

Appendix B

SJRWMD Permitting Regulations for Water Quality

- Chapters 40C-4, 40C-41, and 40C-42 F.A.C.
- SJRWMD Applicants Handbook Section 11 Special Basin Criteria

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

CHAPTER 40C-4, F.A.C.

**ENVIRONMENTAL RESOURCE PERMITS:
SURFACE WATER MANAGEMENT SYSTEMS**

Revised
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CHAPTER 40C-4
ENVIRONMENTAL RESOURCE PERMITS:
SURFACE WATER MANAGEMENT SYSTEMS

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40C-4.001 Policy and Purpose.

Specific Authority 373.113, 373.044, 373.171 FS. Law Implemented 373.413, 373.416, 373.426 FS. History--New 1-31-77, Formerly 16I-4.01, Transferred to 40C-4.011, 2-3-81, Formerly 40C-4.01.

40C-4.002 Definitions.

Specific Authority 373.044, 373.171, 373.113 FS. Law Implemented 373.086, 373.403 FS. History--New 1-31-77, Formerly 16I-4.02, Transferred to 40C-4.021, Amended 2-3-81, Formerly 40C-4.02.

40C-4.003 Implementation.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.409, 373.413, 373.416, 373.426 FS. History--New 1-31-77, Formerly 16I-4.03, Transferred to 40C-4.031, Amended 2-3-81, Formerly 40C-4.03.

40C-4.004 Permit Required.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.409, 373.413, 373.416, 373.426 FS. History--New 1-31-77, Formerly 16I-4.04, Transferred to 40C-4.041, Amended 2-3-81, Formerly 40C-4.04.

40C-4.005 Exemptions.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.406 FS. History--New 1-31-77, Formerly 16I-4.05, Transferred to 40C-4.051, Amended 2-3-81, Formerly 40C-4.05.

40C-4.010 Content of the Application and Condition for Permit.

Specific Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.413 FS. History--New 1-31-77, Formerly 16I-1.10, Transferred to 40C-4.101, Amended 2-3-81, Formerly 40C-4.10.

40C-4.011 Policy and Purpose.

(1) It is the policy of the Board to regulate and control the management and storage of surface waters throughout the District according to the provisions of Chapter 373, Florida Statutes, and in a manner consistent with Chapter 62-40, F.A.C.

(2) The purpose of Chapter 40C-4, F.A.C., is to implement the permitting program contemplated in Part IV, Chapter 373, Florida Statutes, in a manner which is consistent with the objectives and policies of the St. Johns River Water Management District and the declared water policy of the State of Florida.

(3) It is the policy of the District to foster agricultural, commercial, industrial and residential growth in a manner consistent with the objectives of the District.

(4) It is the policy of the District to recognize that the soil and water conservation districts established by Chapter 582, Florida Statutes, play an important role in preventing soil erosion and floodwater and sediment damages.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.016, Part IV, Ch. 373 FS. History--New 1-31-77, Formerly 16I-4.01 and 40C-4.01, Amended 2-3-81, 12-7-83, Formerly 40C-4.011, 40C-4.0011.

40C-4.012 Notice and Hearing Requirement.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.413, 373.416, 373.426 FS. History--New 1-31-77, Formerly 16I-4.12, Transferred to 40C-4.121, Amended 2-3-81, Formerly 40C-4.12.

40C-4.013 Times for Receiving Objections and for Hearing.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.413, 373.416, 373.426 FS. History--New 1-31-77, Formerly 16I-4.13, Transferred to 40C-4.131, Amended 2-3-81, Formerly 40C-4.13.

40C-4.020 Permit Processing Fee.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.109 FS. History--New 1-31-77, Formerly 16I-4.20, Transferred to 40C-4.201, Amended 2-3-81, Formerly 40C-4.20.

40C-4.021 Definitions. When appearing in this chapter or in Chapters 40C-40, 40C-41, 40C-42, 40C-44, or 40C-400, F.A.C., the following words shall mean:

(1) "Abandon" or "abandonment" means cessation of use and maintenance activities or responsibility for a system, or part of a system.

(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 water which may affect the safety of such dam or works.

(3) "Appurtenant works" means any artificial improvements 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) "Aquatic preserve" means those areas designated in Part II, Chapters 258, F.S.

(5) "Coastal waters" means waters of the Atlantic Ocean or the Gulf of Mexico within the jurisdiction of the state.

(6) "Conceptual approval permit" means a surface water management permit issued by the District, approving the concept of a master plan for a surface water management system, which is binding upon the District and the permittee.

(7) "Construction" means any activity including land clearing, earth moving or the erection of structures which will result in the creation of a system.

(8) "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 of the state.

(9) "Drainage ditch" or "irrigation ditch" means a man-made trench which is dug for the purpose of draining water from the land or for transporting water for use on the land and which is not built for navigational purposes.

(10) "Dredging" means excavation, by any means, in surface waters or wetlands, as delineated in subsection 373.421(1), F.S. It also means the excavation, or creation, of a water body which is, or is to be, connected to surface waters or wetlands, as delineated in subsection 373.421(1), F.S., directly or via an excavated water body or series of water bodies.

(11) "Environmental resource permit" means a conceptual approval, general, or individual permit for a surface water management system issued pursuant to part IV of Chapter 373, F.S.

(12) "Estuary" means a semi-enclosed, naturally existing coastal body of water which has a free connection with the open sea and within which seawater is measurably diluted with fresh water derived from riverine systems.

(13) "Filling" means the deposition, by any means, of materials in surface waters or wetlands, as delineated in subsection 373.421(1), F.S.

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

(15) "Hydrologically sensitive areas" means wetlands and those geographical areas which are specifically designated as hydrologically sensitive areas by the Board because of the importance of the hydrology and hydraulics of the area in meeting the Legislative policy contained in Section 373.016, Florida Statutes.

(16) "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.

(17) "Incidental Site Activities" means the following activities in uplands which are conducted as part of the construction of a system proposed in an environmental resource permit application: land clearing; grading; excavation of borrow areas for on-site grading; erosion and sediment control measures; road and building subgrade construction (excluding foundation construction); unpaved access road construction; utility installation; fence installation; construction trailer installation; and other similar activities.

(18) "Insect control impoundment dikes" means artificial structures, including earthen berms, constructed and used to impound wetlands or other surface waters for the purpose of insect control.

(19) "Lagoon" means a naturally existing coastal zone depression which is below mean high water and which has permanent or ephemeral communications with the sea, but which is protected from the sea by some type of naturally existing barrier.

(20) "Listed species" means those animal species which are endangered, threatened or of special concern and are listed in Rules 39-27.003, 39-27.004, and 39-27.005, F.A.C., and those plant species listed in 50 Code of Federal Regulation 17.12, when such plants are found to be located in a wetland or other surface water.

(21) "Maintenance" or "repairs" means remedial work of a nature as may affect the safety of any dam, impoundment, reservoir, or appurtenant work or works, but excludes routine custodial maintenance.

(22) "Other surface waters" means surface waters as described and delineated pursuant to Rule 62-340.600, F.A.C., as ratified by Section 373.4211, F.S., other than wetlands.

(22) "Project area" means the area being modified or altered in conjunction with a proposed activity requiring a permit.

(24) "Remove" or "removal" means cessation of use and maintenance activities for a system, or part of a system, accompanied by elimination of all or part of the system.

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

(26) "Stormwater management system" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system.

(27) "Surface water management system" or "system" means a stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, or any combination thereof. The terms "surface water management system" or "system" include areas of dredging or filling, as those terms are defined in subsections 373.403(13) and 373.403(14), F.S.

(28) "Total land area" means land holdings under common ownership which are contiguous or land holdings which are served by common surface water management facilities.

(29) "Traversing work" means any artificial structure or construction that is placed in or across a stream or other watercourse, or an impoundment.

(30) "Water" or "waters in the state" means any and all water on or beneath the surface of the ground or in the atmosphere, 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 jurisdiction of the state.

(31) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto. The landward extent of wetlands is delineated pursuant to Rules 62-340.100 through 62-340.550, F.A.C., as ratified by Section 373.4211, F.S.

(32) "Works" means all artificial structures, 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 state.

Specific Authority 373.044, 373.113, 373.414, 373.418 FS. Law Implemented 373.019, 373.403, 373.413, 373.414, 373.416, 373.418, 373.426, 403.813(2) FS. History--New 1-31-77, Formerly 16I-4.02, 40C-4.02. Amended 2-3-81, 12-7-83, Formerly 40C-4.021, 40C-4.0021. Amended 9-25-91, 2-27-94, 10-3-95, 10-11-01.

40C-4.031 Implementation.

(1) The effective dates for the permitting program as established in this chapter pursuant to part IV of Chapter 373, F.S., are:

(a) January 31, 1977 in that area transferred to the District from the Central and Southern Florida Flood Control District, now the South Florida Water Management District, pursuant to Section 373.069(3), Florida Statutes, (Supp. 1976), within the Greater St. Johns River Basin, known as the Upper St. Johns River Basin (see Figure 4-1).

(b) January 31, 1977 in that area transferred to the District from the Southwest Florida Water Management District pursuant to Section 373.069(3), Florida Statutes (Supp. 1976), within the Ocklawaha River Basin (see Figure 4-1).

(c) December 7, 1983 in the remaining area of the District not described in (a) or (b) above and as described in Section 373.069(2)(c), Florida Statutes, (see Figure 4-1).

(d) August 11, 1991, for agricultural stormwater management systems.

(2)(a) The program initiated on January 31, 1977, with its limited areas of implementation, is superseded throughout the entire District by the rules that became effective on December 7, 1983.

(b) Each permit issued under the provisions of the program initiated on January 31, 1977, remains valid after December 7, 1983, subject to all limiting conditions attached thereto.

(c) Any permit application received prior to November 15, 1983 will be processed and evaluated under the provisions of the permitting program initiated on January 31, 1977. Any permit application received on or after November 15, 1983 will be processed and evaluated under the provisions of the rules that become effective on December 7, 1983.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.413, 373.416, 373.426 FS. History--New 1-31-77, Formerly 16I-4.03 and 40C-4.03, Amended 2-3-81, 12-7-83, Formerly 40C-4.031, 40C-4.0031. Amended 8-11-91, 10-3-95, 11-11-03.

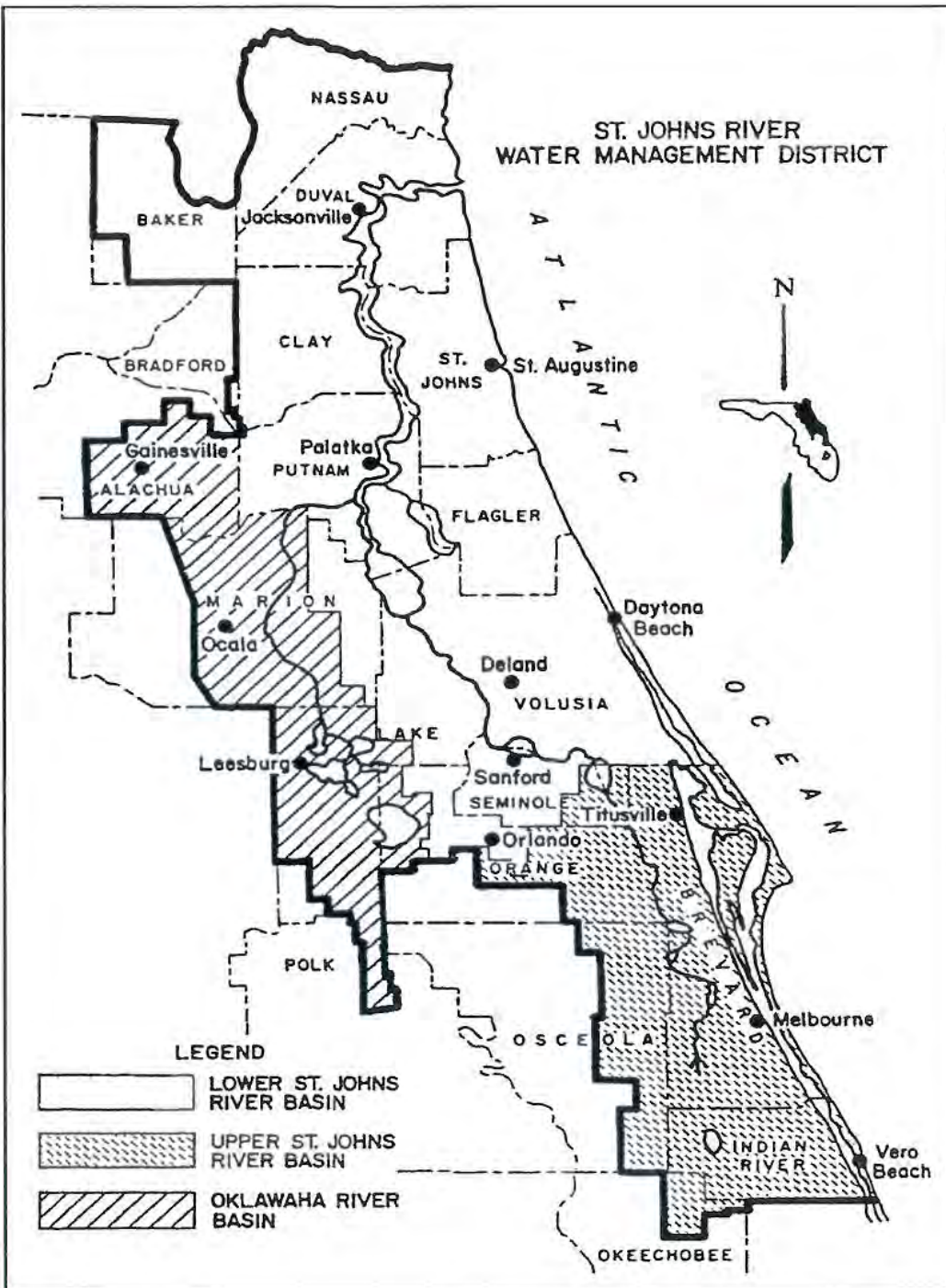


Figure 4-1 Areas Within the District Having Differing Effective Dates for Implementation of Management and Storage of Surface Water Rules

40C-4.034 Revocation and Modification of Permits.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.429 FS. History--New 2-20-77, Amended 12-26-77, Formerly 16I-4.34, Transferred to 40C-4.341, Amended 2-3-81, Formerly 40C-4.34.

40C-4.041 Permits Required.

(1) Unless expressly exempt, an individual or general environmental resource permit must be obtained from the District under Chapter 40C-4, 40C-40, 40C-42, 40C-44 or 40C-400, F.A.C., prior to the construction, alteration, operation, maintenance, abandonment or removal of any stormwater management system, dam, impoundment, reservoir, appurtenant work or works, including dredging or filling, and for the maintenance and operation of existing agricultural surface water management systems or the construction of new agricultural surface water management systems.

(2) The District issues four types of environmental resource permits: conceptual approval permits, individual permits, standard permits, and general permits.

(a) A conceptual approval permit may be issued for projects that are to be developed in phases. A letter of conceptual approval does not authorize any construction.

(b) An individual, standard, or general permit is required prior to the construction, alteration, operation, maintenance, abandonment or removal of a surface water management system which:

1. Is capable of impounding a volume of water of forty or more acre feet; or
2. Serves a project with a total land area equal to or exceeding forty acres; or
3. Serves a project with a total land area equal to or exceeding ten acres, when any part of the project is located within the Wekiva River Hydrologic Basin north of State Road 436, within the Econlockhatchee River Hydrologic Basin, within the Tomoka River Hydrologic Basin, or within Spruce Creek Hydrologic Basin; or
4. Provides for the placement of twelve or more acres of impervious surface which constitutes 40 or more percent of the total land area; or
5. Provides for the placement of one half acre or more of impervious surface, when any of the impervious surface is located within the Wekiva River Hydrologic Basin north of State Road 436; or
6. Provides for the placement of two acres or more of impervious surface, when any of the impervious surface is located within the Econlockhatchee River Hydrologic Basin, the Tomoka River Hydrologic Basin, or within the Spruce Creek Hydrologic Basin; or
7. Is wholly or partially located within the Wekiva River Hydrologic Basin's Riparian Habitat Protection Zone as described in paragraph 40C-41.063(3)(e); or
8. Is wholly or partially located in, on, or over any wetland or other surface water, excluding the following activities:
 - a. Filling any ditch that was constructed in uplands and which provides drainage or water conveyance only for areas owned or controlled by the person performing the filling; or
 - b. Construction and alteration of outfall pipes less than 20 feet in length in wetlands or other surface waters, and associated headwalls, erosion control devices, and energy dissipation structures.

(c) A permit will be issued for specific classes of surface water management systems which satisfy the thresholds and conditions of Chapter 40C-40 or 40C-400, F.A.C. Standard permits are issued pursuant to Chapter 40C-40, F.A.C. Noticed general permits are issued pursuant to Chapter 40C-400, F.A.C. A standard or general permit may authorize the construction, alteration, operation, maintenance, abandonment, or removal of a system.

(d) Projects which do not qualify for permits under the provisions of Chapters 40C-40 or 40C-400, F.A.C., may qualify for an individual permit under Chapter 40C-4, F.A.C. An individual permit may authorize the construction, alteration, operation, maintenance, abandonment or removal of a system.

(e) Individual or standard general permits are issued under Chapter 40C-44, F.A.C., for the maintenance and operation of existing agricultural surface water management systems or the construction of new agricultural surface water management systems which satisfy the water quality practices and performance standards of Chapter 40C-44, F.A.C.

(f) The construction, alteration, operation, maintenance, abandonment or removal of a stormwater management system which falls below the thresholds in paragraph (2)(b) may qualify for an individual or standard general permit under Chapter 40C-42, F.A.C.

(g) Any dredging or filling in, on or over surface waters of the state which is authorized by a general or individual permit issued under Chapters 40C-4, 40C-40, 40C-42, F.A.C., as such Chapters existed prior to 10-3-95, but which is not authorized by a permit or exemption under Chapter 62-312, F.A.C., as such chapter existed prior to 10-3-95, shall require an environmental resource permit prior to the dredging or filling. However, such dredging or filling shall be exempt from the requirements of paragraphs 40C-4.301(1), (a) through (e) and (g) through (k), F.A.C., and Chapter 40C-42, F.A.C., except that dredging or filling within the Tomoka River Hydrologic Basin or the Spruce Creek Hydrologic Basin shall meet the criteria of 40C-4.301(1)(k), F.A.C.

(3) The District also issues mitigation bank permits and mitigation bank conceptual approval permits, pursuant to section 12.4 of the Applicant's Handbook: Management and Storage of Surface Waters adopted by reference in Rule 40C-4.091, F.A.C. A mitigation bank permit authorizes the establishment, implementation and operation of a Mitigation Bank, and constitutes authorization pursuant to Chapter 40C-4, 40C-40, 40C-42, or 40C-400, F.A.C., as applicable, to construct, alter, operate, maintain, abandon or remove any surface water management system proposed as a part of the Mitigation Bank. A mitigation bank conceptual approval permit estimates the legal and financial requirements necessary for a Mitigation Bank, information necessary for evaluation of a mitigation bank permit application, and potential mitigation credits to be awarded pursuant to a mitigation bank permits. A mitigation bank conceptual approval permit does not authorize the use or withdrawal of mitigation credits, or the construction, alteration, operation, maintenance, abandonment or removal of any surface water management system within a mitigation bank.

(4)(a) The Governing Board may designate specific geographic areas within which permits shall be required for the construction, alteration, operation, maintenance, removal, or abandonment of any systems with threshold volumes and areas different from those specified in Subsection (2)(b) above.

(b) Such designation shall be adopted by rule pursuant to Chapters 120 and 373, F.S., and Chapter 40C-1, F.A.C.

(c) Prior to the adoption of such rule, the Governing Board shall hold at least one public meeting in the vicinity of the area for which such designation is proposed. The purpose of the meeting shall be to hear testimony regarding the justification and anticipated impacts of the designation.

Specific Authority 373.044, 373.113, 373.118, 373.406, 373.4136, 373.414, 373.415, 373.418, 380.06(9) FS. Law Implemented 373.083, 373.118, 373.406, 373.413, 373.4135, 373.4136, 373.414, 373.415, 373.416, 373.418, 373.426, 380.06(9) FS. History--New 1-31-77, Formerly 16I-4.04 and 40C-4.04, Amended 2-3-81, 12-7-83, Formerly 40C-4.041, 40C-4.0041, Amended 8-28-88, 8-1-89, 4-3-91, 8-11-91, 9-25-91, 10-20-92, 2-27-94, 10-3-95, 11-25-98, 10-11-01.

40C-4.042 Formal Determination.

Specific Authority 373.044, 373.113, 373.421(2) FS. Law Implemented 373.421(2)-(5) FS. History--New 11-12-91. Amended 11-30-92, 10-3-95. Transferred to 40C-1.1006.

40C-4.051 Exemptions.

(1) Exemptions are as found in: Section 373.406, F.S.

(2) Specifically exempted from permitting under this chapter for the purpose of construction, operation, and maintenance are:

(a) Each system or phase of a phased system which is located in the areas described in Rule 40C-4.031(1)(a) and (b), F.A.C., except agricultural operations, which:

1. Was constructed and operating under the provisions of a valid District permit on December 7, 1983; or

2. Was not required to obtain a permit prior to December 7, 1983, and was:

a. Constructed and operating prior to December 7, 1983; or

b. Being constructed on December 7, 1983, and was completed and operating by June 7, 1984; or

c. Under construction on December 7, 1983, and which had complied with the regulations of the Florida Department of Environmental Regulation and the appropriate local governmental agency.

3. Was constructed and operating as of March 2, 1974 for the Upper St. Johns Basin as described in Rule 40C-4.031(1)(a), F.A.C.; or

4. Was constructed and operating as of January 1, 1975 for the portion of the Ocklawaha River Basin as described in Rule 40C-4.031(1)(b), F.A.C.

