

Chapter 16K-4, F.A.C.
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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.

Specific Authority 373.113 FS. Law Implemented 373 (part IV) FS. History—New 3-2-74, Amended 11-18-75.

16K-4.02 Exemptions.

Nothing in this chapter shall be construed to apply to the construction, alteration, operation, 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:

- (1) drain to or involve physical connection (by means of channels, ditches, culverts or similar facilities) with the Atlantic Ocean; or
- (2) are in other coastal zones and are to be located within 500 feet of the mean high water line, unless said works;
 - (a) are proposed to serve a gross land area in excess of 100 acres; or
 - (b) involve excavation to a depth greater than six (6) feet below mean sea level.

Specific Authority 373.113 FS. Law Implemented 373.406 FS. History—New 3-2-74, Amended 7-20-74, 11-18-75.

16K-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 by law or District rule, permits are required to construct, alter, operate, 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

16K-4.021 General Permit for Construction, Alteration or Operation of Works.

(1) District-wide General Permit. This subsection provides thresholds for a general permit for all qualifying projects within District boundaries. Subsection (2) provides higher thresholds for qualifying projects within specified boundaries.

(a) All persons constructing, altering or operating works as defined in subsection 373.403(5), Florida Statutes which would otherwise require a permit pursuant to Rule 16K-4.03 or Rule 16K-4.07 for said construction, alteration or operation and whose works serve projects that:

1. have less than ten acres total land area,
2. have less than two acres of impervious area,
3. require a discharge facility no greater than the equivalent of one 24-inch pipe gravity discharge,
4. are located wholly on lands which may be classified as uplands as defined in Chapter 17-4, Florida Administrative Code,
5. are located within a local jurisdiction which has adopted subdivision regulations, and
6. are not located in areas governed by District basin rules which specifically provide that General Permit rules are not applicable;

are hereby granted a general permit to construct, alter, or operate said works. For projects which are to be developed in phases the term "total land area" shall be construed to mean total contiguous land holdings.

(b) The general permit authorized in paragraph (1)(a) shall be subject to the following conditions:

1. The permittee shall include in the design of the works, techniques for storm water runoff quality control. Said techniques may include but are not limited to those specified in the District's "Basis of Review of Construction of Surface Water Management Systems Serving Projects with Two or More Acres of Impervious Area within the South Florida Water Management District - May, 1977" which has been adopted by the Governing Board. To determine the effects of the works on the water resources of the District, submission of water quality data for the water discharged from the permittee's property may be required. Parameters of interest include, but are not necessarily limited to: nitrates as N, nitrites as N, ammonia as N, total kjeldahl nitrogen as N, ortho-phosphorus as P, total phosphorus as P, total suspended solids, 5 day 20° C. BOD, turbidity, conductivity, dissolved oxygen, and pH.

2. The permittee shall prosecute the work authorized by this rule in a manner so as to minimize any degradation of water quality and shall institute necessary measures during the construction period, including full compaction of any fill material placed around newly installed structures, to reduce erosion, turbidity, nutrient loading and sedimentation in the receiving waters, and to minimize any adverse impact of the works on fish, wildlife and natural environmental values.

3. The permittee shall design the works to comply with all applicable local subdivision regulations and other local requirements. In addition the permittee shall obtain all necessary Federal, State, local and special district authorizations prior to the start of any construction or alteration of works authorized in paragraph (1)(a). The permittee must obtain a Right-of-Way Occupancy Permit from the District for any works which propose to connect with, place structures in or across or otherwise make use of works or lands of the District prior to the start of any construction or alteration of works authorized in paragraph (1)(a).

4. The permittee shall permit the authorized representative(s) of the District to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed in this rule.

5. This permit does not convey to the permittee any property rights nor any rights or privileges other than those specified in this rule, nor relieve the permittee from complying with any law, regulation or requirement affecting the right of other bodies or agencies.

6. The work authorized by this rule shall be done in accord with plans and specifications approved by a Florida registered Professional Engineer, subject to the exemptions specified in Chapter 471, Florida Statutes. If so approved, upon completion of construction or alteration, the Professional Engineer shall certify to the District that the work conforms with the plans and

specifications.

(c)1. At least 30 days prior to the commencement of any construction or alteration of works authorized in paragraph (1)(a), the permittee shall file with the District, in writing, a Notice of Intent to Construct works pursuant to General Permit. The notice shall include the following information:

- a. the name of the permittee,
- b. the name of the proposed project,
- c. the location of the project,
- d. a brief description of the works to be constructed or altered,
- e. a brief statement of facts which show why the proposed works qualify for a general permit,
- f. a statement that all necessary Federal, State, local and special district authorizations have been received and that the project is acceptable to the elected officials of the pertinent local jurisdiction as being in the public interest with respect to environmental and economic impacts, and
- g. the date on which construction or alteration is expected to commence.

