shall show the correct name and post office address of each party by and for whom the particular pleading is filed, and the name and post office address of the attorney, if any. Pleadings shall also contain a full and clear statement of facts that the party or parties are prepared to prove by competent evidence at a hearing, the proof of which will warrant the relief sought and a statement of the specific relief sought, and the legal basis for such relief.

(4) Any notice, motion, pleading or other document or paper shall be filed with the Board or hearing officer and served on the respective parties by United States Mail. Service of filing shall be deemed complete when a true copy of such paper or document properly addressed and stamped is deposited in the United States Mail and the postmark date shall be the date of service of filing.

(5) Whenever any party has the right or is required to file a responsive pleading and the time for filing the same is not specifically fixed by a particular law or District regulation, such responsive pleading shall be filed with the chairman of the Board or hearing officer and served on all parties within fifteen (15) days after service of the notice or pleading to which the response is being made. Other pleadings and motions may be made at any time with leave of the chairman of the Board or the hearing officer. General Authority 120.53 (1) (b) FS. Law Implemented 120.53 (1) (b) FS. History - New 12-13-74.

16K-1.113 Witness Fees. Each witness who appears by order of the Board or hearing officer shall receive for his attendance the same fees and mileage allowed by law to witnesses in civil cases, which shall be paid by the parties at whose request the witness is subpoenaed.

General Authority 373.113 FS. Law Implemented 373.126 (3) FS.

History - New 12-13-74.

**16K-1.12 Request for Hearing.** Where any action has been taken by the Board without a hearing, the affected person shall have the right to request a hearing; provided that such request must be made within fourteen (14) days after notice of the action taken by the Board.

Specific Authority 120.53, 373.113 FS. Law Implemented 120.53, 120.57, 120.60 FS. History—New 3-2-74, Amended 12-20-74.

**16K-1.13 Petitions for Declaratory Statements.**

(1) Any person substantially affected by a District regulation or statutory provision enforced by the District may petition the Board for a declaratory statement as to the applicability of the regulation or statutory provision to the petitioner.

(2) Within ten (10) days after receipt, the petition will be placed on the agenda of the next Board meeting for which an agenda has not been finalized.

(3) The Board shall issue an order following consideration of the petition and oral testimony at the Board meeting. The order shall only be applicable to the petitioner.

General authority 120.56 (1) FS. Law Implemented 120.56 (1) FS.

History - New 12-13-74.

16K-1.14 Administrative Determination of Validity of Regulation. Any person substantially affected by a District regulation may seek an administrative determination of the validity of the regulation in accordance with Section 120.56, Florida Statutes, and the Model Rules of Administrative Procedure adopted by the Administrative Commission.

General Authority 120.53 FS. Law Implemented 120.56 (2) FS.

History - New 12-13-74.

16K-1.15 Procedure for Adoption of Regulations.

(1) The term "regulation" means the same as "rule" as defined by Section 120.52 (13), Florida Statutes.

(2) Except for emergency regulations District regulations shall be adopted only after a public hearing.

(3) In addition to the notice requirement of Section 120.54, Florida Statutes, notice of a hearing for proposed regulations shall be published in four (4) newspapers of general circulation in the District. Such notice shall be published at least twenty-one (21) days prior to the hearing.

(4) Hearings on proposed regulations shall be presided over by a member of the Governing Board or a member of the District staff. The District will present evidence to indicate the purpose of the proposed regulations at the hearing. Members of the public will be given the opportunity to present written or oral comments on the proposed regulations. The District may also accept written statements by a specified date after the hearing.

(5) Emergency regulations shall be adopted in accordance with Section 120.54 (8), Florida Statutes.

(6) A copy of any and all regulations (as defined by Section 120.52 (13), Florida Statutes,) adopted by the District, may be obtained at no cost by making a written request to the Regulation Division of the District.

General Authority 120.53 (1), 373.113 FS. Law Implemented 120.53 (1), 120.54 FS. History - New 12-13-74.

**16K-1.16 Description of Organization.**

(1) The District was created by Chapter 25270, Laws of Florida, 1949 as a public corporation. The District operates under and is governed by Chapter 373, Florida Statutes, and Chapters 25214 and 25270, Laws of Florida, 1949, as amended by Chapters 55-30542, 55-31139, 59-534, 59-838, 59-1004, 61-1576, 65-906, 65-1100, 67-698, Laws of Florida. The District is governed by a nine member Board appointed by the Governor. The Board employs an Executive Director to administer the District, organize its staff with Board approval, and employ the necessary staff.