(b) Each system or phase of a phased system which is located in the area as described in Rule 40C-4.031(1)(c), F.A.C., except agricultural operations, and which was:

1. Constructed and operating prior to December 7, 1983; or

2. Being constructed on December 7, 1983, and was completed and operating on June 7, 1984; or

3. Under construction on December 7, 1983, and which had complied with the regulations of the Florida Department of Environmental Regulation and the appropriate local governmental agency and was completed December 7, 1984.

(c) The exemptions listed in subsections 40C-4.051(2)(a) and (b) above apply only to those systems or phases of a phased system as such systems are set forth in its plans, specifications and performance criteria prepared and existing as of 12-7-83 and to the extent:

1. Construction of such system is completed, within the applicable time frames, in accordance with such plans, specifications and performance criteria; and

2. Such system is maintained and operated in a manner consistent with such plans, specifications and performance criteria.

(3) The exemptions listed in subsection (2) above shall not apply to those systems or phases of a phased system which on 12-7-83 have been abandoned or removed or have ceased to operate as set forth in such system's plans, specifications and performance criteria.

(4) Those systems or phases of a phased system exempted by subsection 40C-4.051(2) above shall not be required to obtain a permit for construction, operation or maintenance.

(a) Any alteration of such system, or a portion thereof (including the rebuilding of such system if it has ceased to operate as set forth in such system's plans, specifications and performance criteria), shall require that a permit be obtained for such alteration, which permit shall include an authorization to alter as well as an authorization to operate and maintain such alteration. For purposes of this subsection, the following are not considered to be alterations, and consequently are not required to be permitted:

1. The relocation of pumps, provided that the pump is not moved out of the immediate vicinity of its existing location, not to another drainage basin or subbasin, and operation of the pump at the new location will not result in increased adverse impacts to the water resource.

2. The installation of driveway and road inlets and pipes with a diameter of less than 60 inches or equivalent size within an existing surface water management system, provided that the pipe or inlet will not increase the volume of water discharged, and causes no upstream or downstream flooding.

3. The change of the location of a drainage system's secondary or tertiary drainage ditches provided that the total linear length and cross-sectional dimensions of the ditches are not changed.

4. Roadways not located in wetlands may be widened provided that fill material is not obtained by excavating ditches next to the roadway, and provided that the roadway is otherwise constructed in accordance with accepted engineering practices. Roadways not located in wetlands may be increased in height provided that the elevation of the existing centerline road grade is above the 10 year flood elevation, and provided that no increase in upstream flooding is caused.

(b) Any abandonment or removal of such system or portion thereof, shall require that a permit be obtained for such abandonment or removal.

(5) The permitting thresholds set forth in subparagraphs 40C- 4.041(2)(b)6., and that part of subparagraph 40C-4.041(2)(b)3., which concerns the Econlockhatchee River Hydrologic Basin shall be inapplicable to systems located wholly or partially in the Econlockhatchee River Hydrologic Basin which meet the conditions for exemption set forth in subsections 40C-41.051(1) - (5), F.A.C.

(6) The permitting thresholds set forth in subparagraph 40C- 4.041(2)(b)6. and that part of subparagraph 40C-4.041(2)(b)3., which concerns the Econlockhatchee River Hydrologic Basin shall be inapplicable to systems which consist of public road shoulder paving, outside the Riparian Habitat Regulation Zone, which do not result in the creation of additional traffic lanes, and systems which consist of public road turn lane construction outside the Riparian Habitat Regulation Zone.

(7) The permitting thresholds set forth in that part of subparagraphs 40C-4.041(2)(b)3., and 6., which concern the Tomoka River and Spruce Creek Hydrologic Basins shall be inapplicable

to the following systems located wholly or partially in the Tomoka River Hydrologic Basin or the Spruce Creek Hydrologic Basin;

(a) Those systems which meet the conditions for exemption set forth in subsection 40C-41.051(2), F.A.C.

(b) Those systems which consist of public road shoulder paving, outside the Riparian Habitat Protection Zone, which do not result in the creation of additional traffic lanes, and systems which consist of public road turn lane construction outside the Riparian Habitat Protection Zone.

(8) The amendments to subsections 10.7.2, 10.7.4, 10.7.5, 16.1.3 and 16.1.5, Applicant's Handbook: Management and Storage of Surface Waters, effective 9-25-91, shall not apply to each system for which the District has issued an individual or general permit pursuant to Chapter 40C-4 or 40C-40, F.A.C., prior to 9-25-91. This subsection applies only to the project area and plan approved in the referenced permit; however, where the referenced permit authorizes construction of a master system for drainage and flood control, this subsection shall apply to the project area served by the master system and to the plan approved in the referenced permit.

(9) The amendments to subsections 10.7.2, 10.7.4, 10.7.5, 16.1.3 and 16.1.5, Applicant's Handbook: Management and Storage of Surface Waters, effective September 25, 1991 shall not apply to each system for which the District has issued, pursuant to Chapter 40C-4, F.A.C., and prior to 9-25-91, both a conceptual approval permit and at least one permit authorizing construction consistent with the conceptual approval permit. This subsection applies only to the project area and plan approved in the referenced conceptual approval permit.

(10) The permitting threshold set forth in subparagraph 40C-4.041(2)(b)8., F.A.C., as it existed in 9-25-91 regarding isolated wetlands and the amendments to subsections 10.7.2, 10.7.4, 10.7.5, 16.1.3, 16.1.5, Applicant's Handbook: Management and Storage of Surface Waters, effective 9-25-91 shall not apply to each system for which the District has issued a permit pursuant to Chapter 40C-42, F.A.C., prior to 9-25-91. This subsection applies only to a system which did not require a permit pursuant to Chapters 40C-4, or 40C-40, F.A.C., prior to 9-25-91 and only to the project area and the plan approved in the referenced permit.

(11) The amendments to section 10.3.2 of the Applicant's Handbook: Management and Storage of Surface Waters effective February 27, 1994, shall not apply to any general or individual permit application pursuant to Chapters 40C-4, or 40C-40, F.A.C., which is complete prior to February 27, 1994.

(12) No permit shall be required under Chapter 40C-4, 40C-40, 40C-42, 40C-44, or 40C-400, F.A.C, for the following activities:

(a) The repair or replacement of existing functional pipes or culverts, the purpose of which is the discharge or conveyance of stormwater. In all cases, the invert elevation, the diameter, and the length of the culvert shall not be changed. However, the material used for the culvert may be different from the original material. This exemption does not authorize the repair, replacement, or alteration of dam's spillways or appurtenant works, nor construction activities or procedures that cause violation of water quality standards as set forth in Chapter 62-302 and Rule 62-4.242, F.A.C.

(b) Maintenance activities as set forth in paragraphs 403.813(2)(f) and (g), F.S. The District's interpretation and implementation of these exemptions is explained in section 3.4.1(e), Applicant's Handbook: Management and Storage of Surface Waters.

(c) Maintenance of minor silvicultural surface water management systems as described in subsection 40C-400.500(4), F.A.C., which were permitted under part IV of Chapter

373, F.S. or were constructed prior to the requirements for a permit under that part, provided such maintenance is conducted in accordance with the performance standards set forth in Rule 40C-400.500(5), F.A.C.

(d) The restoration of less than 100 feet in length of existing insect control impoundment dikes and the connection of such impoundments to tidally influenced waters. Such impoundments shall be connected to tidally influenced waters for at least 6 months each year, beginning September 1 and ending February 28. The connection shall be of sufficient cross-sectional area to allow beneficial tidal influence. Restoration shall involve no more dredging than needed to restore the dike to original design specifications, and the final elevation of the dredge area shall be within two feet of immediately adjacent bottom elevations. For the purposes of this paragraph, restoration shall not include maintenance of impoundment dikes of insect control impoundments.

(e) The installation, replacement or repair of mooring pilings and dolphins associated with private docking facilities or piers.

(f) The installation and repair of private docks, piers, and recreational docking facilities, or piers and recreational docking facilities of local governmental entities when the local governmental entity's activities will not take place in any manatee habitat, which structures have 1000 square feet or less of surface area over wetlands or other surface waters or 500 square feet or less of surface area over wetlands or other surface waters which are located in Outstanding Florida Waters. This exemption shall include the construction of structures above the dock area, such as gazebos and boat shelters, provided such structures are not enclosed with walls and doors, are not used for living, commercial purposes, or storage of materials other than those associated with recreational use, and provided the structures do not exceed, together with the docking facility, the total area limitations above. To qualify for this exemption, any such dock and associated structure:

1. Shall be used for recreational, non-commercial activities;
 2. Shall be constructed or held in place by pilings, including floating docks, so as not to involve filling or dredging other than that necessary to install the pilings;
 3. Shall not substantially impede the flow of water, or create a navigational hazard;
- and

4. Shall be the sole dock constructed pursuant to this exemption as measured along the shoreline for a minimum distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case there may be one exempt dock allowed per parcel or lot. For the purposes of this paragraph, multi-family living complexes and other types of complexes or facilities associated with the proposed private dock shall be treated as one parcel of property regardless of the legal division of ownership or control of the associated property. Construction of a dock under this exemption does not require the District to issue a subsequent permit to construct a channel to provide navigational access to the dock. Activities associated with a dock shall include the construction of structures attached to the dock which are only suitable for the mooring or storage of boats (i.e., boatlifts). Nothing in this paragraph shall prohibit the Department from taking appropriate enforcement action pursuant to Chapter 403, F.S., to abate or prohibit any activity otherwise exempt from permitting pursuant to this paragraph, if the Department can demonstrate that the exempted activity has caused water pollution in violation of Chapter 403, F.S.

(g) Construction of private docks in artificially created waterways where construction will not violate water quality standards, impede navigation, or adversely affect flood control.

(h) The replacement or repair of existing docks and mooring piles, provided:

1. No fill material other than the piles is used;

2. The replacement or the repaired dock or mooring pile is in the same location and of the same configuration and dimensions as the dock or mooring pile being replaced or repaired; and

3. The dock or mooring pile must be functional and able to provide access to boats moored at the dock or pile before this exemption may be used, unless such dock or mooring pile has been rendered nonfunctional by a discrete event such as a storm, flood, accident or fire.

(i) The installation and maintenance to design specifications of boat ramps on artificial bodies of water where navigational access to the proposed ramp exists, or the installation and maintenance to design specifications of boat ramps open to the public in any wetlands or other surface waters where navigational access to the proposed ramp exists and where the construction of the proposed ramp will be less than 30 feet wide and will involve the removal of less than 25 cubic yards of material from the wetlands or other surface waters, and the installation of docks with an area of 500 square feet or less over wetlands or other surface waters that are associated with and adjoining the boat ramps constructed pursuant to this exemption. All material removed shall be placed upon a self-contained upland site so as to prevent the escape of the spoil material and return water from the spoil site into the wetlands or other surface waters. For the purpose of this exemption, artificial bodies of water shall include residential canal systems, canals permitted by a District created under Section 373.069, F.S., and artificially created portions of the Florida Intracoastal Waterway.

(j) Construction of seawalls or riprap, including only that backfilling needed to level the land behind seawalls or riprap, in artificially created waterways, where such construction will not violate existing water quality standards, impede navigation or adversely affect flood control. An artificially created waterway is defined as a body of water that has been totally dredged or excavated and which does not overlap natural wetlands or other surface waters. For the purpose of this exemption, artificially created waterways shall also include existing residential canal systems. This exemption does not apply to the construction of vertical seawalls in estuaries or lagoons unless the proposed construction is within an existing man-made canal where the shoreline is currently occupied in whole or in part by vertical seawalls.

(k) The restoration of a seawall or riprap at its previous location or upland of or within 18 inches waterward of its previous location, as measured from the face of the existing seawall slab to the face of restored seawall slab or from the front slope of the existing riprap to the front slope of the restored riprap. No filling can be performed except in the actual restoration of the seawall or riprap. No construction shall be undertaken without necessary title or leasehold interest, especially where private and public ownership boundaries have changed as a result of natural occurrences such as accretion, reliction and natural erosion. This exemption shall be limited to functioning seawalls or riprap. This exemption shall not affect the permitting requirements of Chapter 161, F.S.

(l) The construction of seawalls or riprap in wetlands or other surface waters, where such construction is between and adjoins at both ends existing seawalls or riprap, follows a continuous and uniform construction line with the existing seawalls or riprap, is no more than 150 feet in length, does not violate state water quality standards, impede navigation, or adversely

affect flood control. However, this exemption shall not affect the permitting requirements of Chapter 161, F.S. In estuaries and lagoons, construction of vertical seawalls is limited to the circumstances and purposes stated in Section 373.414(5)(b)1.-4., F.S.

(m) The installation of subaqueous transmission and distribution lines laid on, or embedded in, the bottoms of wetlands or other surface waters, except in Class I and Class II waters and aquatic preserves, provided that no dredging or filling is necessary.

(n) The replacement or repair of subaqueous transmission and distribution lines laid on, or embedded in, the bottoms of wetlands or other surface waters.

(o) Activities necessary to preserve, restore, repair, remove, or replace an existing communication or power pole or line, provided that the work does not involve dredge and fill activities other than the removal of the existing structure and the installation of the new structure, and, in the case of a power pole or line, the activity does not increase the voltage of existing power lines. An activity does not qualify to use this exemption if it results in relocation of an existing structure or facility more than 10 feet in any direction from its original location, or if it involves the construction of new power or telephone lines or the repair and replacement of existing structures that require dredge and fill activities in order to provide access to the site.

(p) The replacement or repair of existing open-trestle foot bridges and vehicular bridges that are 100 feet or less in length and two lanes or less in width, provided:

1. No more dredging or filling in wetlands or other surface waters is performed than that necessary to replace or repair pilings;

2. The structure to be replaced or repaired is the same length, the same configuration, and in the same location as the original bridge; and

3. No debris from the original bridge shall be allowed to remain in wetlands or other surface waters.

(q) The installation of aids to navigation, including bridge fender piles, "No Wake" and similar regulatory signs, and buoys associated with such aids, provided that the devices are marked in accordance with Section 327.40, F.S.

(r) Construction of freshwater fish attractors by Florida Game and Fresh Water Fish Commission, U.S. Forest Service, and county and municipal governments, provided that the material to be used shall be clean concrete, rock, brush, logs, or trees, and shall be free of soils, preservatives, oil, grease, debris, litter, putrescible substances, "white goods," asphalt material, tires, or other pollutants, and shall be firmly anchored to the bottom of the waterbody. The size of an individual fish attractor shall not exceed one quarter of an acre in area. The material shall be placed so that the top of the fish attractor is at least three (3) feet below the surface of the water at ordinary low water and shall be outside any posted navigational channels. No fish attractor material shall be placed on or in areas vegetated by native aquatic vegetation. The site shall be marked with a buoy or buoys to ensure that no material is deposited outside of the site.

(s) Installation of piling support structures associated with water testing or monitoring equipment by the Department or the District, provided that flow or navigation are not impeded.

(t) The construction or maintenance of culverted driveway or roadway crossings and bridges of artificial waterways, provided:

1. This exemption shall apply only to wholly artificial, non-navigable drainage conveyances;

2. The construction project area shall not exceed one acre, and the construction shall be for a discrete project that is not part of a larger plan of development which requires permitting under Chapter 40C-400, 40C-40, 40C-42, 40C-44, F.A.C., or this chapter;

3. The artificial waterway in existing condition shall be not more than 4 feet deep, measured from the top of bank to the bottom of the artificial waterway;

4. The person performing the exempt activity shall ensure that the size and capacity of the culvert will be adequate to pass normal high water stages of the artificial waterway without causing adverse impacts to upstream or downstream property, but the culvert shall not be larger than one 24 inch diameter pipe, or its equivalent, and in no instance shall the culvert provide a smaller cross-sectional area or discharge capacity than any upstream culvert;

5. The elevation of the culvert invert shall be at the existing bottom grade of the artificial waterway;

6. The length of the driveway or roadway crossing the waterway shall not exceed 30 feet from top of bank to top of bank;

7. The top width of the driveway or roadway shall not exceed 20 feet, the toe to toe width shall not exceed 40 feet, and side slopes shall be no steeper than 3 feet horizontal to 1 foot vertical;

8. Clean fill used for the crossing shall be obtained from an upland borrow pit or from a dredge site that is in compliance with the regulatory requirements of part IV Chapter 373, F.S., either through a permit or an exemption;

9. There shall be no additional dredging, filling, or construction activities within the artificial waterway or project area, except those directly involved in the construction or operation and maintenance of the culverted crossing and those exempted from regulation under part IV, Chapter 373, F.S.;

10. All temporary fill in construction areas shall be removed and regraded to original elevations and revegetated;

11. The person performing the exempt activity shall implement measures for erosion and pollution control using best management practices, including turbidity curtains or similar devices and other site specific practices, in strict adherence to the Florida Department of Transportation's "Standard Specifications for Road and Bridge Construction," and Chapter 6 of the Department's "Florida Development Manual," to prevent violations of state water quality standards. Temporary erosion controls shall be implemented prior to and during construction, and permanent erosion control measures for all exposed soils shall be completed within 7 calendar days of the most recent construction activity;

12. Any spoil material from construction or maintenance shall be used or disposed of on an upland portion of the property or shall be transported off site and deposited on a self-contained upland spoil site that is in compliance with the permitting requirements of Chapters 40C-4, 40C-40, 40C-42, and 40C-44, F.A.C., as applicable;

13. If dewatering is performed, all temporary fill dikes and dewatering discharges shall be installed and constructed so that no upstream flooding or impoundment occurs and to prevent siltation, erosion or turbid discharges into waters of the state in violation of state water quality standards. Any temporary works shall be completely removed, and all areas upstream and downstream from the crossing shall be restored to grades, elevations and conditions which existed before the construction;

14. This exemption shall apply only to a maximum of 2 crossings on any total land area of property with a minimum distance of 500 feet between crossings; and

15. This exemption shall not apply to activities involving relocation or other alteration of all or part of the artificial waterway, or construction for other than the proposed culvert crossing.

(u) The installation, removal, and replacement of utility poles that support telephone or communication cable lines, or electric distribution lines of 35kV or less, together with the bases and anchoring devices to support those poles, as specified below. For the purpose of this exemption, "anchoring device" shall mean steel guy wires fastened to the ground, and "base" shall mean a concrete or steel foundation not exceeding four feet in radius, used to support a utility pole. This exemption shall be subject to the following conditions:

1. No more than 15 utility poles may be installed, removed, or replaced in wetlands;
2. This exemption shall not apply in surface waters other than wetlands;
3. The temporary disturbance to wetlands shall be limited to a length of 0.5 miles, an areal extent of 0.5 acre, and a width of 30 feet to access the site to actually install, remove, or replace the utility poles; thereafter, maintenance of the utility right of way in wetlands shall be limited to a cleared corridor that does not exceed a total width of 15 feet and a total area of 0.25 ac.;

4. This exemption shall not apply in forested wetlands located within 550 feet from the mean or ordinary high water line of a named waterbody that is designated as an Outstanding Florida Water or an Outstanding National Resource Water, or to activities in any aquatic preserves, or in riparian habitat protection zones established in Chapter 40C-41, F.A.C.;

5. There shall be no permanent placement of fill other than utility poles and anchoring devices;

6. There shall be no dredging or filling of fill pads or access roads except for temporary mats, which may be used to access pole installation sites, and all temporary mats shall be removed within thirty days after the installation, removal or replacement of the utility poles, associated bases, and anchoring devices;

7. The installation of the utility pole(s) and associated bases and anchoring devices shall not interfere with navigation or impede water flow in wetlands;

8. Turbidity, sedimentation, and erosion shall be controlled during and after construction to prevent violations of state water quality standards due to construction related activities;

9. Except for the permitted structures, pre-construction ground elevations and the contours of all soils that are disturbed by construction activities, including vehicle ruts in wetlands, shall be restored within 30 days of completion of the installation of the utility line or cable, and restored grades shall be stabilized within 72 hours following completion of elevation and contour restoration to minimize erosion;

10. Vehicle usage in wetlands shall be conducted so as to minimize tire rutting and erosion impacts;

11. Water jets shall not be used except for those which are a pre-engineered part of the pole, and provided that the water for the jets is either recirculated on site or is discharged in a self-contained upland disposal site;

12. Vehicular access in wetlands shall be limited to existing roads, trails, rights-of-way or easements, and to other previously disturbed corridors where they exist; and

13. The permittee shall provide an annual report to the District which summarizes the activities conducted under this exemption for the period from January 1 to December 31 of each year, including: the acreage of temporary impacts in wetlands resulting from the use of temporary mats and the clearing of wetland vegetation; the extent of permanent impacts to wetlands including the number of poles and structures in wetlands and the acreage of clearing in wetlands; the voltage of all electric lines that are installed; the number of times this exemption is used; the specific location of each line that is installed (including the county, the section, township, and range, and the identity of permanent landmarks such as roads and named wetlands and other surface waters within or adjacent to the work location), and the number of times and locations where water jets are used.

(13) Exemptions for Treatment or Disposal Systems.

(a) Alteration and maintenance of the following shall be exempt from the provisions in Chapter 40C-4, F.A.C., implementing subsections 373.414(1) through 373.414(6), 373.414(8), and 373.414(10), F.S.; and subsection 373.414(7), F.S., regarding any authority to apply state water quality standards within any works, impoundments, reservoirs, and other watercourses described in this subsection and any authority granted pursuant to Section 373.414, F.S. (1991):

1. Works, impoundments, reservoirs, and other watercourses constructed and operated solely for wastewater treatment or disposal in accordance with a valid permit reviewed or issued under Rules 62-28.700, 62-302.520 or Chapters 62-17, 62-600, 62-610, 62-640, 62-650, 62-660, 62-670, 62-671, 62-673, 62-701, F.A.C., or Section 403.0885, F.S., or rules implementing Section 403.0885, F.S., except for treatment wetlands or receiving wetlands permitted to receive wastewater pursuant to Chapter 62-611, F.A.C., or Section 403.0885, F.S. or its implementing rules;

2. Works, impoundments, reservoirs, and other watercourses constructed solely for wastewater treatment or disposal before a construction permit was required under Chapter 403, F.S., and operated solely for wastewater treatment or disposal in accordance with a valid permit reviewed or issued under Rule 62-28.700, 62-302.520, or Chapter 62-17, 62-600, 62-610, 62-640, 62-650, 62-660, 62-670, 62-671, 62-673, or 62-701, F.A.C.; or Section 403.0885, F.S., or rules implementing Section 403.0885, F.S., except for treatment wetlands or receiving wetlands permitted to receive wastewater pursuant to Chapter 62-611, F.A.C., or Section 403.0885, F.S. or its implementing rules;

3. Works, impoundments, reservoirs, and other watercourses of less than 0.5 acres in combined area on a project-wide basis, constructed and operated solely for stormwater treatment in accordance with a noticed exemption under Chapter 62-25, F.A.C., or a valid permit issued under Chapters 62-25 (excluding Rule 62-25.042), 62-330, 40C-4, 40C-42 (excluding Rule 40C-42.0265), F.A.C., except those permitted as wetland stormwater treatment systems.