2. The notice required in subparagraph (1)(c)1. is intended to provide the District with information concerning the types of projects which are being constructed or altered pursuant to this general permit. Failure to properly file the notice required in subparagraph (1)(c)1. may result in the District requiring that said works be individually permitted pursuant to Rule 16K-4.03.

(d) Notwithstanding the provisions of this section and pursuant to the provisions of Chapter 120 Florida Statutes, upon a finding that any works permitted under this rule are shown to be harmful to the water resources of the District or may interfere with the legal rights of others or may be inconsistent with the overall objectives of the District, or may otherwise be contrary to the public interest, the District may require that said works be individually permitted pursuant to Rule 16K-4.03 or Rule 16K-4.07.

(e) All activities identified and authorized in paragraph (1)(a) shall be consistent with the terms and conditions of this permit. Activities which are inconsistent with the terms and conditions of this permit shall constitute a violation of this permit which may result in the revocation, modification or suspension of this permit in whole or part, in accordance with the provisions of Section 373.429, Florida Statutes and Chapter 120, Florida Statutes.

(2) Thresholds for Specified Counties - Within the below listed boundaries the following thresholds and conditions shall apply.

(a) Dade County

1. All persons constructing, altering or operating works as defined in subsection 373.403(5), Florida Statutes, in Dade County, which would otherwise require a permit pursuant to Rule 16K-4.03, or Rule 16K-4.07, for said construction, alteration or operation and whose works serve projects that:

- a. are not located in environmentally sensitive areas as defined in Rule 16K-4.035 and,
- b. are not located in areas governed by District basin rules which specifically provide that General Permit rules are not applicable and,
- c. (i) have less than forty acres total land area for projects with positive storm drainage discharge outfall, or

(ii) have less than 320 acres total land area and less than 130 acres of impervious area for projects with no positive storm drainage discharge outfall and,

d. have been approved by the Dade County Department of Environmental Resources Management or its successor agency subsequent to the effective date of this rule;

are hereby granted a general permit to construct, alter or operate said works. For projects which are to be developed in phases, the term "total land area" shall be construed to mean total contiguous land holdings.

2. The general permit authorized in subparagraph (2)(a)1. shall be subject to the conditions specified in paragraph (1)(b) and the notice, individual permitting, revocation, modification and suspension provisions specified in paragraphs (1)(c)-(e).

(b) Palm Beach County

1. All persons constructing, altering or operating works as defined in subsection 373.403(5), Florida Statutes, in Palm Beach County, which would otherwise require a permit pursuant to Rule 16K-4.03, or Rule 16K-4.07, for said construction, alteration or operation and whose works serve projects that:

a. are not located in environmentally sensitive areas as defined in Rule 16K-4.035 and,

b. are not located in areas governed by District basin rules which specifically provide that General Permit rules are not applicable and,

c. have less than forty acres total land area and,

d. have been approved by Palm Beach County subsequent to the effective date of this rule;

are hereby granted a general permit to construct, alter or operate said works. For projects which are to be developed in phases, the term "total land area" shall be construed to mean total contiguous land holdings.

2. The general permit authorized in subparagraph (2)(b) 1. shall be subject to the conditions specified in paragraph (1)(b) and the notice, individual permitting, revocation, modification and suspension provisions specified in paragraphs (1)(c)-(e).

Specific Authority 373.113 FS. Law Implemented 373.413(1), 373.416, 373.429 FS. History--New 6-15-77. Amended 10-2-77.

specified in paragraphs (c), (d) and (e). The term "entity" as used in this rule shall be construed to mean the State of Florida, the U.S. Government, counties, and municipal corporations but shall not be construed to include special districts, however created.

(b) Exceptions — The construction, alteration or operation of the following types of works in conjunction with public highway projects may require individual permits pursuant to Rule 16K-4.03 or Rule 16K-4.07.