(2) The District staff is composed of the Executive Office and four (4) Departments: (1) Resource Planning—which is concerned with all matters dealing with natural resource use and planning; (2) Field Services—which is concerned with maintenance and operation of all district facilities; (3) Administration—which is the support function for the

other departments; (4) Resource Management—which is concerned with construction of facilities in the District.

(3) The District has been delegated authority by the Department of Natural Resources to perform certain of the responsibilities of the Florida Water Resources Act (Chapter 373, Florida Statutes). That delegation is general to the District and can be found in the minutes of the meetings of the Department of Natural Resources of April 4, 1973 and August 20, 1974.

(4) The public may obtain information from the District or make submissions or requests by writing to the Executive Director, Central and Southern Florida Flood Control District, Post Office Box "V", West Palm Beach, Florida 33402. The District offices are located at 3301 Gun Club Road, West Palm Beach and the office hours are 8:00 A.M. to 5:00 P.M., Monday through Friday.

(5) Employment application forms can be obtained from the Department of Administration at the offices of the District.

(6) Information concerning franchises, permits, licenses or privileges can be obtained from the

Regulation Division of the District.

(7) Records of the District are public information and may be inspected upon 48 hour notice at the offices of the District. If copies of any part of the records are requested, the District shall provide them for fifteen cents (15¢) for each page.

(8) The District shall maintain mailing lists for distribution of agendas of Board meetings and notices of proposed rules. Requests to be on the mailing lists should be made in writing as provided in subsection (4).

Specific Authority 120.53(1)(a) FS. Law Implemented 120.53(1)(a) FS. History—New 12-20-74.

#### 16K-1.17 Agenda and Scheduling of Meetings and Workshops.

(1) Except in cases of emergencies, the District shall give at least ten (10) days notice of any meeting by mailing notice thereof to the newspapers of general circulation in the District; said notice shall state the date, time and place of the meeting and advise where a copy of the agenda of the official meeting may be obtained.

(2) At least seven (7) days prior to an official

meeting, the District shall prepare and make available an agenda for distribution to any interested person and persons who have requested to be on the mailing list for distribution of agendas.

(3) 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 presiding officer.

(4) The agenda shall be specific as to items to

be considered. All matters involving the exercise of District discretion and policy-making shall be listed on the agenda. Agenda items such as "old business," "new business," or "other business" or "other matters which may come before the District" or similar terms shall be used for consideration of solely ministerial or internal-administrative matters which do not affect the interests of the public generally. The District may utilize the following form in preparing its agenda:

**CENTRAL AND SOUTHERN FLORIDA FLOOD CONTROL DISTRICT**  
**FINAL AGENDA**  
**GOVERNING BOARD MEETING — Open to the Public**

DATE

TIME

PLACE

Invocation

Pledge of Allegiance to the Flag to the United States of America

Executive Office

(1) Specific items

(2) Personnel matters

Department of Administration

Specific items

Department of Resource Management

Specific items

Department of Field Services

Specific items

Department of Resource Planning

Specific items

Office of Counsel

Specific items

(5) Specific additions may be made to the agenda by the District after it has been made available for distribution only for good cause as determined for the record by the officer of the District presiding at the meeting.

(6) The agenda shall provide that the meeting shall be open to the public and subject to the Sunshine law, unless specifically provided otherwise by law.

(7) The District may hold an emergency meeting for the purpose of acting upon internal-administrative and ministerial matters, and matters of immediate concern to the public health, safety and welfare. Whenever an emergency meeting is scheduled to be held, the District shall notify, as soon as possible, at least four major newspapers 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.

(8) Workshop Meetings:

(a) The District shall hold such workshop meetings as it deems necessary, however, no official action shall be taken at the meetings.

(b) Except in case of emergencies, the District shall give at least nine (9) days notice of all workshop meetings by mailing notice thereof to the

newspapers of general circulation in the District; said notice shall state the date, time and place of the meeting, advise that the meeting is open to the public, and that an agenda will be available seven (7) days prior to the meeting.