4. Works, impoundments, reservoirs, and other watercourses of less than 0.5 acres in combined area on a project-wide basis, constructed and operated solely for stormwater treatment before a permit was required under Chapter 62-25, 40C-4, 40C-42, or 40C-44, F.A.C.

(b) Alteration and maintenance of the following shall be exempt from the provisions in chapter 40C-4, F.A.C., adopted to implement subsections 373.414(1), 373.414(2)(a), 373.414(8), and 373.414(10), F.S.; and subsections 373.414(3) through 373.414(6), F.S.; and subsection 373.414(7), F.S., regarding any authority to apply state water quality standards within any works, impoundments, reservoirs, and other watercourses described in this subsection and

any authority granted pursuant to Section 373.414, F.S. (1991), except for authority to protect threatened and endangered species in isolated wetlands:

1. Works, impoundments, reservoirs, and other watercourses of 0.5 acre or greater in combined area on a project-wide basis, constructed and operated solely for stormwater treatment in accordance with a noticed exemption under chapter 62-25, F.A.C., or a valid permit issued under Chapter 62-25 (excluding Rule 62-25.042), 62-330, 40C-4, 40C-42 (excluding Rule 40C-42.0265) or 40C-44, F.A.C., except those permitted as wetland stormwater treatment systems.

2. Works, impoundments, reservoirs, and other watercourses of 0.5 acres or greater in combined area on a project-wide basis, constructed and operated solely for stormwater treatment before a permit was required under Chapter 62-25, 40C-4, 40C-42, or 40C-44, F.A.C.

(c) The exemptions in paragraphs (a) and (b) above shall not apply to works, impoundments, reservoirs or other watercourses that are:

1. Currently wetlands which existed before construction of the stormwater treatment system and were incorporated in it;

2. Being altered through expansion into wetlands or other surface waters; or

3. Wetlands created, enhanced or restored as mitigation for wetland or surface water impacts under a permit issued by the Department or the District.

(d) Alterations and maintenance of works, impoundments, reservoirs and other watercourses exempt under this subsection shall not be considered in determining whether the wetland permitting thresholds in subparagraph 40C-4.041(2)(b)8. or paragraph 40C-40.302(2)(c), F.A.C., are met or exceeded.

(e) Works, impoundments, reservoirs and other watercourses exempt under this subsection, other than isolated wetlands in systems described in paragraph (b) above, shall not be delineated under Section 373.421, F.S.

(f) This exemption shall not affect the application of state water quality standards, including those applicable to Outstanding Florida Waters, at the point of discharge to waters as defined in subsection 403.031(13), F.S.

(g) As used in this subsection, "solely for" means the reason for which a work, impoundment, reservoir, or other watercourse is constructed and operated, and such construction and operation would not have occurred but for the purposes identified in paragraphs (a) and (b) above. Furthermore, the phrase does not refer to a work, impoundment, reservoir, or other watercourse constructed or operated for multiple purposes. Incidental uses, such as occasional recreational uses, will not render the exemption inapplicable, so long as the incidental uses are not part of the original planned purpose of the work, impoundment, reservoir or other watercourse. However, for those works, impoundments, reservoirs, or other watercourses described in subparagraphs (a)3. and (b)1., use of the system for flood attenuation, whether originally planned or unplanned, shall be considered an incidental use so long as the works, impoundments, reservoirs, and other watercourses are no more than two acres larger than the minimum area required to comply with the applicable stormwater treatment requirements of Chapter 62-25, 62-330, 40C-4, 40C-42 or 40C-44, F.A.C. For the purposes of this subsection, reuse from a work, impoundment, reservoir, or other watercourse is part of treatment or disposal.

(14) Surface Waters or Wetlands Created by Mosquito Control Activities. Construction, alteration, operation, maintenance, removal, and abandonment of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, or works, in, on, or over lands that have become surface waters or wetlands solely because of mosquito control

activities undertaken as a part of a governmental mosquito control program, and which lands were neither surface water or wetlands before such activities, shall be exempt from the provisions in Chapter 40C-4, F.A.C., adopted to implement subsections 373.414(1) through (6), 373.414(8), and 373.414(10), F.S.; and subsection 373.414(7), F.S., regarding any authority granted pursuant to Section 373.414, F.S. (1991).

(15) The performance of activities pursuant to the provisions of the exemptions set forth in this section does not relieve the person or persons who are using the exemption or who are constructing or otherwise implementing the activity from meeting the permitting or performance requirements of other District rules.

Specific Authority 373.044, 373.113, 373.414, 373.415, 373.418 FS. Law Implemented 373.406, 373.413, 373.414, 373.415, 373.416, 373.418, 373.426, 403.813(2) FS. History--New 1-31-77, Formerly 16I-4.05 and 40C-4.06, Amended 2-3-81, 12-7-83, Formerly 40C-4.051, 40C-4.0051, Amended 4-3-91, 8-11-91, 9-25-91, 5-17-94, 10-3-95, 11-25-98, 7-8-01, 10-11-01, 11-11-03.

40C-4.091 Publications Incorporated by Reference.

(1) The Governing Board hereby adopts by reference:

(a) Part I "Policy and Procedures," Part II "Criteria for Evaluation," subsections 18.0, 18.1, 18.2, and 18.3 of Part III and Appendix K "Legal Description Upper St. Johns River Hydrologic Basin," "Legal Description Ocklawaha River Hydrologic Basin," "Legal Description of the Wekiva River Hydrologic Basin," "Legal Description of the Wekiva Recharge Protection Basin," "Legal Description of the Econlockhatchee River Hydrologic Basin," "Legal Description of the Sensitive Karst Areas Basin, Alachua County," "Legal Description Tomoka River Hydrologic Basin," "Legal Description Spruce Creek Hydrologic Basin," "Legal Description of the Sensitive Karst Areas Basin, Marion County," and "Legal Description of the Lake Apopka Hydrologic Basin," and Appendix M "Regional Watersheds for Mitigation Banking," of the document entitled "Applicant's Handbook: Management and Storage of Surface Waters," effective 12-3-06.

(b) Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., and Aquaculture General Permits Under Section 403.814, F.S. Between St. Johns River Water Management District and Department of Environmental Protection dated 8-25-94 .

(c) Water quality standards of Chapters 62-3, 62-4, 62-302, 62-520, 62-522, and 62-550, F.A.C.

(d) The following Natural Resources Conservation Service Soil Survey publications: Soil Survey of Flagler County Area, Florida (1997); Soil Survey of Lake County Area, Florida (1975); Soil Survey of Orange County Area, Florida (1989); Soil Survey of Seminole County Area, Florida (1990); and Soil Survey of Volusia County Area, Florida (1980), which are hereby incorporated by reference, effective 12-3-06.

(2) The documents may be obtained by contacting:

Director, Division of Permit Data Services,
St. Johns River Water Management District,
4049 Reid Street,
Palatka, Florida 32177-2529.

St. Johns River Water Management District,

7775 Baymeadows Way, Suite 102,
Jacksonville, Florida 32256.

St. Johns River Water Management District,
975 Keller Road,
Altamonte Springs, Florida 32714-1618.

St. Johns River Water Management District,
525 Community College Pkwy, S.E.
Palm Bay, Florida 32909

Specific Authority 373.044, 373.046(4), 373.113, 373.4136, 373.414, 373.415, 373.416, 373.418, 373.421, 373.461 FS. Law Implemented 120.60, 373.016(2), 373.042, 373.0421, 373.046, 373.085, 373.086, 373.109, 373.146(1), 373.406, 373.413, 373.4135, 373.4136, 373.414, 373.4141, 373.415, 373.416, 373.417, 373.418, 373.421(2)-(6), 373.423, 373.426, 373.461(3), 380.06(9), 403.813(2) FS. History--New 12-7-83, Amended 10-14-84, Formerly 40C- 4.091, Amended 5-17-87, Formerly 40C-4.0091, Amended 8-20-87, 10-1-87, 10-11-87, 11-26-87, 8-30-88, 1-1-89, 8-1-89, 10-19-89, 4-3-91, 9-25-91, 11-12-91, 3-1-92, 7-14-92, 9-8-92, 9-16-92, 11-12-92, 11-30-92, 1-6-93, 1-23-94, 2-27-94, 11-22-94, 10-3-95, 8-20-96, 11-25-98, 12-3-98, 1-7-99, 1-11-99, 8-21-00, 7-8-01, 10-11-01, 4-10-02, 9-26-02, 3-7-03, 11-11-03, 2-1-05, 12-3-06.

40C-4.101 Content and Processing of the Application.

(1) All applications for environmental resource permits shall be filed and processed in accordance with Chapters 120 and 373, F.S., and Chapter 40C-1, F.A.C.

(2)(a) Each application for an individual or conceptual approval environmental resource permit shall be filed upon District form 40C-4.900(1). The applicant shall submit five copies of the application package (which package includes the signed application form, construction plans, and any supporting documents describing the proposed system). The requirement to submit five copies shall not apply when the application package is received electronically via the District's E-Permitting website at www.sjrwmd.com

(b) Each application for an individual environmental resource permit or a conceptual approval environmental resource permit which seeks authorization to alter, abandon, or remove a system, or a portion of a system, which is exempt from permitting under the provisions of subsection 40C-4.051(2), shall contain the plans and information required by paragraph 40C-4.101(2)(a), F.A.C., for the system as it was originally constructed, as it exists on the date of the permit application, and as it is proposed to be modified.

(3) A complete application for an individual environmental resource permit shall also constitute an application for certification of compliance with state water quality standards where necessary pursuant to Section 401, Public Law 92-500, 33 USC Section 1341. Issuance of the permit shall constitute certification of compliance with water quality standards, unless the permit is issued pursuant to the net improvement provision in paragraph 373.414(1)(b), F.S., or the permit specifically states otherwise.

(4) If the permit application involves activities located in, on, or over wetlands or other surface waters, then, within three business days of receipt of the application, the District

shall forward a copy to the appropriate office of the U.S. Army Corps of Engineers unless specifically authorized by the Corps to do otherwise.

(5) If the application involves activities located in, on, or over wetlands or other surface waters, the District shall forward a copy of the notice of application to and request comments from:

- (a) The Florida Game and Fresh Water Fish Commission;
- (b) The Florida Department of State, Division of Historical Resources;
- (c) Any person who has requested a copy of the specific application that is under review; and
- (d) The Department of Environmental Protection, if the proposed activities have a potential to impact marine species listed in Rules 39-27.003, 39-27.004, or 39-27.005, F.A.C.

(6) If at any time during the processing of the application, it appears that the application involves activities which may take place on state-owned lands, the District shall send a copy of the application to the Division of State lands, Department of Environmental Protection. *Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.146, 373.413, 373.416, 373.417 FS. History--New 1-31-77, Formerly 16I-4.10 and 40C-4.10, Amended 2-3-81, 12-7-83. Formerly 40C-4.101, 40C-4.0101. Amended 8-1-89, 2-27-94, 10-3-95, 1-4-96, 2-1-05.*

40C-4.111 Notice of Application Form.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.413, 373.416, 373.426 FS. History--New 1-31-77, Formerly 16I-4.11, Formerly 40C-4.11, 40C-4.011. Repealed 8-1-89.

40C-4.121 Notice and Hearing Requirements.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.413, 373.426 FS. History--New 1-31-77, Formerly 16I-4.12 and 40C-4.12, Amended 2-3-81, Repealed 12-7-83, Formerly 40C-4.121, 40C-4.0121.

40C-4.131 Times for Receiving Objections and For Hearing.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.413, 373.416, 373.426 FS. History--New 1-31-77, Formerly 16I-4.13 and 40C-4.13, Amended 2-3-81, Repealed 12-7-83, Formerly 40C-4.131, 40C-4.0131.

40C-4.201 Permit Processing Fee.

There shall be a non-refundable permit processing fee as specified by Chapter 40C-1, payable to the District at the time that an application for a general or individual permit or for a conceptual approval permit is submitted.

Specific Authority 373.044, 373.109, 373.113, 373.171 FS. Law Implemented 373.109, 373.413, 373.416, 373.426 FS. History--New 1-31-77, Formerly 16I-4.10 and 40C-4.20, Amended 2-3-81, 12-7-83, Formerly 40C-4.201, 40C-4.0201, Amended 10-1-87, 8-1-89.

40C-4.301 Conditions for Issuance of Permits.

(1) In order to obtain a standard, individual, or conceptual approval permit under this chapter or Chapter 40C-40, F.A.C., an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal or abandonment of a surface water management system:

- (a) Will not cause adverse water quantity impacts to receiving waters and adjacent lands;
- (b) Will not cause adverse flooding to on-site or off-site property;
- (c) Will not cause adverse impacts to existing surface water storage and conveyance capabilities;
- (d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters;
- (e) Will not adversely affect the quality of receiving waters such that the water quality standards set forth in Chapters 62-3, 62-4, 62-302, 62-520, 62-522, and 62-550, F.A.C., including any antidegradation provisions of Rules 62-4.242 (1)(a) and (b), 62-4.242(2) and (3), and 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in Rules 62-4.242(2) and (3), F.A.C., will be violated;
- (f) Will not cause adverse secondary impacts to the water resources;
- (g) Will not adversely impact the maintenance of surface or ground water levels or surface water flows established in Chapter 40C-8, F.A.C.;
- (h) Will not cause adverse impacts to a work of the District established pursuant to Section 373.086, F.S.;
- (i) Will be capable, based on generally accepted engineering and scientific principles, of being performed and of functioning as proposed;
- (j) Will be conducted by an entity with the financial, legal and administrative capability of ensuring that the activity will be undertaken in accordance with the terms and conditions of the permit, if issued; and
- (k) Will comply with any applicable special basin or geographic area criteria established in Chapter 40C-41, F.A.C.

(2) If the applicant is unable to meet water quality standards because existing ambient water quality does not meet standards, the applicant must comply with the requirements set forth in subsection 12.2.4.5 of the Applicant's Handbook: Management and Storage of Surface Waters.

(3) The standards and criteria, including the mitigation provisions and the provisions for elimination or reduction of impacts, contained in the Applicant's Handbook: Management and Storage of Surface Waters adopted by reference in Rule 40C-4.091, F.A.C., shall determine whether the reasonable assurances required by subsection 40C-4.301(1) and Rule 40C-4.302, F.A.C., have been provided.

Specific Authority 369.318, 373.016, 373.044, 373.113, 373.171, 373.415 FS. Law Implemented 369.318, 373.016, 373.042, 373.0421, 373.409, 373.413, 373.414, 373.415, 373.416, 373.418, 373.426, 373.461 FS. History--New 1-31-77, Formerly 16I-4.10 and 40C-4.10, Amended 2-3-81, 12-7-83, Formerly 40C-4.301, 40C-4.030,. Amended 9-25-91, 9-16-92, 6-7-93, 10-3-95, 10-11-01, 12-3-06.

40C-4.302 Additional Conditions for Issuance of Permits.

(1) In addition to the conditions set forth in Rule 40C-4.301, F.A.C., in order to obtain a standard, individual, or conceptual approval permit under this chapter or Chapter 40C-40, F.A.C., an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, and abandonment of a system:

(a) located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such an activity significantly degrades or is within an Outstanding Florida Water, that the activity will be clearly in the public interest, as determined by balancing the following criteria as set forth in subsections 12.2.3 through 12.2.3.7 of the Applicant's Handbook: Management and Storage of Surface Waters:

1. Whether the activity will adversely affect the public health, safety, or welfare or the property of others;

2. Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;

3. Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;

4. Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;

5. Whether the activity will be of a temporary or permanent nature;

6. Whether the activity will adversely affect or will enhance significant historical and archaeological resources under the provisions of Section 267.061, F.S.; and

7. The current condition and relative value of functions being performed by areas affected by the proposed activity.

(b) Will not cause unacceptable cumulative impacts upon wetlands and other surface waters as set forth in subsections 12.2.8 through 12.2.8.2 of the Applicant's Handbook: Management and Storage of Surface Waters adopted by reference in Rule 40C-4.091, F.A.C.

(c) Located in, adjacent to or in close proximity to Class II waters or located in Class II waters or Class III waters classified by the Department as approved, restricted or conditionally restricted for shellfish harvesting as set forth or incorporated by reference in Chapter 62R-7, F.A.C., will comply with the additional criteria in subsection 12.2.5 of the Applicant's Handbook: Management and Storage of Surface Waters adopted by reference in Rule 40C-4.091, F.A.C.

(d) Which constitute vertical seawalls in estuaries or lagoons, will comply with the additional criteria provided in subsection 12.2.6 of the Applicant's Handbook: Management and Storage of Surface Waters adopted by reference in Rule 40C-4.091, F.A.C.

(2) When determining whether a permit applicant has provided reasonable assurances that District permitting standards will be met, the District shall take into consideration the applicant's violation of any Department rules adopted pursuant to Sections 403.91 - 403.929, F.S., (1984 Supp.), as amended, which the District had the responsibility to enforce pursuant to delegation, or any District rules adopted pursuant to part IV, Chapter 373, F.S., relating to any other project or activity and efforts taken by the applicant to resolve these violations. The Department's delegation to the District to enforce Department rules is set forth in the Operating Agreement concerning Stormwater Discharge Regulation and Dredge and Fill Regulation, dated January 4, 1988; Operating Agreement concerning Management and Storage of Surface Waters Regulation and Wetland Resource Regulation between the St. Johns River Water Management District and Department of Environmental Regulation, dated August 28, 1992; and Operating Agreement Concerning Regulation under Part IV, Chapter 373, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated August 25, 1994, all incorporated by reference in Rule 40C-4.091, F.A.C.

Specific Authority 373.016, 373.044, 373.113, 373.171, 373.414(9) FS. Law Implemented 373.016, 373.042, 373.409, 373.413, 373.414, 373.416, 373.426, 380.23, FS. History--New 10-3-95, 10-11-01.

40C-4.311 Variances.

Specific Authority: 373.044, 373.113, 373.414(9), 373.414(17) FS. Law Implemented: 373.414(9), 373.414(17), 403.201 F.S. History--New 10-3-95. Transferred to 40C-1.1002.

40C-4.321 Duration of Permit.

- (1) Unless revoked or modified, the duration of a permit is:
 - (a) For an individual permit to construct, alter, or remove a system, five years to complete the permitted activity, or such amount of time as made a condition of the permit.
 - (b) Permanent for an individual permit to operate, maintain, or abandon a system.
 - (c) Conceptual approval permits will be valid for twenty years or the amount of time specified as a condition of the permit, provided that construction of the initial phase of the system must be permitted, and construction undertaken, within two years of the granting of the conceptual approval permit and provided that all phases of the system are designed and built in accordance with the terms of the conceptual approval permit and that all permits for subsequent phases are obtained. However, if the project approved by the conceptual approval permit is undergoing development-of-regional-impact review pursuant to Section 380.06, F.S., and an administrative appeal of that review has been filed, the permittee may toll the two year time period for permitting and undertaking construction by notifying the District, in writing, that the development-of-regional-impact review has been appealed within two years of the issuance of the conceptual approval permit, and notifying the District, in writing, of the final action resolving such administrative appeal. If proper notice is given as indicated above, the two year time period for permitting and undertaking construction shall be tolled from the date the administrative appeal of the development-of-regional-impact review is filed, to the date of final action resolving such administrative appeal.
 - (d) For general permits, as specified in Rule 40C-41.321, F.A.C.
- (2) Permits expire on the date indicated on the permit unless application for extension is made pursuant to Chapter 40C-1 in writing to the District on or before the date of expiration. If application for extension is made, the permit shall remain in full force and effect until the Board takes action on the application for extension.

Specific Authority 373.113 FS. Law Implemented 373.413, 373.416, 373.426 FS. History--New 12-7-83, Formerly 40C-4.321, 40C-4.0321. Amended 8-1-89, 9-8-92.

40C-4.331 Modification of Permits.