1. Projects which use District projects works;
2. Projects involving major freshwater bodies where major freshwater bodies are defined as inland navigable waters of the United States and the freshwater wetlands adjacent or contiguous thereto, the primary tributaries of inland navigable waters and the freshwater wetlands adjacent or contiguous thereto; lakes greater than five acres in size;
3. Projects in environmentally sensitive areas as described in Part II under Operational Conditions in the District's "Basis of Review of Construction of Surface Water Management Systems Serving Projects with Two or More Acres of Impervious Area within the South Florida Water Management District - May, 1977, which has been adopted by the Governing Board and is hereby published by reference.
4. Projects proposed to have borrow pits which require dewatering;
5. Projects proposed to have borrow pits which function as integral parts of drainage systems;
6. Projects which do not require permits from Florida Department of Environmental Regulation.
7. Projects which drain lands outside the entities jurisdictional limits.
8. Projects which lower or have the potential for lowering the dry season groundwater table outside of the project's design drainage area.
9. Projects which block, intercept or divert natural drainage patterns or flows.

(c) The general permit authorized in paragraph (1)(a) shall be subject to the following conditions:

1. The permittee shall include in the design of the works, techniques for storm water runoff quality control. Said techniques may include but are not limited to those specified in the District's "Basis of Review of Construction of Surface Water Management Systems Serving Projects with Two or More Acres of Impervious Area within the South Florida Water Management District - May, 1977" which has been adopted by the Governing Board. To determine the effects of the works on the water resources of the District, submission of water quality data for the water discharged from the permittee's property may be required. Parameters of interest include, but are not necessarily limited to: nitrates as N, nitrites as N, ammonia as N, total phosphorus as P, total suspended solids, 5 day 20 C. BOD, turbidity, conductivity, dissolved oxygen, ph, and oil/grease.

2. The permittee shall prosecute the work authorized by this rule in a manner so as to minimize any degradation of water quality and shall institute necessary measures during the construction period, including full compaction of any fill material placed around newly installed structures, to reduce erosion, turbidity, nutrient loading and sedimentation in the receiving waters, and to

16K-4.022 General Permit for Construction, Alteration or Operation of Works in Conjunction with Public Highway Projects.

(1) District-wide general permit — This subsection provides a general permit for all qualifying projects within District boundaries. Subsection (2) provides a broader general permit within specified jurisdictions.

(a) All entities constructing, altering or operating works in conjunction with public highway projects within rights-of-way dedicated to the public for highway purposes (except Water Management District rights-of-way) or funding such construction, alteration or operation, which would otherwise require a permit pursuant to Rule 16K-4.03 or Rule 16K-4.07 for said construction, alteration or operation, except as provided in paragraph (b), are hereby granted a general permit to construct, alter or operate said works subject to the conditions

minimize any adverse impact of the works on fish, wildlife and natural environmental values.

3. The permittee shall obtain all necessary Federal, State, local and special district authorizations prior to the start of any construction or alteration of works authorized in paragraph (1)(a).

4. The permittee shall permit the authorized representative(s) of the District to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed in this rule.

5. This permit does not convey to the permittee any property rights nor any rights or privileges other than those specified in this rule nor relieve the permittee from complying with any law, regulation or requirement affecting the right of other bodies or agencies.

6. The work authorized by this rule shall be done in accord with plans and specifications approved by a Florida registered Professional Engineer on behalf of the entity, subject to the exemptions specified in Chapter 471, Florida Statutes. If so approved, upon completion of construction or alteration, a Professional Engineer shall certify to the District that the work conforms with the plans and specifications.

(d)1. At least 30 days prior to the commencement of any construction or alteration of works authorized in paragraph (1)(a), the permittee shall file with the District, in writing, a Notice of Intent to Construct Works Pursuant to General Permit. The notice shall include the following information:

- a. the name of the permittee,
- b. the name of the proposed project,
- c. the location of the project,
- d. a brief description of the works to be constructed or altered,
- e. a brief statement of facts which show why the proposed works qualify for a general permit,
- f. a copy of the drainage plan,
- g. a statement that all necessary Federal, State, local and special district authorizations have been received.
- h. the date on which construction or alteration is expected to commence.

2. The notice required in subparagraph (1)(d)1. is intended to provide the District with information concerning the types of projects which are being constructed or altered pursuant to this general permit. Failure to properly file the notice required in subparagraph (1)(d)1. may result in the District requiring that said works be individually permitted pursuant to Rule 16K-4.03.

(e) Notwithstanding the provisions of this section and pursuant to the provisions of Chapter 120, Florida Statutes, upon a finding that any works permitted under this rule are shown to be harmful to the water resources of the District or may interfere with legal rights of others or may be inconsistent with the overall objectives of the District, or may otherwise be contrary to the public interest, the District may require that said works be individually permitted pursuant to Rule 16K-4.03 or Rule 16K-4.07.

