

Chapter 16K-1, F.A.C.  
March 2, 1974 - July 19, 1974

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RULES  
OF  
CENTRAL AND SOUTHERN FLORIDA  
FLOOD CONTROL DISTRICT

CHAPTER 16CA-1

GENERAL and PROCEDURAL<sup>22</sup>

- 16CA-1.01 Policy, Objectives and Implementation Date
- 16CA-1.02 Scope of Jurisdiction
- 16CA-1.03 Powers and Duties
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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.

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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 I, ch. 72-299 (373.113 FS). Law Implemented 378.17 FS (373.085 FS); §4, part I, ch. 72-299 (373.023 FS); §12, part I, ch. 72-299 (373.069 FS); §6, ch. 73-190 (373.069 FS). History-New 12-14-73.

16CA-4.03 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-~~0~~.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); 55 ch. 73-190 (373.501 FS). History-New 12-14-73.



16CA-~~0~~.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 introduction of any fluid substance into any underground formation.
- (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 any geological unit, part of a unit, or group of units lying beneath the surface of the ground.
- (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.

General Authority 378.151 FS (373.044 FS); §20, part I, ch. 72-299 (373.113 FS). Law Implemented 378.16(1) (2) FS (373.086 FS); §16, part I, ch. 72-299 (373.106 FS); §20, 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.

16CA-~~6~~.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.

16CA-~~§~~.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.

RULES  
OF  
CENTRAL AND SOUTHERN FLORIDA  
FLOOD CONTROL DISTRICT

~~CHAPTER 16CA-1~~

~~PROCEDURES~~

- 16CA-1.08 ~~General~~ *General Permit Requirements*
- 16CA-1.09 Filing of Citizen Objections or Complaints
- 16CA-1.10 Administrative Enforcement Procedures
- 16CA-1.11 Quasi-Judicial Hearings Before the Governing Board
- 16CA-1.12 Request for Hearing

16CA-1.08 General Permit Requirements

(1) The regulations in this Chapter provide the procedure to be followed in applications for permits required under Regulation 16CA-1.06, the filing of citizen objections and complaints, the enforcement of the Act and regulations thereunder, 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.



(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.

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-1.10 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-1.14 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.

16CA-1.11 Quasi-judicial Hearings Before the Board

(1) All hearings before the Board concerning the issuance, modification, or revocation of permits, ordering of remedial work, or enforcement of any provision of Regulation 16CA-1.10 shall be conducted in accordance with Chapter 120, Florida Statutes.

(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.

(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.

(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.

(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.

General Authority § 20, part I, ch. 72-299 (373.113 FS). Law Implemented  
§ 23, part I, ch. 72-299 (373.126 FS). History-New 12-14-73.

16CA-1.10 Request for Hearing. Where any action has been taken by the Board without a hearing, the affected applicant or permittee shall have the right to request a hearing; provided that such request must be made within thirty (30) days after action has been taken by the Board.  
General Authority § 20, part I, ch. 72-299 (373.113 FS). Law Implemented § 20, part I, ch. 72-299 (373.113 FS). History-New 12-14-73.