- (1) In addition to the modification of permits pursuant to Section 373.429, Florida Statutes, a request for modification of a valid permit issued pursuant to Chapters 40C-4 or 40C-40, F.A.C., may be made as set forth in this section. The request for modification shall be reviewed using the conditions for issuance in Rules 40C-4.301 and 40C-4.302, F.A.C.
 - (a) By formal application on District form number 40C-4.900(1);
 - (b) By letter that describes the proposed modification, provided that the requested modification does not cause any of the following circumstances to occur:

1. Increase the project area by more than 10% or 1 acre, whichever is less, unless the system was permitted with stormwater treatment and flood attenuation capability sufficient to meet the permitting requirements for the proposed modification;
 2. Increase proposed impervious surface by more than 10% or 0.5 acres, whichever is less, unless the system was permitted with stormwater treatment and flood attenuation capability sufficient to meet the permitting requirements for the proposed modification;
 3. Reduce the stormwater treatment or flood attenuation capability of the system, unless the system was permitted with stormwater treatment and flood attenuation capability sufficient to meet the permitting requirements for the proposed modification;
 4. Result in additional loss of floodplain storage within the 10 year floodplain at a location where the upstream drainage area is greater than 5 square miles;
 5. Result in additional unmitigated impacts to wetlands and other surface waters, unless mitigation is not required pursuant to the second paragraph of subsection 12.2.2, subsection 12.2.2.1, or subsection 12.2.2.2, of the Applicant's Handbook: Management and Storage of Surface Waters, adopted by reference in Rule 40C-4.091, F.A.C.
 6. Result in more than 10% or 0.5 acre, whichever is less, of total additional mitigated impacts to wetlands and other surface waters per permit modified.
 7. Result in any additional impacts within a designated riparian habitat protection zone;
 8. Reduce the frequency or parameters of monitoring requirements, except in accordance with a permit condition that specifically provides for future adjustments in such monitoring requirements;
 9. Reduce the financial responsibility mechanisms provided to ensure the continued construction and operation of the system in compliance with permit requirements, except in accordance with specific permit conditions that provide for a reduction in such financial responsibility mechanisms;
 10. Result in a net reduction in the area of conservation easement or mitigation within the area which was previously permitted;
 11. Extend the duration of a permit by more than 2 years per permit modified; or
 12. Otherwise, substantially alter the system design or permit conditions.
- (2) An entity other than a permittee may request the modification of a permit only when the entity has purchased or intends to take ownership through condemnation of all or part of a permitted system. In such cases, the entity requesting the modification must submit either a formal application or letter modification in accordance with (1)(a) or (b) above and must demonstrate that both the modified portions of the system and the unmodified portions of the system, including portions of the system remaining in the ownership of the existing permittee, will continue to comply with the conditions for issuance in Rules 40C-4.301 and 40C-4.302, F.A.C. and all permit conditions.
- (3) A request for modification by letter above, must be accompanied by the appropriate fee required by Rule 40C-1.603, F.A.C. A modification by letter may be approved only by the Director, Department of Water Resources, Assistant Director, Department of Water Resources, or a Service Center Director. Any such approval will be provided in writing to the applicant.
- (4) A permit which has expired or which has been revoked shall not be subject to modification.

Specific Authority 373.044, 373.113, 373.414, 373.418 FS. Law Implemented 373.083, 373.413, 373.414, 373.416, 373.418, 373.426, 373.429 FS. History—New 2-20-77, Amended 12-26-77, Formerly 16I-4.34, 40C-4.34, Amended 2-3-81, 12-7-83, Formerly 40C-4.331, 40C-4.0331, Amended 1-1-89, 10-11-01, 2-1-05.

40C-4.341 Revocation of Permits.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.429 FS. History--New 2-20-77, Amended 12-26-77, Formerly 16I-4.34 and 40C-4.34, Amended 2-3-81, 12-7-83, Formerly 40C-4.341, 40C-4.0341. Repealed 8-4-98.

40C-4.351 Transfer of Permits.

(1) The District must be notified, in writing, within 30 days of any sale, conveyance, or other transfer of a permitted system or facility or within 30 days of any transfer of ownership or control of the real property at which the permitted system or facility is located or authorized. All transfers of ownership or transfers of a permit are subject to the requirements of Chapter 40C-1. Conversion of a construction permit to an operation phase permit shall follow the procedures in rule 40C-42.028.

(2) The permittee is encouraged to request a permit transfer prior to the sale or legal transfer of the real property at which a permitted facility, system, or activity is located or authorized. However, the transfer shall not be effective prior to the sale or legal transfer.

(3) Until this transfer has occurred, the permittee and any other person constructing, operating, or maintaining the permitted facility shall be liable for compliance with the terms of the permit. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations occurring prior to the sale or legal transfer of the facility.

Specific Authority 373.044, 373.113, 373.171, 373.416 FS. Law Implemented 373.413, 373.416 FS. History--New 2-3-81, Amended 12-7-83, Formerly 40C-4.351, 40C-4.0351. Amended 8-1-89, 7-20-95.

40C-4.381 Limiting Conditions.

(1) The following general conditions shall be a part of all permits issued pursuant to this chapter and Chapter 40C-40, F.A.C., unless the conditions are inapplicable to the activity authorized by the permit.

(a) All activities shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit.

(b) This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications, shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.

(c) Activities approved by this permit shall be conducted in a manner which do not cause violations of state water quality standards.

(d) Prior to and during construction, the permittee shall implement and maintain all erosion and sediment control measures (best management practices) required to retain sediment on-site and to prevent violations of state water quality standards. All practices must be in accordance with the guidelines and specifications in Chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation 1988), which are incorporated by reference, unless a project specific erosion and sediment control plan is approved as part of the permit, in which case the practices must be in accordance with the plan. If site specific conditions require additional measures during any phase of construction or operation to prevent erosion or control sediment, beyond those specified in the erosion and sediment control plan, the permittee shall implement additional best management practices as necessary, in accordance with the specifications in Chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation 1988). The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.

(e) Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 7 days after the construction activity in that portion of the site has temporarily or permanently ceased.

(f) At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District a Construction Commencement Notice Form No. 40C-4.900(3) indicating the actual start date and the expected completion date.

(g) When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an Annual Status Report Form No. 40C-4.900(4). These forms shall be submitted during June of each year.

(h) For those systems which will be operated or maintained by an entity which will require an easement or deed restriction in order to provide that entity with the authority necessary to operate or maintain the system, such easement or deed restriction, together with any other final operation or maintenance documents as are required by subsections 7.1.1 through 7.1.4 of the Applicant's Handbook: Management and Storage of Surface Waters, must be submitted to the District for approval. Documents meeting the requirements set forth in these subsections of the Applicant's Handbook will be approved. Deed restrictions, easements and other operation and maintenance documents which require recordation either with the Secretary of State or the Clerk of the Circuit Court must be so recorded prior to lot or unit sales within the project served by the system, or upon completion of construction of the system, whichever occurs first. For those systems which are proposed to be maintained by county or municipal entities, final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local governmental entity. Failure to submit the appropriate final documents referenced in this paragraph will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system.

(i) Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and

maintenance of that phase or portion of the system to a local government or other responsible entity.

(j) Within 30 days after completion of construction of the permitted system, or independent portion of the system, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing As Built Certification Form 40C-1.181(13) or 40C-1.181(14) supplied with this permit. When the completed system differs substantially from the permitted plans, any substantial deviations shall be noted and explained and two copies of as-built drawings submitted to the District. Submittal of the completed form shall serve to notify the District that the system is ready for inspection. The statement of completion and certification shall be based on on-site observation of construction (conducted by the registered professional engineer, or other appropriate individual as authorized by law, or under his or her direct supervision) or review of as-built drawings for the purpose of determining if the work was completed in compliance with approved plans and specifications. As-built drawings shall be the permitted drawings revised to reflect any changes made during construction. Both the original and any revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor. The following information, at a minimum, shall be verified on the as-built drawings:

1. Dimensions and elevations of all discharge structures including all weirs, slots, gates, pumps, pipes, and oil and grease skimmers;

2. Locations, dimensions, and elevations of all filter, exfiltration, or underdrain systems including cleanouts, pipes, connections to control structures, and points of discharge to the receiving waters;

3. Dimensions, elevations, contours, or cross-sections of all treatment storage areas sufficient to determine stage-storage relationships of the storage area and the permanent pool depth and volume below the control elevation for normally wet systems, when appropriate;

4. Dimensions, elevations, contours, final grades, or cross-sections of the system to determine flow directions and conveyance of runoff to the treatment system;

5. Dimensions, elevations, contours, final grades, or cross-sections of all conveyance systems utilized to convey off-site runoff around the system;

6. Existing water elevation(s) and the date determined; and

7. Elevation and location of benchmark(s) for the survey.

(k) The operation phase of this permit shall not become effective until the permittee has complied with the requirements of the condition in paragraph (i) above, the District determines the system to be in compliance with the permitted plans, and the entity approved by the District in accordance with subsections 7.1.1 through 7.1.4 of the Applicant's Handbook: Management and Storage of Surface Waters, accepts responsibility for operation and maintenance of the system. The permit may not be transferred to such an approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall request transfer of the permit to the responsible approved operation and maintenance entity, if different from the permittee. Until the permit is transferred pursuant to section 7.1 of the Applicant's Handbook: Management and Storage of Surface Waters, the permittee shall be liable for compliance with the terms of the permit.

(l) Should any other regulatory agency require changes to the permitted system, the permittee shall provide written notification to the District of the changes prior to implementation so that a determination can be made whether a permit modification is required.

(m) This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40C-4 or Chapter 40C-40, F.A.C.

(n) The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the activities authorized by the permit or any use of the permitted system.

(o) Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this permit or a formal determination under Rule 40C-1.1006, F.A.C., provides otherwise.

(p) The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of the permitted system or the real property at which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rule 40C-1.612, F.A.C. The permittee transferring the permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.

(q) Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.

(r) If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the District.

(s) The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

(2) In addition to those general conditions set forth in subsection (1), the Governing Board shall impose on any permit granted under this chapter and Chapter 40C-40, F.A.C., such reasonable project-specific conditions as are necessary to assure that the permitted system will not be inconsistent with the overall objectives of the District or be harmful to the water resources of the District as set forth in District rules. Upon receipt of the notice of intended District action, any person whose substantial interests are affected shall have the right to request a hearing in accordance with Chapter 28-106 and Rule 40C-1.1007, F.A.C.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.409, 373.413, 373.416, 373.419, 373.422, 373.423, 373.426 FS. History--New 12-7-83, Formerly 40C-4.381, 40C-4.0381. Amended 8-1-89, 10-19-89, 3-14-90, 2-27-94, 10-3-95, 1-4-96, 1-11-99, 11-11-03.

40C-4.410 Completion Report.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.419 FS. History--New 1-31-77, Formerly 16I-4.41, Transferred to 40C-4.411, 2-3-81, Formerly 40C-4.41, 40C-4.041.

40C-4.411 Completion Report.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.419 FS. History--New 1-31-77, Formerly 16I-4.41 and 40C-4.41, Amended 2-3-81, Repealed 12-7-83, Formerly 40C-4.411, 40C-4.0411.

40C-4.451 Emergency Authorization.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416, 373.426, 373.439 FS. History--New 12-7-83, Formerly 40C-4.451, 40C-4.0451. Transferred to 40C-1.1009 4-8-98.

40C-4.461 Inspection.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.423, 373.429, FS. History--New 2-3-81, Amended 12-7-83, Formerly 40C-4.461, 40C-4.0461. Repealed 11-11-03.

40C-4.471 Abatement and Abandonment.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.433, 373.426 FS. History--New 1-31-77, Formerly 16I-4.47 and 40C-4.47, Amended 2-3-81, 12-7-83, Formerly 40C-4.471, 40C-4.0471. Repealed 11-11-03.

40C-4.481 Remedial and Emergency Measures.

(1) Remedial measures shall be processed in accordance with the provisions of Section 373.436, Florida Statutes.

(2) Emergency measures shall be employed in accordance with the provision of Section 373.439, Florida Statutes.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.436, 373.439 FS. History--New 2-3-81, Amended 12-7-83, Formerly 40C-4.481, 40C-4.0481.

40C-4.701 Construction Standards.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.413 FS. History--New 2-3-81, Repealed 12-7-83, Formerly 40C-4.701, 40C-4.0701.

40C-4.711 Headgates, Valves and Measuring Devices.

Specific Authority 373.044, 373.114, 373.171 FS. Law Implemented 373.409, 373.413, 373.436 FS. History--New 2-3-81, Repealed 12-7-83, Formerly 40C-4.711, 40C-4.0711.

40C-4.751 Enforcement. A system which is constructed or altered without a permit and which requires a permit and the permit, when applied for after the initiation of construction, is denied, must be restored to its pre-construction condition.

Specific Authority 373.119, 373.113 FS. Law Implemented 373.119, 373.113, 373.136, 373.603, 373.613 FS. History--New 2-3-81, Amended 12-7-83, Formerly 40C-4.751, 40C-4.0751. Repealed 11-11-03.

40C-4.900 Forms and Instructions. The following forms and instructions incorporated by reference have been approved the Governing Board and are available upon request from any of the District offices listed in Rule 40C-4.091, F.A.C.

(1) Joint Application for Environmental Resource Permit/Authorization to Use State Lands/Federal Dredge and Fill Permit, form number 40C-4.900(1), adopted 12-3-06.

- (2) Petition for Formal Determination form number 40C-4.900(2) adopted 10-3-95.
 - (3) Construction Commencement Notice form number 40C-4.900(3), adopted 10-3-95.
 - (4) Annual Status Report form number 40C-4.900(4), adopted 10-3-95.
 - (5) Mitigation Bank Performance Bond to Demonstrate Construction and Implementation Financial Assurance, form number 40C-4.900(5), adopted 1-7-99.
 - (6) Mitigation Bank Irrevocable Letter of Credit to Demonstrate Construction and Implementation Financial Assurance, form number 40C-4.900(6), adopted 1-7-99.
 - (7) Mitigation Bank Standby Trust Fund Agreement to Demonstrate Construction and Implementation Financial Assurance, form number 40C-4.900(7), adopted 1-7-99.
 - (8) Mitigation Bank Trust Fund Agreement to Demonstrate Construction and Implementation Financial Assurance, form number 40C-4.900(8), adopted 1-7-99.
 - (9) Mitigation Bank Trust Fund Agreement to Demonstrate Perpetual Management Financial Responsibility, form number 40C-4.900(9), adopted 1-7-99.
 - (10) Mitigation Bank Standby Trust Fund Agreement to Demonstrate Perpetual Management Financial Responsibility, form number 40C-4.900(10), adopted 1-7-99.
- Specific Authority 373.044, 373.113, 373.118, 373.406, 373.413, 373.414, 373.418 FS. Law Implemented 369.318, 373.085, 373.116, 373.117, 373.118, 373.406, 373.413, 373.4136, 373.414, 373.415, 373.416, 373.418, 373.421 373.426, 373.461, 403.0877 FS. History--New 5-30-90, Amended 11-12-91, 2-27-94, 10-3-95, 1-7-99, 2-1-05, 12-3-06.*

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

CHAPTER 40C-41, F.A.C.

**ENVIRONMENTAL RESOURCE PERMITS:
SURFACE WATER MANAGEMENT BASIN
CRITERIA**

**Revised
December 3, 2006**



CHAPTER 40C-41
ENVIRONMENTAL RESOURCE PERMITS:
SURFACE WATER MANAGEMENT BASIN CRITERIA

40C-41.011	Policy and Purpose.
40C-41.023	Basin Boundaries.
40C-41.033	Implementation.
40C-41.043	Application of Chapter.
40C-41.051	Exemptions.
40C-41.063	Conditions for Issuance of Permits.

40C-41.011 Policy and Purpose. The rules in this chapter establish additional surface water management standards and criteria for the Upper St. Johns River Hydrologic Basin, the Oklawaha River Hydrologic Basin, the Wekiva River Hydrologic Basin, the Wekiva Recharge Protection Basin, the Econlockhatchee River Hydrologic Basin, the Tomoka River Hydrologic Basin, the Spruce Creek Hydrologic Basin the Sensitive Karst Areas Basin, and the Lake Apopka Hydrologic Basin, which insure that development within the basins incorporates the appropriate water quantity and water quality control and other environmental measures necessary to protect the integrity of the public investments in the basins and which minimizes adverse impacts to the water resources of the District. Standards and criteria delineated in this chapter are in addition to those criteria specified in Chapters 40C-4, 40C-40, 40C-42, and 40C-44, F.A.C., in accordance with 40C-41.043, F.A.C. The standards, criteria, exemptions, and additional requirements specified in this chapter are not intended to supersede or rescind the terms and conditions of any valid surface water management permit issued by the District prior to the effective date of this chapter.

Specific Authority 369.318, 373.044, 373.113, 373.171, 373.415 FS. Law Implemented 369.318, 373.413, 373.415, 373.416 373.418, 373.426, 373.461 FS. History--New 12-7-83, Amended 5-17-87, 8-30-88, 4-3-91, 9-25-91, 11-25-98, 3-7-03.

40C-41.023 Basin Boundaries.

(1) The Upper St. Johns River Hydrologic Basin is that area generally depicted in Figure 41-1 and defined in Applicant's Handbook, Appendix K as incorporated by reference in Rule 40C-4.091, F.A.C.

(2) The Ocklawaha River Hydrologic Basin is that area generally depicted in Figure 41-1 and defined in Applicant's Handbook, Appendix K as incorporated by reference in Rule 40C-4.091, F.A.C.

(3) The Wekiva River Hydrologic Basin is that area generally depicted in Figures 41-1 and 41-6 and defined in Applicant's Handbook, Appendix K as incorporated by reference in Rule 40C-4.091, F.A.C.

(4) The Wekiva Recharge Protection Basin is that area generally depicted in Figure 41-6 and defined in Applicant's Handbook, Appendix K as incorporated by reference in Rule 40C-4.091, F.A.C.

(5) The Econlockhatchee River Hydrologic Basin is that area generally depicted in Figure 41-1 and defined in Applicant's Handbook, Appendix K as incorporated by reference in Rule 40C-4.091, F.A.C.

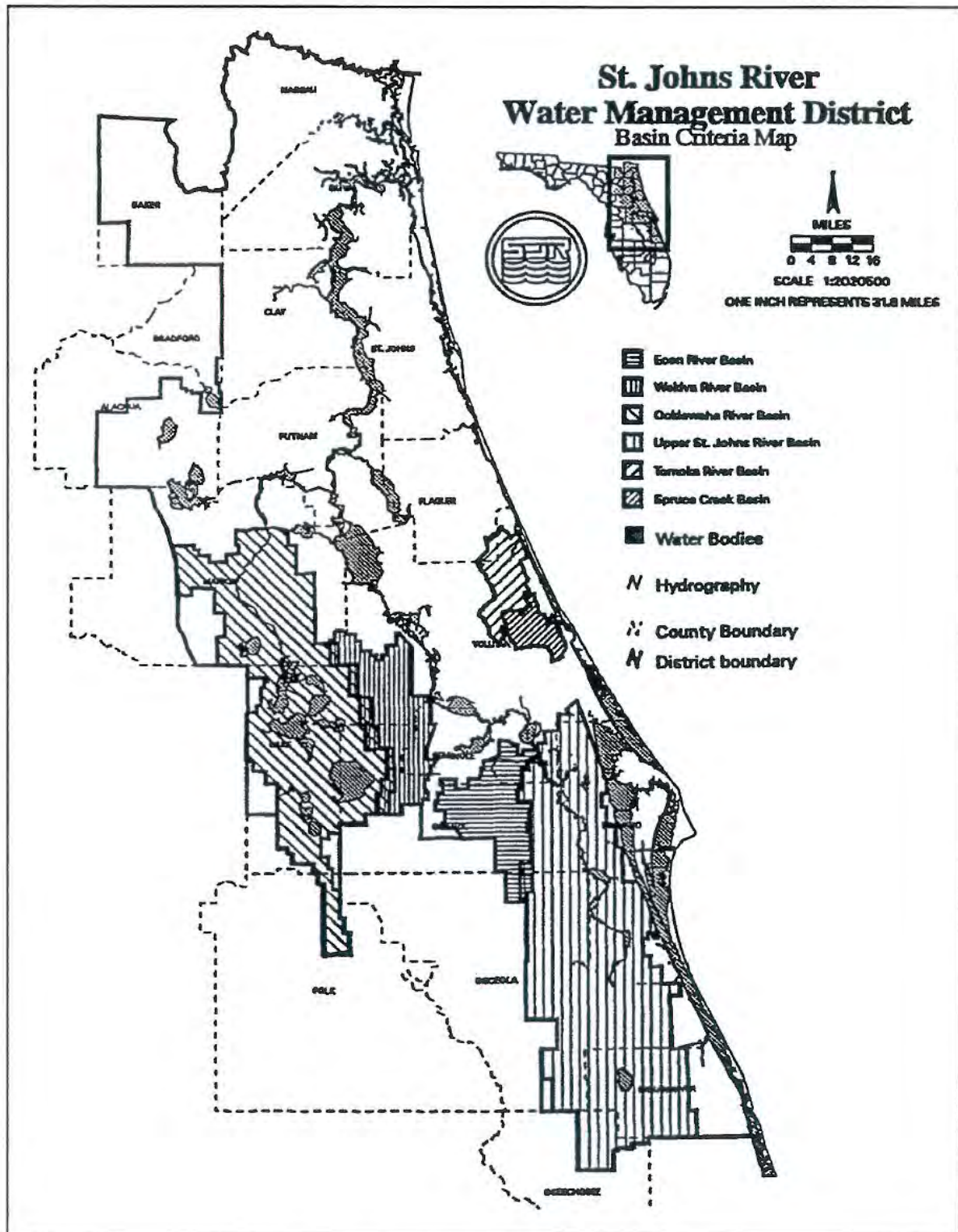


Figure 41-1. SJRWMD Basin Criteria Map

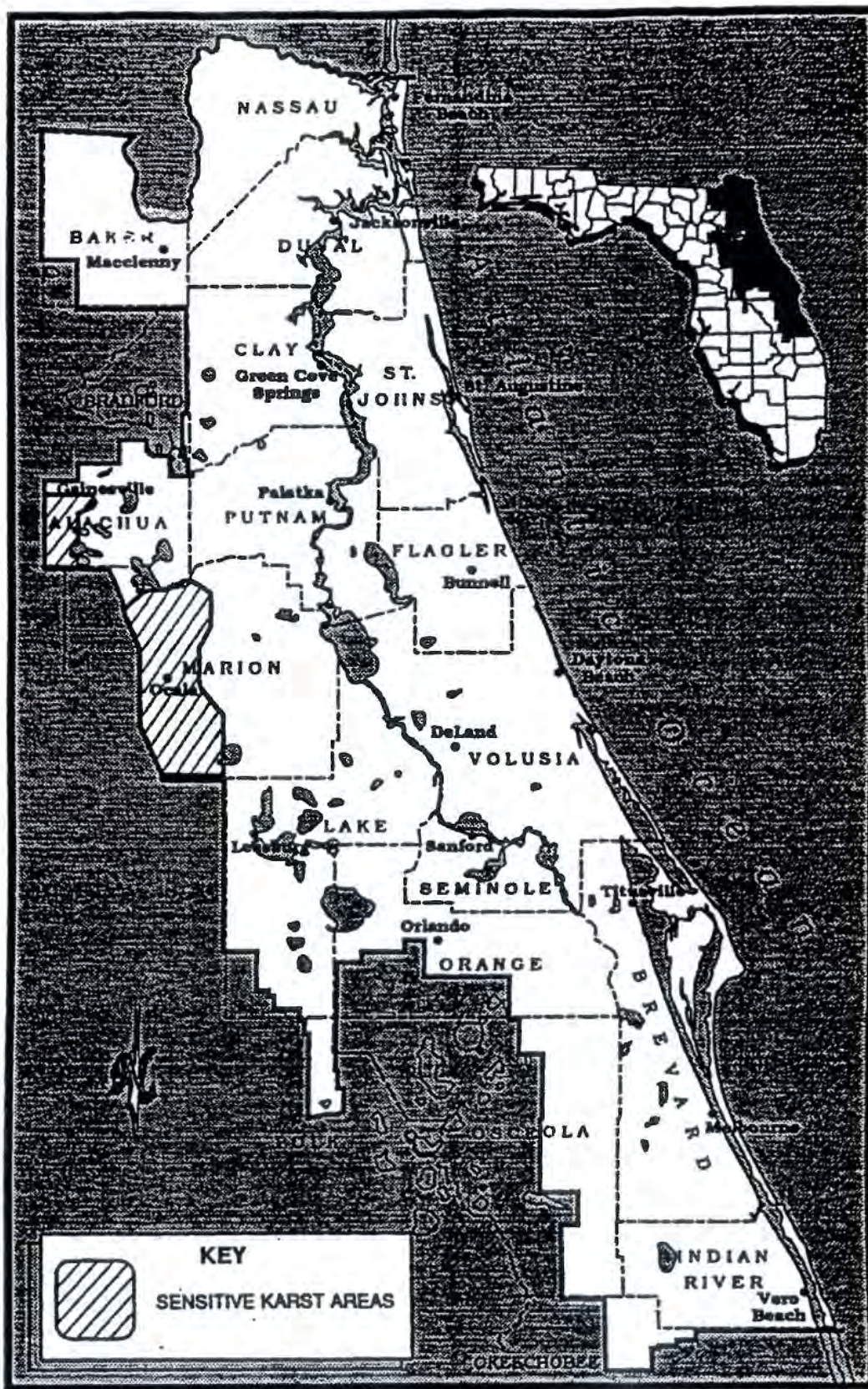


Figure 41-2. Sensitive Karst Areas in the St. Johns River Water Management District