(c) Workshop agendas will be prepared by the District seven (7) days in advance of the meeting. Specific additions can be made to the agenda for good cause as determined by the officer of the District presiding.

(9) Any request to place an item on an agenda at a meeting of the Board or a workshop meeting must be received by the District, in writing, not less than eight (8) days prior to the meeting, except as provided for in subsection (5).

Specific Authority 120.52(1)(d) FS. Law Implemented 120.52(1)(d) FS. History—New 12-30-74.

16K-1.18 Procedures under Consultants' Competitive Negotiations Act. In order to comply fully with the requirements of Section 287.055, Florida Statutes, ("Consultants' Competitive Negotiation Act") the following procedures in addition to those in Section 287.055, Florida Statutes, shall be followed in selecting firms to provide professional services and in negotiating contracts.

(1) Qualifying procedures: Firms desiring to provide professional services to the District must be certified by the District. Application for certification can be accomplished by the applicant filing Form No. 400(Rev) (Figure 1-1) with the District, which form will be furnished upon request. Incomplete forms will be returned to the applicant for completion before certification can be considered. Annual updates of Form No. 400 (Rev) (Figure 1-1) are required by the District for those firms desiring to maintain certification status with the District. All updates in any event shall have been furnished to the District not more than sixty (60) days prior to the date of the public announcement to which the firm intends to respond.

(2) competitive selection:

(a) For each District project requiring professional architectural, engineering or land surveying services the District will evaluate the current statements of qualifications and performance data on file with the District, together with such other qualification and performance data as may be submitted by other firms desiring to qualify for possible selection for competitive negotiation for the proposed project. The District may require public presentation by no less than three (3) firms regarding their qualifications, approach to the project and ability to furnish the required service.

(b) The District shall, following the review and/or the public presentation, select and list not less than three (3) firms, in order of preference determined by the District, which firms shall be deemed to be the most highly qualified to perform the required professional services, after considering

1. the ability of the professional personnel,
2. past performance,
3. willingness to meet time and budget requirements,
4. location of the firm in relation to the project,
5. recent, current and projected work loads of the firm, and
6. the volume of work previously awarded to the firms by the District, with the object of effecting an equitable distribution of contracts among qualified firms. The distribution shall not violate the principal of selection of the most highly qualified firm.

(c) The selection made will be presented, in writing, to the Executive Director who shall recommend to the Board that competitive negotiations be instituted with the selected firms in order of preference as listed.

(3) Competitive negotiations:

(a) After the Board has authorized the beginning of competitive negotiation, the Executive Director, or his designee, will begin such negotiation with the firm listed as most qualified and preferential to furnish and perform the requisite professional services for the project involved, in an attempt to arrive at an agreed compensation which is deemed to be fair, competitive and reasonable. A detailed analysis of the cost of the requisite professional services, considering the scope and complexity thereof, shall be done in making such a determination.

(b) In negotiating a lump sum or cost-plus-a-fixed-fee professional service contract for more than the sum of \$50,000.00, the firm receiving the award shall be required to execute a truth-in-negotiation certificate stating that "wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting". In addition, any

professional service contract under which such a certificate is required shall contain a provision that "the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the District determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs". Any contract adjustment must be made within one (1) year following the termination of the contract.

(c) Should the Executive Director, or his designee, fail to negotiate satisfactorily with the firm determined to be the most qualified and preferential at a price deemed by the District to be fair, competitive and reasonable, negotiation with that firm shall be terminated and the Executive Director, or his designee, shall immediately thereafter begin negotiations with the second most qualified and preferential firm.

(d) Should the Executive Director, or his designee, fail to reach a satisfactory agreement with the second most qualified and preferential firm those negotiations shall be terminated by the Executive Director, or his designee, and negotiations with the third most qualified and preferential firm shall be undertaken.

(e) Should the Executive Director, or his designee, be unable to negotiate a satisfactory agreement with any of the selected firms, additional firms shall be selected by the District, in order of their competence and qualifications. This list of additional firms shall be submitted to the Executive Director, who shall order that negotiations shall continue beginning with the first named firm on the list, all in accordance with Section 287.055(5), Florida Statutes. The negotiations shall continue until an agreement is reached.

Specific Authority 287.055(3) (d) FS. Law Implemented 287.055 FS. History—New 12-20-74.