(f) All activities identified and authorized in paragraph (1)(a) shall be consistent with the terms

and conditions of this permit. Activities which are inconsistent with the terms and conditions of this permit shall constitute a violation of this permit which may result in the revocation, modification or suspension of this permit in whole or part, in accordance with the provisions of Section 373.429 Florida Statutes, and Chapter 120, Florida Statutes.

(2) General permits for specified counties — The general permit authorized in subsection (1) shall be applicable within all counties within District boundaries.

Specific Authority 373.118 FS. Law Implemented 373.413(1), 373.416, 373.429 FS. History—New 9-7-77.

16K-4.03 Permits for Construction or Alteration.

(1) Unless expressly exempted by law or District rule;

(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 Rule 16K-1.08. The application shall include such drawings and engineering details needed to sufficiently define the nature, scope, intent and functioning of the work proposed by the applicant. When required by the District, detailed construction plans and specifications prepared by a professional engineer registered in the State of Florida, be submitted.

Specific Authority 373.113 FS. Law Implemented 373.413 FS. History—New 3-2-74, Amended 7-20-74, 11-18-75, 6-12-76.

16K-4.035 Basis of Review of Applications for Construction of Works.

(1) General and specific criteria and procedures governing construction of works, as defined in Section 373.403(5), Florida Statutes, which will serve projects with two or more acres of impervious area are specified in the District's "Basis of Review of Construction of Surface Water Management Systems Serving Projects with Two or More Acres of Impervious Area within the South Florida Water Management District-December, 1977." This document has been adopted by the Governing Board of the District and is available from the District's main office upon request.

(2) All applications for permit for construction of works, as defined in Section 373.403(5), Florida Statutes, serving projects with two or more acres of impervious area received pursuant to Rule 16K-4.03, Florida Administrative Code, shall be reviewed in accordance with the provisions of the District's "Basis of Review of Construction of Surface Water Management Systems Serving Projects with Two or More Acres of Impervious Area within the South Florida Water Management District-December, 1977." which is hereby published by reference.

Specific Authority 373.113 FS. Law Implemented 373.413 FS. History—New 6-16-77, Amended 1-16-78.

16K-4.04 Notice and Hearing Requirements.
Specific Authority 373.113 FS. Law Implemented 120.57(1), 373.116, 373.413 FS. History—New 3-2-74, Revised 12-20-74, Repealed 11-18-76.

16K-4.05 Completion Report.
Specific Authority 373.113 FS. Law Implemented 373.419 FS. History—New 3-2-74, Repealed 11-18-76.

16K-4.06 Inspections.
Specific Authority 373.113 FS. Law Implemented 373.423 FS. History—New 3-2-74, Repealed 11-18-76.

16K-4.07 Permits for Operation.
(1) Unless expressly exempted by law or District rule:

(a) no person shall, without a permit from the Board, operate 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 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 Rule, 16K-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 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 provided by law or District rule 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.

Specific Authority 373.113 FS. Law Implemented 373.416 FS. History—New 3-2-74, Amended 7-20-74, 11-18-76.

16K-4.08 Headgates, Valves and Measuring Devices

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.

Specific Authority 373.113 FS. Law Implemented 373.409 FS. History—New 3-2-74, Amended 11-18-76.

16K-4.09 Abandonment.

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

(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 Rule 16K-1.08.

Specific Authority 373.113 FS. Law Implemented 373.426 FS. History—New 3-2-74, Amended 7-20-74, 11-18-76.

16K-4.10 Revocation and Modification of Permits.

Specific Authority 373.113 FS. Law Implemented 373.429 FS. History—New 3-2-74, Repealed 11-18-76.

16K-4.11 Abatement.

Specific Authority 373.113 FS. Law Implemented 373.433 FS. History—New 3-2-74, Repealed 11-18-76.

16K-4.12 Remedial Measures.

Specific Authority 373.113 FS. Law Implemented 373.436 FS. History—New 3-2-74, Repealed 11-18-76.

16K-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 Rule 16K-4.03(1). A serious set of unforeseen or unforeseeable circumstances must exist to create an emergency. Mere carelessness or lack of planning on the part of the applicant shall not be sufficient grounds to warrant the granting of emergency authorization.

(2) The Executive Director may grant emergency authorization at his discretion. The emergency authorization shall be presented to the Board for concurrence at its next meeting. The failure to receive the Board's concurrence shall invalidate the emergency authorization.

Specific Authority 373.113 FS, Law Implemented 373.113, 373.413 FS. History—New 3-2-74, Amended 6-12-76.

16K-4.14 Emergency Measures.
Specific Authority 373.113 FS. Law Implemented 373.439
FS. History—New 3-2-74, Repealed 11-18-76.

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.