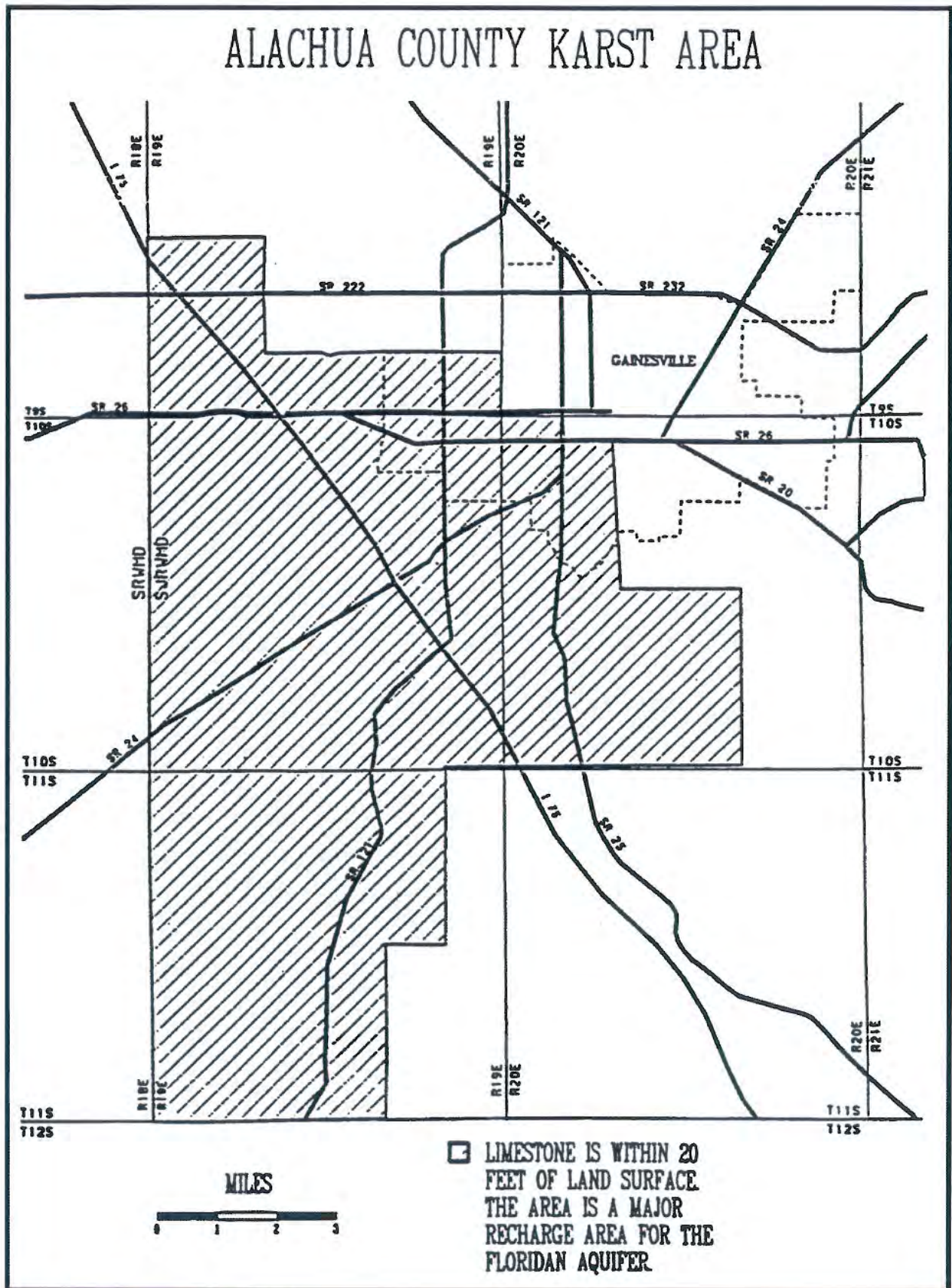
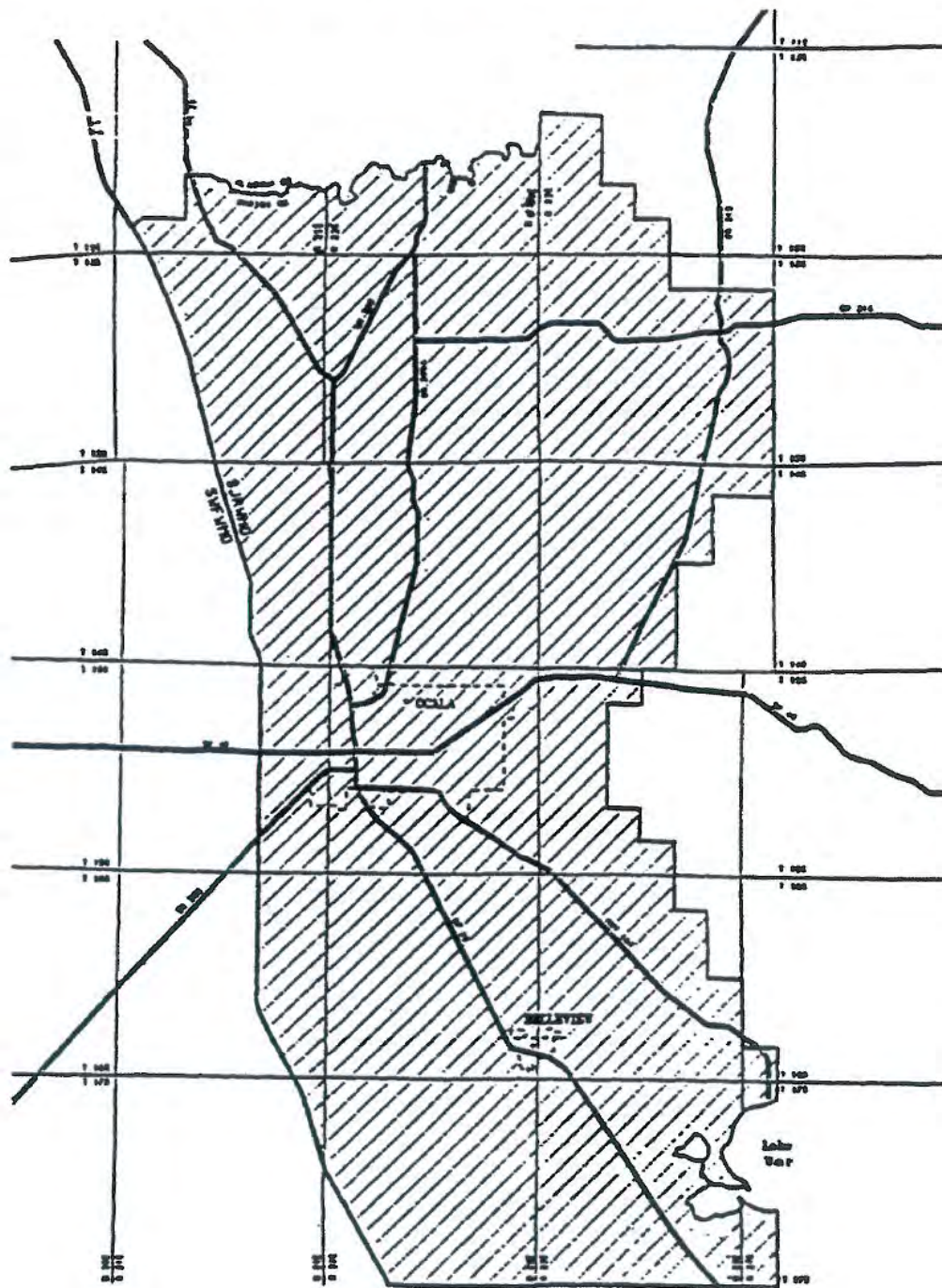


Figure 41-3. Alachua County Karst Area

MARION COUNTY KARST AREA



□ LIMESTONE IS WITHIN 20 FEET OF LAND SURFACE. THE AREA IS A MAJOR RECHARGE AREA FOR THE FLORIDIAN AQUIFER.

Figure 41-4. Marion County Karst Area

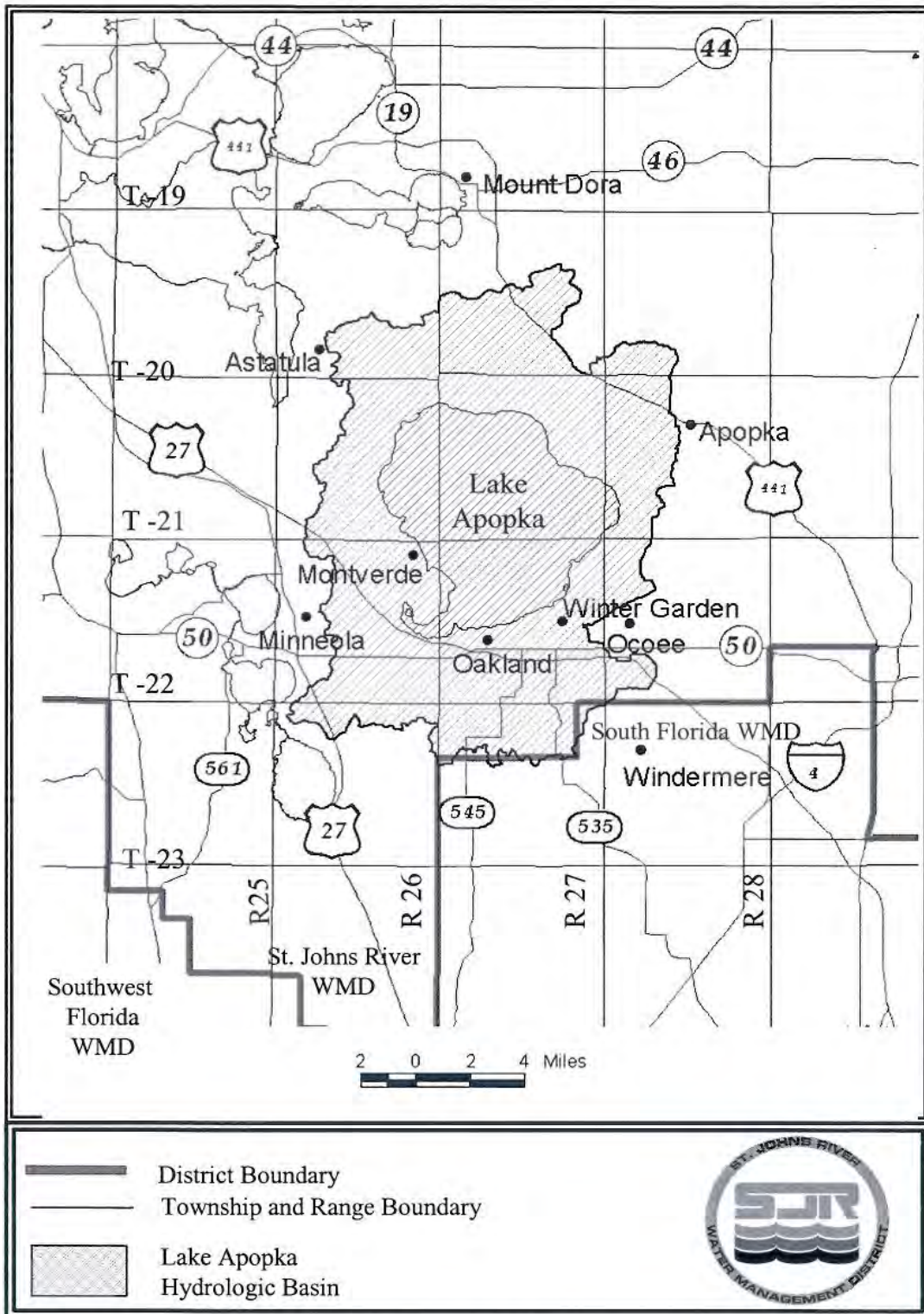
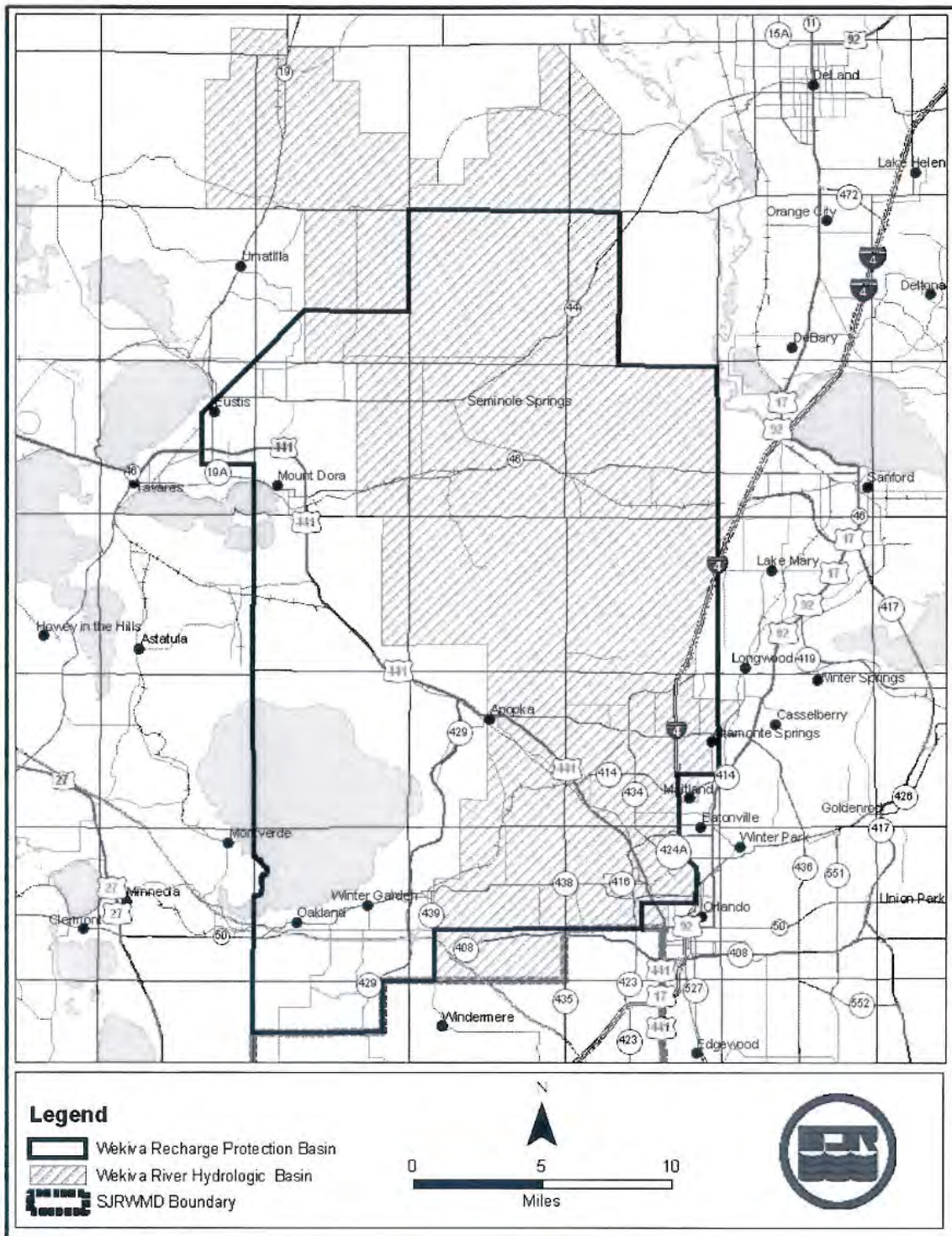


Figure 41-5
Lake Apopka Drainage Basin

Figure 41-6 Wekiva River Hydrologic Basin and Wekiva Recharge Protection Basin



(6) The Tomoka River and Spruce Creek Hydrologic Basins are the areas generally depicted in Figure 41-1 and defined in Applicant's Handbook, Appendix K as incorporated by reference in Rule 40C-4.091, F.A.C.

(7) The Sensitive Karst Areas Basin is that area generally depicted in Figures 41-2, 41-3, and 41-4 and defined in Applicant's Handbook, Appendix K as incorporated by reference in Rule 40C-4.091, F.A.C.

(8) The Lake Apopka Hydrologic Basin is that area generally depicted in Figure 41-5 and defined in Applicant's Handbook, Appendix K as incorporated by reference in rule 40C-4.091, F.A.C.

Specific Authority 369.318, 373.044, 373.113, 373.171 FS. Law Implemented 369.316, 369.318, 373.413, 373.416, 373.426, 373.461 FS. History--New 12-7-83, Amended 5-17-87, 4-3-91, 9-25-91, 11-25-98, 3-7-03, 12-3-06.

40C-41.033 Implementation. The effective date of this chapter is December 7, 1983, for the criteria of subsections 40C-41.063(1) and (2); December 3, 2006 for the standards and criteria in paragraph 40C-41.063(3)(a); May 17, 1987, for the standards of paragraphs 40C-41.063(3)(b); August 30, 1988, for the standards and criteria of paragraphs 40C-41.063(3)(c), (d) and (e); April 3, 1991, for the standards and criteria in subsection 40C-41.063(5); September 25, 1991 for the criteria of subsection 40C-41.063(7); November 25, 1998 for the criteria of subsection 40C-41.063(6); and March 7, 2003, for the standards and criteria in subsection 40C-41.063(8).

Specific Authority 369.318, 373.044, 373.113, 373.171 373.415 FS. Law Implemented 369.318, 373.413, 373.415, 373.416, 373.426, 373.461 FS. History--New 12-7-83, Amended 5-17-87, 8-30-88, 4-3-91, 9-25-91, 11-25-98, 3-7-03, 11-11-03, 12-3-06.

40C-41.043 Application of Chapter.

(1) All projects located within the Upper St. Johns River Hydrologic Basin, the Oklawaha River Hydrologic Basin, the Wekiva River Hydrologic Basin, the Wekiva Recharge Protection Basin, the Econlockhatchee River Hydrologic Basin, the Tomoka River Hydrologic Basin, the Spruce Creek Hydrologic Basin, or the Lake Apopka Hydrologic Basin, requiring permits pursuant to Rule 40C-4.041, F.A.C., shall be constructed, operated, maintained, altered, abandoned and removed in accordance with the standards and criteria specified in rules 40C-41.063, and either 40C-4.301 and 40C-4.302, or 40C-40.302, F.A.C., unless specifically exempted in rule 40C-41.051, F.A.C., or otherwise provided in subsection 40C-41.043(3) or 40C-41.043(4), F.A.C. The most restrictive criteria will be applicable unless the applicant provides reasonable assurance that the purposes and intent of this chapter and Chapter 40C-4, F.A.C., will be fulfilled using alternate criteria.

(2) All projects located within the Sensitive Karst Areas Basin requiring permits pursuant to Rule 40C-42.022, F.A.C., shall be constructed, operated, maintained, altered, abandoned and removed in accordance with the requirements and criteria specified in Rules 40C-42.023 and 40C-41.063, F.A.C., unless specifically exempted. The most restrictive criteria will be applicable unless the applicant provides reasonable assurance that the purposes and intent of this chapter and Chapter 40C-42, F.A.C., will be fulfilled using alternate criteria.

(3) Stormwater management systems requiring permits pursuant to rule 40C-42.022, F.A.C., that will be located within the Lake Apopka Hydrologic Basin or will discharge water to Lake Apopka or its tributaries, shall be constructed, operated, maintained, altered, abandoned and

removed in accordance with the standards and criteria specified in rule 40C-42.023, F.A.C., and subsection 40C-41.063(8), F.A.C.

(4) Agricultural surface water management systems requiring permits pursuant to rule 40C-44.041, F.A.C., that will be located within the Lake Apopka Hydrologic Basin or will discharge water to Lake Apopka or its tributaries, shall be constructed, operated, maintained, altered, abandoned and removed in accordance with the standards and criteria specified in rule 40C-44.301, F.A.C., and subsection 40C-41.063(8), F.A.C.

(5) Stormwater management systems requiring permits pursuant to Rule 40C-42.022, F.A.C., that will be located within the Wekiva Recharge Protection Basin, shall be constructed, operated, maintained, altered, abandoned and removed in accordance with the standards and criteria specified in Rule 40C-42.023, F.A.C., and paragraph 40C-41.063(3)(a), F.A.C.

(6) Agricultural surface water management systems requiring permits pursuant to Rule 40C-44.041, F.A.C., that will be located within the Wekiva Recharge Protection Basin, shall be constructed, operated, maintained, altered, abandoned and removed in accordance with the standards and criteria specified in Rule 40C-44.301, F.A.C., and paragraph 40C-41.063(3)(a), F.A.C.

Specific Authority 369.318, 373.044, 373.113, 373.171, 373.415 FS. Law Implemented 369.318, 373.413, 373.415, 373.416, 373.418, 373.426, 373.461 FS. History--New 12-7-83, Amended 5-17-87, 8-30-88, 4-3-91, 9-25-91, 10-3-95, 11-25-98, 3-7-03, 12-3-06.

40C-41.051 Exemptions.

(1) The following systems located wholly or partially in the Econlockhatchee River Hydrologic Basin are exempted from the standards and criteria in subsection 40C-41.063(5), F.A.C., and section 11.4, Applicant's Handbook: Management and Storage of Surface Waters:

(a) Each system for which the District has issued a general or individual permit, pursuant to Chapters 40C-4 or 40C-40, F.A.C., prior to April 3, 1991. The benefit conferred by this subsection shall apply only to the project area and the plan, as approved in the referenced permit.

(b) Each system for which the District has issued a permit pursuant to Chapter 40C-42, F.A.C., prior to September 1, 1990, and for which construction has begun prior to March 1, 1991, pursuant to the referenced permit. The benefit conferred by this subsection shall apply only to a system which did not require a permit pursuant to Chapters 40C-4 or 40C-40, F.A.C., prior to April 3, 1991, and only to the project area and the plan, as approved in the referenced permit.

(c) Each system for which the District has issued a permit pursuant to Chapters 40C-4 or 40C-40, F.A.C., prior to September 1, 1989, authorizing construction of a master system for drainage and flood control. The benefit conferred by this subsection shall apply only to the project area served by the master system and to the plan, as approved in the referenced permit.

(d) Each system for which the District has issued, pursuant to Chapter 40C-4, F.A.C., and prior to September 1, 1989, both a conceptual approval permit and at least one permit authorizing construction consistent with the conceptual approval permit. The benefit conferred by this subsection shall apply only to the project area and plan approved in the referenced conceptual approval permit.

(e) Each system which consists of an improvement to an existing public road which will be constructed by a governmental entity provided the governmental entity:

1. Has monetary funds fully allocated or appropriated for that system; and

2. Has filed an eminent domain action in an appropriate court, as of June 1, 1991, seeking to condemn land wholly or partially located within the Econlockhatchee River Hydrologic Basin to be used for the construction of the system; and

3. Has a construction design for such system which is 90% complete as of April 3, 1991; and

4. Files a conceptual approval, general or individual permit application with the District for such system on or before June 1, 1991, which application is not subsequently withdrawn and which contains the factual information necessary to establish that the system meets the conditions contained in this subsection.

(f) A permitholder for a system which meets the conditions described in subsections (a) - (d), who has complied with all permit conditions regarding the system, and who asserts that the system can qualify for an exemption under this section shall notify the District in writing prior to June 1, 1991. The notification shall contain the name of the project, the District permit number(s) for the project, all factual information necessary to establish that the system meets the referenced conditions and permit conditions, and a clear statement that an exemption pursuant to this section is sought. The failure to timely and fully notify the District serves as a waiver of the benefits conferred by this section. When the District receives the permitholder's notification, the District staff will review the submitted information for consistency with the provisions of this section and will inspect the permitted project for compliance with permit conditions. If the notification meets the requirements of this section and the permitholder has complied with all of the permit conditions, the staff will respond in writing to the permitholder confirming that they have qualified for the benefits conferred by this section. If the staff finds that the notification fails to meet the requirements of this section or that any of the permit conditions have not been complied with, the staff will respond in writing to the permitholder, notifying them that they have not qualified for the benefits conferred by this section.

(2) A single family dwelling unit located wholly or partially within the Tomoka River Hydrologic Basin or the Spruce Creek Hydrologic Basin, provided the unit is not part of a larger common plan of development or sale, is exempted from the standards and criteria in subsection 40C-41.063(6), F.A.C., and section 11.5, Applicant's Handbook: Management and Storage of Surface Waters:

(3) Stormwater management systems exempted in rule 40C-42.0225, F.A.C., which are either located wholly or partially within the Lake Apopka Hydrologic Basin or which discharge water to Lake Apopka or its tributaries, are exempted from the standards and criteria in subsection 40C-41.063(8), F.A.C.

(4) Systems that qualify for a noticed general permit under Chapter 40C-400, F.A.C., are exempted from the standards and criteria in Rule 40C-41.063, F.A.C., and Sections 11.0 – 11.7, Applicant's Handbook: Management and Storage of Surface Waters.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.413, 373.416, 373.426, 373.461 FS. History--New 4-3-91, Amended 11-25-98, 3-7-03.

40C-41.063 Conditions for Issuance of Permits.

(1) Within the Upper St. Johns River Hydrologic Basin the following criteria are established:

(a) Storm Frequency--For purposes of design and evaluation of system performance, both the 10 year and the 25 year design storm frequencies must be met.

(b) Runoff Volume--For design purposes, those systems utilizing pumped discharge, the total post-development discharge runoff volumes shall not exceed pre-development discharge runoff volumes for the four-day period beginning the third day of the four-day design storm event.

(c) Interbasin Diversion--

1. A system may not result in an increase in the amount of water being diverted from the Upper St. Johns River Hydrologic Basin into coastal receiving waters.

2. It is an objective of the District to, where practical, curtail diversions of water from the Upper St. Johns River Hydrologic Basin into coastal receiving waters.

(2) Within the Oklawaha River Hydrologic Basin the following criteria are established:

(a) Storm Frequency--For purposes of design and evaluation of system performance, both the 10 year and the 25 year design storm frequencies must be met.

(b) Runoff Volume--For design purposes, those systems utilizing pumped discharges, the total post-development discharge runoff volumes shall not exceed pre-development discharge runoff volumes for the four-day period beginning the third day of the four-day design storm event.

(3) Within the Wekiva River Hydrologic Basin or the Wekiva Recharge Protection Basin, the following standards and criteria are established:

(a) Recharge Standard--Applicants required to obtain a permit pursuant to Chapters 40C-4, 40C-40, 40C-42, or 40C-44, F.A.C., for a surface water management system located within the Wekiva Recharge Protection Basin shall demonstrate that the system provides for retention storage of three inches of runoff from all impervious areas proposed to be constructed on soils defined as a Type "A" Soils as defined by the Natural Resources Conservation Service (NRCS) Soil Survey in the following NRCS publications: Soil Survey of Lake County Area, Florida (1975); Soil Survey of Orange County Area, Florida (1989) and Soil Survey of Seminole County Area, Florida (1990), which are incorporated by reference in Rule 40-4.091(3)(a), F.A.C. For purposes of this rule, areas with Type "A" Soils shall be considered "Most Effective Recharge Areas." Section 18.1 contains a list of Type "A" soils. The system shall be capable of infiltrating this storage volume through natural percolation into the surrounding soils within 72 hours. Off-site areas or regional systems may be utilized to satisfy this requirement. As an alternative, applicants may demonstrate that the post-development recharge capacity is equal to or greater than the pre-development recharge capacity. Pre-development recharge shall be based upon the land uses in place as of 12-3-06. Applicants may utilize existing permitted municipal master stormwater systems, in lieu of onsite retention, to demonstrate that post-development recharge is equal to or greater than pre-development recharge. Also, applicants may submit additional geotechnical information to establish whether or not a site contains Type "A" soils.

(b) Storage Standard--Within the Wekiva River Hydrologic Basin, a system may not cause a net reduction in flood storage within the 100 year floodplain of a stream or other water course which has a drainage area of more than one square mile and which has a direct hydrologic connection to Little Wekiva River, Wekiva River, or Black Water Creek.

(c) Standards for Erosion and Sediment Control and Water Quality--Within the Wekiva River Hydrologic Basin, a Water Quality Protection Zone shall extend one half mile from the Wekiva River, Little Wekiva River north of State Road 436, Black Water Creek, Rock Springs Run, Seminole Creek, and Sulphur Run, and shall also extend one quarter mile from any wetland abutting an Outstanding Florida Water.

1. An erosion and sediment control plan must be submitted as part of the surface water management permit application for a surface water management system which:

a. Serves a project which is located wholly or partially within this zone; or

b. Serves a project with a total land area equal to or exceeding 120 acres.

2. The applicant proposing such a system must give reasonable assurance in the erosion and sediment control plan that during construction or alteration of the system (including revegetation and stabilization), erosion will be minimized and sediment will be retained on-site. The plan must be in conformance with the erosion and sediment control principles set forth in section 18.2, Applicant's Handbook: Management and Storage of Surface Waters, and must contain the information set forth in section 18.3, Applicant's Handbook: Management and Storage of Surface Waters.

3. For a project which will be located wholly or partially within 100 feet of an Outstanding Florida Water or within 100 feet of any wetland abutting such a water, an applicant must provide reasonable assurance that the construction or alteration of the system will not cause sedimentation within these wetlands or waters and that filtration of runoff will occur prior to discharge into these wetlands and waters.

It is presumed that this standard will be met if, in addition to implementation of the plan required in subparagraph 1., any one of the following criteria is met:

a. A minimum 100 foot width of undisturbed vegetation must be retained landward of the Outstanding Florida Water or the abutting wetland, whichever is more landward. During construction or alteration, runoff (including turbid discharges from dewatering activities) must be allowed to sheetflow across this undisturbed vegetation as the natural topography allows. Concentrated or channelized runoff from construction or alteration areas must be dispersed before flowing across this undisturbed vegetation. Construction or alteration of limited scope necessary for outfall structures may occur within this area of undisturbed vegetation.

b. Construction of the following perimeter controls at all outfall points to the Outstanding Florida Water or its abutting wetlands must be completed prior to the start of any construction or alteration of the remainder of the system:

I. Stormwater discharge facility meeting the requirements of Chapter 40C-42;

II. Sedimentation trap or basin located immediately upstream of the stormwater discharge facility referred to above; and

III. Spreader swale to reduce the velocity of discharge from the stormwater facility to non-erosive rates before discharge to wetlands abutting the Outstanding Florida Water.

These perimeter controls must be maintained routinely and operated throughout construction or alteration of the entire system. A minimum 25 foot width of undisturbed vegetation must be retained landward of the Outstanding Florida Water or the abutting wetland, whichever is more landward. Construction or alteration of limited scope necessary for outfall structures may occur within this area of undisturbed vegetation.

c. During construction or alteration, no direct discharge to the Outstanding Florida Water or its abutting wetland may occur during the 10 year 24 hour storm event or due to discharge from dewatering activities. Any on-site storage required to satisfy this criteria must be available (recovered) within 14 days following the rainfall event. A minimum 25 foot width of undisturbed vegetation must be retained landward of the Outstanding Florida Water or the abutting wetland, whichever is more landward. Construction or alteration of limited scope necessary for outfall structures may occur within this area of undisturbed vegetation.

In determining whether construction or alteration is of "limited scope necessary", pursuant to any of the three presumptive criteria above, the District shall require that the area of disturbance be minimized and that the length of time between initial disturbance and stabilization of the area also be minimized.

(d) Standard for Limiting Drawdown—Within the Wekiva River Hydrologic Basin, a Water Quantity Protection Zone shall extend 300 feet landward of the landward extent of Black Water Swamp and the wetlands abutting the Wekiva River, Little Wekiva River, Rock Springs Run, Black Water Creek, Sulphur Run, Seminole Creek, Lake Norris, and Lake Dorr. As part of providing reasonable assurance that the standard set forth in paragraph 40C-4.301(1)(d) is met, where any part of a system located within this zone will cause a drawdown, the applicant must provide reasonable assurance that construction, alteration, operation, or maintenance of the system will not cause ground water table drawdowns which would adversely affect the functions provided by the referenced wetlands.

The applicant shall provide an analysis which includes a determination of the magnitude and areal extent of any drawdowns, based on site specific hydrogeologic data collected by the applicant, as well as a description of the referenced wetlands, the functions provided by these wetlands, and the predicted impacts to these functions. It is presumed that the part of this standard regarding drawdown effects will be met if the following criteria is met:

A ground water table drawdown must not occur within the Water Quantity Protection Zone.

(e) Standard for Riparian Wildlife Habitat within the Wekiva River Hydrologic Basin

1. The applicant must provide reasonable assurance that the construction or alteration of a system will not adversely affect the abundance, food sources, or habitat (including its use to satisfy nesting, breeding and resting needs) of aquatic or wetland dependent species provided by the following designated Riparian Habitat Protection Zone:

a. The wetlands abutting the Wekiva River, Little Wekiva River downstream of Maitland Boulevard, Rock Springs Run, Black Water Creek, Sulphur Run, or Seminole Creek;

b. The uplands which are within 50 feet landward of the landward extent of the wetlands above.

c. The uplands which are within 550 feet landward of the stream's edge as defined, for the purpose of this subsection, as the waterward extent of the forested wetlands abutting the Wekiva River, Little Wekiva River downstream of the northernmost crossing of the Little Wekiva River with S.R. 434, Rock Springs Run, Black Water Creek, Sulphur Run or Seminole Creek. In the absence of forested wetlands abutting these streams, the stream's edge shall be defined, for the purpose of this subsection, as the mean annual surface water elevation of the stream: however, if hydrologic records are unavailable, the landward extent of the herbaceous emergent wetland vegetation growing in these streams shall be considered to be the stream's edge.

2. Any of the following activities within the Riparian Habitat Protection Zone is presumed to adversely affect the abundance, food sources, or habitat of aquatic or wetland dependent species provided by the zone: construction of buildings, golf courses, impoundments, roads, canals, ditches, swales, and any land clearing which results in the creation of any system. (Activities not listed above do not receive a presumption of no adverse effect.)

3. The presumption in subparagraph 2. shall not apply to any activity which promotes a more endemic state, where the land in the zone has been changed by man. An example of such an activity would be construction undertaken to return lands managed for agriculture or silviculture to a vegetative community that is more compatible with the endemic land cover.

(4) Local Government Notification for Wekiva River Protection Area--The District shall not issue a conceptual approval, individual, standard, or general permit for a proposed surface water management system located wholly or partially within the Wekiva River Protection Area, as defined in Section 369.303(9), F.S., until the appropriate local government has provided written notification that the proposed activity is consistent with the local comprehensive plan and is in compliance with

any land development regulation in effect in the area where the development will take place. The applicant proposing such a system must submit to the District form no. 40C-41.063(4), entitled "Local Government Notification", after it has been completed and executed by the local government. This form is hereby incorporated by reference and is available upon request from the St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529. Permit applications for systems within the Wekiva River Protection Area shall be processed by the District staff pursuant to the time frames established in Section 120.60, F.S., and any District rule regarding permit processing, except that any agency action to approve or approve with conditions shall not occur until the Local Government Notification has been received by the District.

(5) Within the Econlockhatchee River Hydrologic Basin the following standards and criteria are established:

(a) Design Storm Criteria. A system must meet the peak discharge requirement for the following 24 hour duration design storm events:

1. Mean annual storm (2.3 year return period).
2. 25-year return period. System outlet control structures can be designed to meet the control peak discharge rates for both design storms by use of a two-stage weir, v-notch weir, multiple orifices, or other similar structures.

(b) Floodplain Storage Criteria. A system may not cause a net reduction in flood storage within the 100 year floodplain of the Econlockhatchee River or any of its tributaries, at a location with an upstream drainage area of 1 square mile or greater, except for structures elevated on pilings or traversing works that comply with conveyance requirements in subsection 10.5.2, Applicant's Handbook: Management and Storage of Surface Waters.

(c) Riparian Wildlife Habitat Standard

1. The applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal or abandonment of a system within the following designated Riparian Habitat Protection Zone will not adversely affect the abundance, diversity, food sources or habitat (including its use to satisfy nesting, breeding and resting needs) of aquatic or wetland dependent species:

a. The wetlands contiguous with the Econlockhatchee River and the following tributaries: Little Econlockhatchee River north of University Boulevard, Mills Creek, Silcox Branch (branch of Mills Creek), Mills Branch (branch of Mills Creek), Long Branch, Hart Branch, Cowpen Branch, Green Branch, Turkey Creek, Little Creek, and Fourmile Creek;

b. The uplands which are within 50 feet landward of the landward extent of the wetlands above; and

c. The uplands which are within 550 feet landward of the stream's edge as defined, for the purpose of this subsection, as the waterward extent of the forested wetlands abutting the Econlockhatchee River and the above named tributaries. In the absence of forested wetlands abutting these streams, the stream's edge shall be defined, for the purpose of this subsection, as the mean annual surface water elevation of the stream; however, if hydrologic records are unavailable, the landward extent of the herbaceous emergent wetland vegetation growing in these streams shall be considered to be the stream's edge.

d. The following portions of streams typically lack a defined water's edge, and subparagraph c. shall not apply:

i. Mills Creek upstream of the intersection of the creek with the Fort Christmas Road in Section 2, Township 22 South, Range 32 East;

ii. Long Branch upstream of the intersections of the creek with SR 520;

- iii. Hart Branch upstream of the intersection of the creek and the Old Railroad Grade in Section 18, Township 23 South, Range 32 East;
 - iv. Cowpen Branch upstream of the southernmost bifurcation of the creek in Section 20, Township 23 South, Range 32 East;
 - v. Green Branch upstream of the intersection of the creek with the north-south section line between Section 29 and 30, Township 23 South, Range 32 East;
 - vi. Turkey Creek including Turkey Creek Bay upstream of the intersection of the creek with the Weewahootee Road in Section 5, Township 24 South, Range 32 East;
 - vii. Little Creek upstream of the intersection of the creek with the north-south section line between Sections 22 and 23, Township 24 South, Range 32 East;
 - viii. Fourmile Creek including Bee Tree Swamp upstream of a point along the creek exactly halfway between section lines at the south end of Section 21 and the north end of Section 33 within Section 28, Township 24 South, Range 32 East; and
 - ix. all of the Econlockhatchee River Swamp (a portion of the Econlockhatchee River).
2. Any of the following activities within the Riparian Habitat Protection Zone are presumed to adversely affect the abundance, food sources, or habitat of aquatic or wetland dependent species provided by the zone: construction of buildings, golf courses, impoundments, roads, canals, ditches, swales, and any land clearing which results in the creation of any system. (activities not listed above do not receive a presumption of no adverse effect.)
3. The presumption in subparagraph 2. shall not apply to any activity which promotes a more endemic state, where the land in the zone has been changed by man. An example of such an activity would be construction undertaken to return lands managed for agriculture or silviculture to a vegetative community that is more compatible with the endemic land cover.
4. Applicants seeking to develop within the Riparian Habitat Protection Zone shall be given the opportunity to demonstrate that the particular development for which permitting is being sought will not have an adverse effect on the functions provided by the zone to aquatic or wetland dependent species. The functions provided by the zone are dependent on many factors. When assessing the value of the zone to aquatic and wetland dependent species, factors which the District will consider include: vegetative land cover, hydrologic regime, topography, soils, and land uses, existing within and adjacent to the zone; and range, habitat, and food source needs of aquatic and wetland dependent species, as well as sightings, tracks, or other such empirical evidence of use.
5. The standard of subparagraph 40C-41.063(5)(d)1., may be met by demonstrating that the overall merits of the proposed plan of development, including the preservation, creation or enhancement of viable wildlife habitat, provide a degree of resource protection to these types of fish and wildlife which offsets adverse effects that the system may have on the abundance, diversity, food sources, or habitat of aquatic or wetland dependent species provided by the zone. Mitigation plans will be considered on a case-by-case basis upon detailed site specific analyses. The goal of this analysis shall be the determination of the value of the proposed mitigation plan to aquatic and wetland dependent species with particular attention to threatened or endangered species. Mitigation plans should include: the information set forth in subsection 12.3.3, Applicant's Handbook: Management and Storage of Surface Waters, for the uplands and wetlands within the zone and within other areas to be preserved, created or enhanced as mitigation for impacts within the zone; as well as other pertinent information, including land use, and the proximity of the site to publicly owned land dedicated to conservation. Implementation of this paragraph contemplates that the proximity of development to the river and tributaries named herein and activities permitted in the zone may vary from place to place in support of a functional resource protection plan. Furthermore,

some reasonable use of the land within the protection zone can be allowed under paragraph 40C-41.063(5)(d).

6. Roads or other traversing works which cross the zone have the potential to fragment the zone and adversely affect the habitat value of the zone to aquatic and wetland dependent species. To minimize adverse effects to the zone, applicants for permits to construct traversing works in the zone must first demonstrate the need for the traversing works to provide for regional transportation, regional utility services, or reasonable property access, in addition to meeting the requirement of subparagraph 40C-41.063(5)(d)1., above. Traversing works must also be designed to meet all requirements of the district rules related to water quality and quantity. Permittees responsible for traversing works shall be required to be responsible for maintaining the traversing works clean and free from trash and debris to the greatest extent practical.

(6) Within the Tomoka River Hydrologic Basin or the Spruce Creek Hydrologic Basin the following standards and criteria are established:

(a) Recharge Standard-- For projects or portions of projects within the Most Effective Recharge Area, three inches of runoff from the directly connected impervious areas in the Most Effective Recharge Areas, as defined in subsection 11.5.1, Applicant's Handbook: Management and Storage of Surface Waters, must be retained within the Most Effective Recharge Area. As an alternative, applicants may demonstrate that the post-development recharge capacity is equal to or greater than the pre-development recharge capacity.

(b) Floodplain Storage Criteria. A system may not cause a net reduction in flood storage within the 100 year floodplain of the Tomoka River, Spruce Creek, or any of their tributaries except for structures elevated on pilings or traversing works that comply with conveyance requirements in subsection 10.5.2, Applicant's Handbook: Management and Storage of Surface Waters.

(c) Stormwater Management Standard. Construction of new stormwater management systems must be in accordance with the design and performance standards of Chapter 40C-42, F.A.C. However, systems which serve drainage areas in excess of 10 acres cannot use detention with filtration treatment as the sole stormwater treatment methodology. Additionally, when retention systems are not feasible due to limited percolation capacity, wet detention treatment or other treatment demonstrated to be equivalent to retention or wet detention, in accordance with Chapter 40C-42, F.A.C., must be used.

(d) Riparian Wildlife Habitat Standard

1. The applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal or abandonment of a system within the following designated Riparian Habitat Protection Zone will not adversely affect the abundance, diversity, food sources or habitat (including its use to satisfy nesting, breeding and resting needs) of aquatic or wetland dependent species:

a. The wetlands and uplands which are within 50 feet landward of the landward extent of the wetlands which abut Spruce Creek north of Pioneer Trail to the FEC railroad, and the Tomoka River north of I-4 to US 1 and the following tributaries:

i. Spruce Creek east of the western section line of Section 35, Township 16 South, Range 32 East, Volusia County, Florida;

ii. Spruce Creek east of the power line easement in Section 27, Township 16 South, Range 32 East, Volusia County, Florida;

iii. Spruce Creek west of SR 415 and south of the northern section line of Section 23, Township 16 South, Range 32 East, Volusia County, Florida;

iv. The Little Tomoka River north of SR 40 and south of the western section line of Section 22, Range 31 East, Township 14 South, Flagler County;

v. Priest Branch east of the power line easement in Section 6, Township 15 South, Range 32 East, Volusia County, Florida; and

b. The uplands which are within 550 feet landward of the stream's edge of the following portions of the streams. The stream's edge is defined, for the purpose of this subsection, as the waterward extent of the wetlands abutting the stream:

i. Spruce Creek north of the southern section line of Section 25, Range 32 East, Township 16 South, Volusia County, Florida;

ii. Tomoka River north of the confluence of the Tomoka River and Priest Branch; and

c. The uplands which are within 320 feet landward of the stream's edge of the following portions of the streams. The stream's edge is defined, for the purpose of this subsection, as the waterward extent of the wetlands abutting the stream:

i. Spruce Creek east of I-95 and west of the FEC railroad; and

d. The uplands that are within 275 feet landward of the edge of the following streams:

i. Spruce Creek south of the southern section line of Section 25, Range 32 East, Township 16 South, Volusia County, Florida;

ii. Spruce Creek east of the western section line of Section 35, Township 16 South, Range 32 East, Volusia County, Florida;

iii. Spruce Creek east of the power line easement in Section 27, Township 16 South, Range 32 East, Volusia County, Florida;

iv. Spruce Creek west of SR 415 and south of the northern section line of Section 23, Township 16 South, Range 32 East, Volusia County, Florida;

v. The Tomoka River south of the confluence of the Tomoka River and Priest Branch in section 36, Range 31 East, Township 14 South, Volusia County, Florida;

vi. The Little Tomoka River north of SR 40 and south of the western section line of Section 22, Range 31 East, Township 14 South, Flagler County, Florida; and

vii. Priest Branch east of the power line easement in Section 6, Township 15 South, Range 32 East, Volusia County, Florida.

2. Any of the following activities within the Riparian Habitat Protection Zone are presumed to adversely affect the abundance, food sources, or habitat of aquatic or wetland dependent species provided by the Zone: construction of buildings, golf courses, impoundments, roads, canals, ditches, swales, and any land clearing which results in the creation of any system. (activities not listed above do not receive a presumption of no adverse effect.)

3. The presumption in subparagraph 2. shall not apply to any activity which promotes a more endemic state, where the land in the Zone has been changed by man. An example of such an activity would be construction undertaken to return lands managed for agriculture or silviculture to a vegetative community that is more compatible with the endemic land cover.

4. The standard of subparagraph 1. may be met by demonstrating that the overall merits of the proposed plan of development, including mitigation as described in section 12.3, Applicant's Handbook: Management and Storage of Surface Waters, provide a degree of resource protection to these types of fish and wildlife which offsets adverse effects of the proposed system on the uplands and wetlands within the Zone. Some reasonable use of the land within the Protection Zone can be allowed under this section.

5. Roads or other traversing works which cross the Zone have the potential to fragment the Zone and adversely affect the habitat value of the Zone to aquatic and wetland dependent

species. To minimize adverse effects to the Zone, applicants for permits to construct traversing works in the Zone must first demonstrate the need for the traversing works to provide for regional transportation, regional utility services, or reasonable property access, in addition to meeting the requirement of subparagraph 1, above. Traversing works must also be designed to meet all requirements of the district rules related to water quality and quantity.

(7) Within the Sensitive Karst Areas Basin, stormwater management systems shall be designed to assure adequate treatment (pursuant to Rule 62-28.700, F.A.C.) of the stormwater before it enters the Floridan Aquifer, and to preclude the formation of solution pipe sinkholes in the stormwater system. Many different stormwater management system designs will achieve these goals, therefore the District does not require any specific system design. However, to assure protection of the Floridan Aquifer, the District does require certain design features. The individual site characteristics may affect what design features will be required. However, for all projects in sensitive karst areas, the following minimum design features are required:

(a) A minimum of three feet of unconsolidated soil material between the surface of the limestone bedrock and the bottom and sides of the stormwater basin. Excavation and backfill of suitable material may be made to meet this criteria;

(b) Stormwater basin depth should be as shallow as possible with a horizontal bottom (no deep spots);

(c) Maximum stormwater basin depth of 10 feet; and

(d) Fully vegetated basin side slopes and bottoms. The District recommends that Saint Augustine or Bermuda grass be used for this purpose.

(e) The above requirements represent the minimum requirements for stormwater management system design in sensitive karst areas. However, depending on the potential for contamination to the Floridan Aquifer, more stringent requirements may apply for certain projects (e.g., industrial and some commercial sites). Examples for more stringent design features include:

1. More than three feet of material between the limestone bedrock surface and the bottom and sides of the stormwater basin,

2. Basin liners - clay or geotextile,

3. Sediment sumps at stormwater inlets,

4. Off-line treatment,

5. Special stormwater system design,

6. Ground water monitoring, and

7. Paint/solvent and water separators.

(8) Any surface water management system that requires a permit pursuant to Chapters 40C-4, 40C-40, 40C-42, or 40C-44, F.A.C., and that will be located within the Lake Apopka Hydrologic Basin or will discharge water to Lake Apopka or its tributaries, must comply with the requirements of section 11.7, Applicant's Handbook: Management and Storage of Surface Waters, adopted by reference in subsection 40C-4.091(1), F.A.C.

Specific Authority 369.318, 373.044, 373.113, 373.414, 373.415, 373.418 FS. Law Implemented 369.318, 373.413, 373.414, 373.415, 373.416, 373.418, 373.426, 373.461 FS. History--New 12-7-83, Amended 5-17-87, 8-30-88, 4-3-91, 9-25-91, 7-14-92, 10-3-95, 11-25-98, 10-11-01, 3-7-03, 2-10-05, 12-3-06.

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

CHAPTER 40C-42, F.A.C.

**ENVIRONMENTAL RESOURCE PERMITS:
REGULATION OF STORMWATER
MANAGEMENT SYSTEMS**

**Revised
December 3, 2006**



CHAPTER 40C-42
ENVIRONMENTAL RESOURCE PERMITS:
REGULATION OF STORMWATER MANAGEMENT SYSTEMS

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40C-42.011 Scope.

(1) This chapter governs stormwater management systems which are designed and constructed or implemented to control discharges necessitated by rainfall events. These systems may incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation and pollution, or otherwise affect the quality and quantity of discharges. Standard general and individual environmental resource stormwater permits are required under this chapter for construction, operation, maintenance, alteration, removal, or abandonment of systems that are not permitted under provisions of Chapter 40C-4, 40C-40, or 40C-400, F.A.C. Permits issued under this chapter must be consistent with the objectives of the District and not cause harm to the water resource.

(2) A permit under this chapter will be required only for certain stormwater management systems as defined herein. This provision shall not affect the District's authority to

require appropriate corrective action whenever any system causes or contributes to violations of state water quality standards.

(3) Stormwater discharges to groundwaters shall be regulated under the provisions of Rule 62-28.700, F.A.C., and other applicable rules of the Department of Environmental Protection .

Specific Authority 373.044, 373.113, 373.171, 373.418 FS. Law Implemented 373.416, 403.812, 403.814 FS. History--New 4-1-86. Amended 9-25-91, 10-3-95.

40C-42.021 Definitions.

(1) "Appropriate Registered Professional" or "Registered Professional" means, for purposes of this rule, a professional registered in Florida with the necessary expertise in the fields of hydrology, drainage, flood control, erosion and sediment control, and stormwater pollution control to design and certify stormwater management systems. Examples of registered professionals may include professional engineers licensed under Chapter 471, F.S., professional landscape architects licensed under Chapter 481, F.S., and professional geologists licensed under Chapter 492, F.S., who have the referenced skills.

(2) "As-Built Drawings" means plans certified by an appropriate registered professional or registered surveyor which accurately represents the constructed condition of a system.

(3) "Completion of Construction" means the time at which the stormwater management system is first placed into operation, when the project passes final building inspection or when the project receives a certificate of occupancy, whichever occurs first.

(4) "Construction" means any activity including land clearing, earth moving, or the erection of structures which will result in the creation of a stormwater management system.

(5) "Control Device" or "Bleed-down Device" means that element of a discharge structure which allows the gradual release of water under controlled conditions.

(6) "Control Elevation" means the lowest elevation at which water can be released through the control device.

(7) "Detention with Filtration" or "Filtration" means the selective removal of pollutants from stormwater by the collection and temporary storage of stormwater and the subsequent gradual release of the stormwater into surface waters in the state through at least 2 feet of suitable fine textured granular media such as porous soil, uniformly graded sand, or other natural or artificial fine aggregate, which may be used in conjunction with filter fabric and/or perforated pipe.

(8) "Detention" or "To Detain" means the collection and temporary storage of stormwater with subsequent gradual release of the stormwater.

(9) "Direct Discharge" means, for purposes of this chapter, a point or nonpoint discharge which enters Class I, Class II, or Outstanding Florida Waters, or Class III waters which are approved, conditionally approved, restricted, or conditionally restricted for shellfish harvesting without an adequate opportunity for mixing and dilution to prevent significant degradation. Examples of direct discharge include the following:

(a) discharge without entering any other water body or conveyance prior to release to the Class I, Class II, Outstanding Florida Waters, or Class III waters which are approved, conditionally approved, restricted, or conditionally restricted for shellfish harvesting;

(b) Discharge into an intermittent watercourse which is a tributary of a Class I, Class II, Outstanding Florida Water, or Class III waters which are approved, conditionally approved, restricted, or conditionally restricted for shellfish harvesting; and

(c) Discharge into a perennial watercourse which is a tributary of a Class I, Class II, Outstanding Florida Water, or Class III waters which are approved, conditionally approved, restricted, or conditionally restricted for shellfish harvesting when there is not an adequate opportunity for mixing and dilution to prevent significant degradation.

(10) "Dry detention" means a system designed to collect and temporarily store stormwater in a normally dry basin with subsequent gradual release of the stormwater.

(11) "Effective Grain Size" means the diameter of filter sand or other aggregate that corresponds to the 10 percentile finer by dry weight on the grain size distribution curve.

(12) "Intermittent Watercourse" means a stream or waterway that flows only at certain times of the year, flows in direct response to rainfall, and is normally an influent stream except when the ground water table rises above the normal wet season level.

(13) "Littoral zone" means, in reference to stormwater management systems, that portion of a wet detention pond which is designed to contain rooted aquatic plants.

(14) "Off-line" means the storage of a specified portion of the stormwater in such a manner so that subsequent runoff in excess of the specified volume of stormwater does not flow into the area storing the initial stormwater.

(15) "Operational Maintenance" means any activity or repair required to keep a stormwater management system functioning as permitted and designed.

(16) "Operate" or "Operation" means to cause or to allow a stormwater management system to function.

(17) "Perennial Watercourse" means a stream or waterway which is not an intermittent watercourse.

(18) "Permanent Pool" means that portion of a wet detention pond, which normally holds water (e.g., between the normal water level and the pond bottom) excluding any water volume claimed as wet detention treatment volume pursuant to paragraph 40C-42.026(4)(a), F.A.C.

(19) "Pollution" means the presence in waters of the state of any substances, contaminants, or manmade or man-induced impairment of waters or alteration of the chemical, physical, biological, or radiological integrity of water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation unless authorized by applicable law.

(20) "Registered Surveyor" means a registered professional land surveyor licensed in the state of Florida under Chapter 472, F.S.

(21) "Reconstruction" means rebuilding or construction in an area upon which construction has previously occurred.

(22) "Retention" means a system designed to prevent the discharge of a given volume of stormwater runoff into surface waters in the state by complete on-site storage. Examples may include excavated or natural depression storage areas, pervious pavement with subgrade, or above ground storage areas.

(23) "Seasonal high ground water table elevation" means the highest level of the saturated zone in the soil in a year with normal rainfall.

(24) "Semi-impervious" means land surfaces which partially restrict the penetration of water; included as examples are porous concrete and asphalt pavements, limerock, and certain compacted soils.

(25) "Sensitive Karst Areas" means those areas of the District delineated in Chapters 40C-4 and 40C-41, F.A.C., in which the Floridan aquifer is near the land surface.

(26) "Stormwater" means the flow of water which results from, and which occurs immediately following, a rainfall event.

(27) "Stormwater Discharge Facility" means a stormwater management system which discharges stormwater into surface waters of the State.

(28) "Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quality and quantity of the discharges.

(29) "Swale" means a manmade trench which:

(a) Has a top width to depth ratio of the cross-section equal to or greater than 6:1, or side slopes equal to or greater than 3 feet horizontal to 1 foot vertical; and,

(b) Contains contiguous areas of standing or flowing water only following a rainfall event; and,

(c) Is planted with or has stabilized vegetation suitable for soil stabilization, stormwater treatment, and nutrient uptake; and,

(d) Is designed to take into account the soil erodibility, soil percolation, slope, slope length, and drainage area so as to prevent erosion and reduce pollutant concentration of any discharge.

(30) "Underdrain" means a drainage system installed beneath a stormwater holding area to improve the infiltration and percolation characteristics of the natural soil when permeability is restricted due to periodic high water table conditions or the presence of layers of fine textured soil below the bottom of the holding area. These systems usually consist of a system of interconnected below-ground conduits such as perforated pipe, which simultaneously limit the water table elevation and intercept, collect, and convey stormwater which has percolated through the soil.

(31) "Underground Exfiltration Trench" or "Exfiltration Trench" means a below-ground system consisting of a conduit such as perforated pipe surrounded by natural or artificial aggregate which is utilized to percolate stormwater into the ground.

(32) "Uniformity Coefficient" means the number representing the degree of homogeneity in the distribution of particle sizes of filter sand or other granular material. The coefficient is calculated by determining the D^{60}/D^{10} ratio where D^{10} and D^{60} refer to the particle diameter corresponding to the 10 and 60 percentile of the material which is finer by dry weight.

(33) "Waters" are as defined in subsection 373.019(8), F.S.

(34) "Wet Detention" means the collection and temporary storage of stormwater in a permanently wet impoundment in such a manner as to provide for treatment through physical, chemical, and biological processes with subsequent gradual release of the stormwater.

(35) "Wetlands Stormwater Management System" means a stormwater management system which incorporates those wetland described in subsection 40C-42.0265(2), F.A.C., into the stormwater management system to provide stormwater treatment.

Specific Authority 373.044, 373.113, 373.171, 373.418 FS. Law Implemented 373.413, 373.416 FS. History--New 4-1-86. Amended 9-25-91, 3-21-93, 4-11-94, 10-3-95

40C-42.022 Permits Required.

(1) A permit is required under this chapter for construction (including operation and maintenance) of a stormwater management system which serves a project that exceeds any of the following thresholds:

- (a) Construction of 4,000 square feet or more of impervious or semi-impervious surface area subject to vehicular traffic, such as roads, parking lots, driveways, and loading zones;
- (b) Construction of 9000 square feet total of impervious surface; or
- (c) Construction of 5 acres or more of recreational area. Recreation areas include but are not limited to golf courses, tennis courts, putting greens, driving ranges, or ball fields.

(2) A permit is required under this chapter for alteration, removal, reconstruction, or abandonment of existing stormwater management systems which serve a project which may be expected to result in any of the following:

- (a) Increase pollutant loadings (including sediment) in stormwater runoff from the project,
- (b) Increase in peak discharge rate,
- (c) Decrease in onsite or instream detention storage,
- (d) Replacement of roadside swales with curb and gutter,
- (e) Construction of 4,000 square feet or more of impervious or semi-impervious surface area subject to vehicular traffic, such as roads, parking lots, driveways, and loading zones;
- (f) Construction of 9,000 square feet of impervious surface; or
- (g) Construction of 5 acres or more of recreational area. Recreation areas include but not limited to golf courses, tennis courts, putting greens, driving ranges, or ball fields.

(3) These thresholds include all cumulative activity which occurs on or after September 25, 1991.

(4) For purposes of this section, the calculation of the amount of impervious surface shall not include water bodies.

(5) Permits issued by the District for systems which no longer require a permit pursuant to sections (1) or (2), above, may either be abandoned or relinquished by the permittee subject to the following:

- (a) Local governments may have concurrent jurisdiction with the District over a stormwater system. The permittee is not relieved by this rule of the responsibility to comply with any other applicable rules or ordinances which may govern such system.
- (b) The permittee provides reasonable assurance that there will not be a violation of state water quality standards as set forth in Chapters 62-302 and 62-550, F.A.C.;
- (c) The permittee provides reasonable assurance that adjacent or nearby properties not owned or controlled by the applicant will not be adversely affected by drainage or flooding; and
- (d) The permittee must apply to the District for and receive written authorization from the District prior to abandonment of the system.

Specific Authority 373.044, 373.113, 373.117, 373.406, 373.414, 373.418 FS. Law Implemented 373.118, 373.406, 373.413, 373.414, 373.416, 373.418, 373.426 FS. History--New 9-25-91. Amended 4-11-94, 11-22-94, 10-11-01, 11-11-03.

40C-42.0225 Exemptions From Permitting for Stormwater Management Systems. The following types of stormwater management systems are exempt from the notice and permit requirements of this chapter:

(1) Systems designed to accommodate only one single family dwelling unit, duplex, triplex, or quadruplex, provided the single unit, duplex, triplex or quadruplex is not part of a larger common plan of development or sale.

(2) Systems which are designed to serve single family residential projects, including duplexes, triplexes and quadruplexes, of less than 10 acres total land area and which have less than 2 acres impervious surface and if the systems:

(a) Comply with all regulations or ordinances applicable to stormwater management adopted by a city or county;

(b) Are not part of a larger common plan of development or sale; and

(c) Discharge into a stormwater management system exempted or permitted by the District under this chapter which has sufficient capacity and treatment capability as specified in this chapter and is owned, maintained, or operated by a city, county, special district with drainage responsibility, or water management district; however, this exemption does not authorize discharge to a system without the system owner's prior written consent.

(3) Systems that qualify for a noticed general permit pursuant to Chapter 40C-400, F.A.C. and which comply with the requirements of such noticed general permit

(4) Construction of communication tower sites with one-half acre or less of impervious or semi-impervious surface such as access roads, buildings, and equipment pads. The design of above-grade access roads must allow for conveyance of normal surface water flows.

(5) The construction of the following minor roadway safety projects provided that the capacity of existing swales, ditches, or other stormwater management systems is not reduced:

(a) Sidewalks,

(b) Turnlanes less than 0.25 miles in length and other intersection improvements, or

(c) Road widening and shoulder paving projects which do not result in the creation of additional traffic lanes.

(6) Recreational paths which do not allow motorized vehicles powered by internal combustion engines, except for maintenance and emergency vehicles.

Specific Authority 373.044, 373.113, 373.414, 323.418 FS. Law Implemented 373.413, 373.414, 373.416, 373.418, 403.813(2) FS. History--New 9-25-91. Amended 3-21-93, 10-3-95, 10-11-01.

40C-42.023 Requirements for Issuance.

(1) To receive a standard general or individual permit under this chapter the applicant must provide reasonable assurance based on plans, test results and other information, that the stormwater management system:

(a) Will not result in discharges from the system to surface and ground water of the state that cause or contribute to violations of state water quality standards as set forth in Chapters 62-302, 62-4, 62-302 and 62-550, F.A.C., including any antidegradation provisions of Rules 62-4.242(1)(a) and (b), 62-4.242(2) and (3), and 62-302.300, F.A.C., and any special standards for

Outstanding Florida Waters and Outstanding National Resource Waters set forth in Rules 62-4.242(2) and (3), F.A.C.;

(b) Will not adversely affect drainage and flood protection on adjacent or nearby properties not owned or controlled by the applicant;

(c) Will be capable of being effectively operated and maintained pursuant to the requirements of this chapter; and

(d) Meets any applicable basin criteria contained in Rule 40C-41.063(3)(a), (7) and (8), F.A.C.

(2)(a) A showing by the applicant that the stormwater management system complies with the applicable criteria in Rules 40C-42.024, 40C-42.025, 40C-42.026, and 40C-42.0265, F.A.C., shall create a presumption that the applicant has provided reasonable assurance that the proposed activity meets the requirements in paragraph (1)(a), above.

(b) A showing by the applicant that the stormwater management system complies with the criteria of subsections 40C-42.025(8) and (9), F.A.C., shall create a presumption that the applicant has provided reasonable assurance that the proposed activity meets the requirements in paragraph (1)(b), above.

(c) A showing by the applicant that the stormwater management system complies with the applicable criteria of Rules 40C-42.027, 40C-42.028, and 40C-42.029, F.A.C., shall create a presumption that the applicant has provided reasonable assurance that the proposed activity meets the requirements in paragraph (1)(c), above.

Specific Authority 369.318, 373.044, 373.113, 373.171, 373.418 FS. Law Implemented 369.318, 373.413, 373.414, 373.415, 373.416, 373.418, 373.426, 373.461 FS. History--New 9-25-91. Amended 3-21-93, 10-3-95, 3-7-03, 12-3-06.

40C-42.024 Standard General and Individual Permits.

(1) Any person proposing to construct, alter, operate, maintain, remove, or abandon a stormwater management system, which requires a permit pursuant to Rules 40C-42.022, F.A.C., except those exempted pursuant to Rule 40C-42.0225, F.A.C., or noted in Rule 40C-42.061, F.A.C, shall apply to the District for a standard general or individual environmental resource stormwater permit, prior to the commencement of construction, alteration, removal, operation, maintenance, or abandonment of the stormwater management system. No construction, alteration, removal, operation, maintenance, or abandonment of a stormwater management system shall be undertaken without a valid standard general or individual environmental resource stormwater permit as required pursuant to this section.

(2) The following types of stormwater management systems qualify for a standard general environmental resource stormwater permit and shall be processed according to the administrative procedures set forth in Chapter 40C-40, F.A.C.:

(a) Systems which discharge into a stormwater management system which is permitted pursuant to paragraph 40C-42.024(2)(b), (c), or (d), F.A.C., or subsection 40C-42.024(3), F.A.C., or which was previously approved pursuant to a noticed exemption under Rule 62-25.030 where the appropriate treatment criteria specified in this chapter and applied to the permitted or exempt system are not exceeded by the discharge; however, this does not authorize discharge to the permitted or exempt system without the system owner's prior written consent.

(b) Systems which meet the applicable design and performance standards of Rule 40C-42.025, F.A.C., and which comply with any one or more of the following:

1. Retention systems which meet the criteria of subsection 40C-42.026(1), F.A.C.;
2. Underdrain systems which meet the criteria of subsection 40C-42.026(2), F.A.C.;
3. Underground exfiltration trench systems which meet the criteria of subsection 40C-42.026(3), F.A.C.;
4. Wet detention systems which meet the criteria of subsection 40C-42.026(4), F.A.C.;

or

5. Swale systems which meet the criteria in subsections 40C-42.021(30) and 40C-42.026(5), F.A.C.

6. Dry detention systems within project areas less than 5 acres in size, and which serve drainage area less than 5 acres in size, and which meet the criteria of subsection 40C-42.026(6), F.A.C.

(c) Modification or reconstruction by a city, county, state agency, federal agency, or special district with drainage responsibility, of an existing stormwater management system which is not intended to increase the original design capacity, and which will not increase pollution loading, or change points of discharge in a manner that would adversely affect the designated uses of waters in the state.

(d) Paving of existing public dirt roads by a public entity if all of the following conditions are met:

1. The road will not serve new development.
2. Additional traffic lanes are not added to the road;
3. The traffic load is not expected to significantly increase;
4. The drainage system serving the road is not significantly altered;
5. Erosion and sediment controls are utilized to prevent turbidity during construction;
6. The project does not involve dredging or filling in wetlands or other surface waters, other than in ditches that were excavated through uplands ;
7. Permanent vegetative cover is established on both sides of the pavement within the road right of way; and
8. Swale blocks, or other means, are utilized to retain runoff and promote infiltration in areas with soil having good infiltration (i.e., SCS hydrologic soil groups "A" and "B").

(e) Wetlands stormwater management systems which meet the criteria in Rules 40C-42.025 and 40C-42.0265, F.A.C.;

(f) Systems which propose to satisfy the standards of subsection 40C-42.023(1), F.A.C., by employing an alternative treatment methodology or device other than those described in paragraph (2)(a) - (e), above. An affirmative showing by the applicant that the system design will provide treatment equivalent to retention systems described in paragraph (2)(b)1., above, will create a presumption in favor of satisfying the standards in paragraphs 40C-42.023(1)(a), F.A.C. In addition, systems which have a direct discharge to Class I, Class II, Outstanding Florida Waters, or Class III waters which are approved, conditionally approved, restricted, or conditionally restricted for shellfish harvesting shall provide an additional level of treatment (i.e., additional treatment volume and off-line treatment) pursuant to Rule 40C-42.026, F.A.C., or an alternative demonstrated by the applicant to be equivalent.

(3) Standard general permit applications for stormwater management systems submitted pursuant to Chapter 40C-42, F.A.C., will be processed as applications for individual permits according to the administrative procedures set for in Chapter 40C-4, F.A.C., when:

(a) A substantial objection has been filed with the District in accordance with the provisions of section 5.7.7, Applicant's Handbook: Regulation of Stormwater Management Systems;

(b) District staff holds a reasonable doubt that the applicable permit criteria in Chapter 40C-42, F.A.C., are met.

(4) The standard general or individual environmental resource stormwater permit which is granted will include a specified period for which the permit will be valid. Such period, unless the permit is modified or revoked, is generally:

(a) Five years for permits to construct, alter, or remove a system; and

(b) Permanent for permits to operate, maintain, or abandon a system.

(5) Procedures governing transfers, are found in Chapter 40C-1, F.A.C., and procedures governing permit revocation and permit modifications are found in sections 7.7 and 7.8, Applicant's Handbook: Regulation of Stormwater Management Systems, incorporated by reference in Subsection 40C-42.091(1), F.A.C., apply to permits obtained pursuant to this chapter. Procedures governing converting construction to operation permits and transferring the system to the operation and maintenance entity are found in Rule 40C-42.027, F.A.C., below.

Specific Authority 373.044, 373.113, 373.118, 373.406, 373.414, 373.418 FS. Law Implemented 373.118, 373.406, 373.413, 373.414, 373.416, 373.418, 373.426, 403.813 FS. History--New 9-25-91. Amended 3-21-93, 4-11-94, 10-3-95, 2-1-05.

40C-42.025 Design and Performance Criteria for Stormwater Management Systems. The following criteria shall apply to stormwater management systems unless otherwise noted:

(1) Erosion and sediment control best management practices shall be used as necessary during construction to retain sediment on-site. These management practices shall be designed and certified by an appropriate registered professional experienced in the fields of soil conservation or sediment control according to specific site conditions and shall be shown or noted on the plans of the stormwater management system. The registered professional shall furnish the contractor with information pertaining to the construction, operation and maintenance of the erosion and sediment control practice. Sediment accumulations in the system from construction activities shall be removed to prevent loss of storage volume.

(2) Stormwater management systems which either receive stormwater from areas with greater than 50 percent impervious surface or are a potential source of oil and grease contamination in concentrations that exceed applicable water quality standards shall include a baffle, skimmer, grease trap or other mechanism suitable for preventing oil and grease from leaving the stormwater management system in concentrations that would cause or contribute to violations of applicable water quality standards in the receiving waters. For purposes of this subsection, the calculation of the amount of impervious surface shall not include water bodies.

(3) Unless applicable local regulations are more restrictive, for purposes of public safety the following requirements apply:

(a) Normally dry basins designed to impound more than two feet of water or permanently wet basins shall be fenced or otherwise restricted from public access, or shall contain

side slopes that are no steeper than 4:1 (horizontal:vertical) out to depth of two feet below the control elevation; and,

(b) Control devices that are designed to contain more than a two foot depth of water within the structure under the design storm and have openings greater than one foot minimum dimension shall be restricted from public access.

(4) All stormwater basin side slopes shall be stabilized by either vegetation or other materials to minimize erosion and sedimentation of the basins.

(5) Stormwater management systems must be designed to accommodate maintenance equipment access and to facilitate regular operational maintenance (such as underdrain replacement, unclogging filters, sediment removal, mowing and vegetation control). Operational maintenance and operation easements shall be provided when necessary to facilitate equipment access.

(6) The applicant must obtain sufficient legal authorization as appropriate prior to permit issuance for stormwater management systems which propose to utilize offsite areas to satisfy the requirements in subsection 40C-42.023(1), F.A.C.

(7) Stormwater management systems (except retention and exfiltration trench systems) shall provide gravity or pumped discharge that effectively operates under one of the following tailwater conditions:

(a) Maximum stage in the receiving water resulting from the mean annual 24-hour storm. This storm depth is described in "Rainfall Analysis for Northeast Florida," St. Johns River Water Management District Technical Publication No. SJ 88-3 (May, 1988). Lower stages may be utilized if the applicant demonstrates that flow from the project will reach the receiving water prior to the time of maximum stage in the receiving water;

(b) Mean annual high tide for tidal areas;

(c) Mean annual seasonal high water elevation. This elevation may be determined by water lines on vegetation or structures, historical data, adventitious roots or other hydrological or biological indicators, design of man-made systems, or estimated by a registered professional using standard hydrological methods based on the site and receiving water characteristics; or

(d) As an alternative, the applicant may propose any applicable criterion established by a local government, state agency, or stormwater utility with jurisdiction over the project.

(8) Stormwater management systems which require a permit pursuant to subsection 40C-42.022(1), F.A.C., and which serve new construction area with greater than 50 percent impervious surface (excluding water bodies) must demonstrate that the post-development peak rate of discharge does not exceed the pre-development peak rate of discharge for one of the following:

(a) The mean annual 24-hour storm event. This storm depth is described in "Rainfall Analysis for Northeast Florida," St. Johns River Water Management District Technical Publication No. SJ 88-3 (May, 1988). The criteria contained in sections 10.3.5 - 10.3.8 of the Management and Storage of Surface Waters Applicant's Handbook, (A.H.), are herein incorporated by reference;

(b) The mean annual 24-hour storm event utilizing the modified rational hydrograph method. This storm depth is described in the publication referenced in paragraph (a), above. This methodology should only be used for systems meeting the following criteria:

1. The drainage area is less than 40 acres;

2. The pre-development time of concentration for the system is less than 60 minutes;

and,

3. The post-development time of concentration for the system is less than 30 minutes;
or

(c) As an alternative to paragraphs (a) or (b), above, the applicant may propose a storm event, duration, and criteria specified by a local government, state agency, or stormwater utility with jurisdiction over the project.

(9) Stormwater management systems which alter existing conveyance systems must not adversely affect existing surface water conveyance capabilities. It is presumed that a system meets this criteria if one of the following are met:

(a) The existing hydraulic conveyance is maintained;

(b) The applicant demonstrates that changes in flood elevations or velocities will not adversely impact upstream or downstream off-site property;

(c) The applicant demonstrates that the criteria in 10.5.2(b), Applicant's Handbook, are met; or

(d) As an alternative, the applicant may propose to comply with applicable criteria established by a local government, state agency, or stormwater utility with jurisdiction over the project.

(10) The construction plans and supporting calculations must be signed, sealed, and dated by an appropriate registered professional as required by the relevant statutory provisions when the design of the stormwater management system requires the services of an appropriate registered professional.

(11) Stormwater management systems located within Sensitive Karst Areas must meet the requirements of subsection 40C-41.063(6), F.A.C.

Specific Authority 373.044, 373.113, 373.171, 373.418 FS. Law Implemented 373.117, 373.413, 373.416, 403.0877 FS. History--New 4-1-86. Amended 9-25-91, 3-21-93.

40C-42.026 Specific Design and Performance Criteria.

(1) Retention systems shall:

(a) Provide for one of the following:

1. Off-line retention of the first one half inch of runoff or 1.25 inches of runoff from the impervious area, whichever is greater;

2. On-line retention of an additional one half inch of runoff from the drainage area over that volume specified in subparagraph 1., above;

3. On-line retention that provides for percolation of the runoff from the three year, one-hour storm; or

4. On-line retention of the runoff from one inch of rainfall or 1.25 inches of runoff from the impervious area, whichever is greater, for systems which serve an area with less than 40 percent impervious surface and that contain only U.S. Department of Agriculture Soil Conservation Service (SCS) hydrologic group "A" soils.

(b) Provide retention in accordance with one of the following for those systems which have direct discharge to Class I, Class II, Outstanding Florida Waters, or Class III waters which are approved, conditionally approved, restricted, or conditionally restricted for shellfish harvesting:

1. At least an additional fifty percent of the applicable treatment volume specified in subparagraph 1., above. Off-line retention must be provided for at least the first one half inch of

runoff or 1.25 inches of runoff from the impervious area, whichever is greater, of the total amount of runoff required to be treated;

2. On-line retention of an additional fifty percent of the treatment volume specified in subparagraph 2., above;

3. On-line retention that provides percolation of the runoff from the three-year, one-hour storm; or

4. On-line retention that provides at least an additional 50 percent of the runoff volume specified in subparagraph 40C-42.026(1)(a)4., above, for systems which serve an area with less than 40 percent impervious surface and that contain only U.S. Department of Agriculture Soil Conservation Service (SCS) hydrologic group "A" soils.

(c) Provide the capacity for the appropriate treatment volume of stormwater specified in paragraphs (a) or (b) above, within 72 hours following the storm event assuming average antecedent moisture conditions. The storage volume must be provided by a decrease of stored water caused only by percolation through soil, evaporation or evapotranspiration.

(d) Be stabilized with pervious material or permanent vegetative cover. Permanent vegetative cover must be utilized, except for pervious pavement systems, when U.S. Department of Agriculture Soil Conservation Service (SCS) hydrologic group "A" soils underlie the retention basin.

(2) Underdrain stormwater management systems shall:

(a) Provide for either of the following:

1. Off-line storage of the first one half inch of runoff or 1.25 inches of runoff from the impervious area, whichever is greater; or

2. On-line storage of an additional one half inch of runoff from the drainage area over that volume specified in subparagraph 1., above.

(b) Provide either of the following for those underdrain systems which have direct discharge to Class I, Class II, Outstanding Florida Waters, or Class III waters which are approved, restricted, or conditionally restricted for shellfish harvesting:

1. At least an additional fifty percent of the applicable treatment volume specified in subparagraph 1., above. Off-line storage must be provided for at least the first one half inch of runoff or 1.25 inches of runoff from the impervious area, whichever is greater, of the total amount of runoff required to be treated; or

2. On-line storage of the runoff from a three-year, one-hour storm or an additional fifty percent of the treatment volume specified in subparagraph 2., above, whichever is greater.

(c) Provide the capacity for the appropriate treatment volume of stormwater specified in paragraphs (a) or (b), above, within 72 hours following a storm event. The storage volume must be provided by a decrease of stored water caused only by percolation through soil with subsequent transport through the underdrain pipes, evaporation or evapotranspiration.

(d) Provide at least two feet of indigenous soil between the bottom of the stormwater holding area and the underdrain pipe(s).

(e) Be designed with a safety factor of at least two unless the applicant affirmatively demonstrates based on plans, test results, calculations or other information that a lower safety factor is appropriate for the specific site conditions. Examples of how to apply this factor include but are not limited to reducing the design percolation rate by half or designing for the required drawdown within 36 hours instead of 72 hours.

- (f) Contain areas of standing water only following a rainfall event.
- (g) Be stabilized with permanent vegetative cover.
- (h) Include, at a minimum, a capped and sealed inspection and cleanout ports which extend to the surface of the ground at the following locations of each drainage pipe:
 - 1. The terminus; and
 - 2. Every 400 feet or every bend of 45 or more degrees, whichever is less.
- (i) Utilize filter fabric or other means used to prevent the soil from moving and being washed out through the underdrain pipe.
- (3) Underground exfiltration trench systems shall:
 - (a) Provide for either of the following:
 - 1. Off-line storage of the first one half inch of runoff or 1.25 inches of runoff from the impervious area, whichever is greater; or
 - 2. On-line storage of an additional one half inch of runoff from the drainage area over that volume specified in subparagraph 1., above.
 - (b) Provide either of the following for those exfiltration trench systems which have direct discharge to Class I, Class II, Outstanding Florida Waters, or Class III waters which are approved, conditionally approved, restricted, conditionally restricted for shellfish harvesting:
 - 1. At least an additional fifty percent of the applicable treatment volume specified in subparagraph 1., above. Off-line storage must be provided for at least the first one half inch of runoff or 1.25 inches of runoff from the impervious area, whichever is greater, of the total amount of runoff required to be treated; or
 - 2. On-line storage of the runoff from the three-year, one-hour storm or an additional fifty percent of the treatment volume specified in subparagraph 2., above, whichever is greater.
 - (c) Provide the capacity for the appropriate treatment volume of stormwater specified in paragraphs (a) or (b), above, within 72 hours following a storm event assuming average antecedent moisture conditions. The storage volume must be provided by a decrease of stored water caused only by percolation into the soil.
 - (d) Be designed with a safety factor of at least two unless the applicant affirmatively demonstrates based on plans, test results, calculations or other information that a lower safety factor is appropriate for the specific site conditions. Examples of how to apply this factor include but are not limited to reducing the design percolation rate by half or designing for the required drawdown within 36 hours instead of 72 hours.
 - (e) Be designed with a twelve (12) inch minimum pipe diameter.
 - (f) Be designed with a three (3) foot minimum trench width.
 - (g) Be designed so that aggregate in the trench is enclosed in filter fabric.
 - (h) Provide cleanout and inspection structures which extend to the surface of the ground at the inlet and terminus of each pipe. Inlet structures should include sediment sumps.
 - (i) Be designed so that the invert elevation of the trench must be at least two feet above the seasonal high ground water table elevation unless the applicant demonstrates based on plans, test results, calculations or other information that a alternative design is appropriate for the specific site conditions.
 - (j) Be designed so that the system must have the capacity to retain the required treatment volume without considering discharges to ground or surface waters.
- (4) Wet detention stormwater management systems shall:

- (a) Provide a treatment volume of the greater of the following:
 - 1. First one inch of runoff; or
 - 2. 2.5 inches of runoff from the impervious area.
- (b) Be designed so that the outfall structures shall bleed down one-half the volume of stormwater specified in paragraph (a), above, within 24 to 30 hours following a storm event, but no more than one-half of this volume will be discharged within the first 24 hours.
- (c) Contain a permanent pool of water sized to provide an average residence time of at least 14 days during the wet season (June - October).
- (d)1. Provide a littoral zone to be designed as follows:
 - a. The littoral zone shall be gently sloped (6:1 or flatter). At least 30 percent of the wet detention system surface area shall consist of a littoral zone. The percentage of littoral zone is based on the ratio of vegetated littoral zone to surface area of the pond at the control elevation.
 - b. The treatment volume should not cause the pond level to rise more than 18 inches above the control elevation unless the applicant affirmatively demonstrates that the littoral zone vegetation can survive at greater depths.
 - c. Eighty percent coverage of the littoral zone by suitable aquatic plants is required within the first twenty-four months of completion of the system or as specified by permit conditions.
 - d. To meet the 80% coverage requirement, planting of the littoral zone is recommended. As an alternative, portions of the littoral zone may be established by placement of wetland top soils (at least a four inch depth) containing a seed source of desirable native plants. When utilizing this alternative, the littoral zone must be stabilized by mulching or other means and at least the portion of the littoral zone within 25 feet of the inlet and outlet structures must be planted.
- 2. In lieu of the requirements of subparagraph 1., above, the applicant may provide either of the following:
 - a. At least fifty percent additional permanent pool volume over that specified in paragraph (c), above; or
 - b. Treatment of the stormwater pursuant to subparagraphs 40C- 42.024(2)(b)2., 3., 4., or 6., F.A.C., prior to the stormwater entering the wet detention pond.
- (e) Be designed so that the mean depth of the permanent pool is between 2 and 8 feet and the maximum depth does not exceed 12 feet below the invert of the bleed down device, unless the applicant affirmatively demonstrates that alternative depths will not inhibit the physical, chemical, and biological treatment processes or cause the resuspension of pollutants into the water column due to anaerobic conditions in the water column.
- (f) Be designed so the flow path through the pond has an average length to width ratio of at least 2:1. The alignment and location of inlets and outlets should be designed to maximize flow paths in the pond. If short flow paths are unavoidable, the effective flow path should be increased by adding diversion barriers such as islands, peninsulas, or baffles to the pond. Inlet structures shall be designed to dissipate the energy of water entering the pond.
- (g) Be designed so that bleed down devices shall incorporate minimum dimensions no smaller than six square inches of cross section area, two inches wide, and 20 degrees for "v" notches. Bleed down devices incorporating dimensions smaller than six inches minimum width or

less than 45 degrees for "v" notches shall include a device to minimize clogging. Examples include baffles, grates, and pipe elbows.

(h) Be designed so that bleed down structure invert elevations are at or above the estimated post-development normal ground water table elevation. If the structure is proposed to be set below this elevation, ground water inflow must be considered in the drawdown calculations, calculation of average residence time, estimated normal water level in the pond, and pollution removal efficiency of the system.

(i) Provide for permanent maintenance easements or other acceptable legal instruments to allow for access to and maintenance of the system, including the pond, littoral zone, inlets, and outlets. The easement or other acceptable instrument must cover the entire littoral zone.

(j) Be designed so that the average pond side slope measured between the control elevation and two feet below the control elevation is no steeper than 3:1 (horizontal:vertical).

(k) Wet detention systems which have direct discharge to Class I, Class II Outstanding Florida Waters, or Class III waters which are approved, conditionally approved, restricted, or conditionally restricted for shellfish harvesting shall provide either of the following in addition to the requirements in paragraphs (b), (d), and (e) - (j), above:

1. An additional fifty percent of the applicable treatment volume specified in paragraph (a), above, and an additional fifty percent of the applicable permanent pool volumes specified in paragraphs (c) or subparagraph (d)2., above; or

2. Treatment pursuant to subsections (1), (2), (3) above, or (5) below, prior to discharging into a wet detention pond designed pursuant to paragraphs (a) - (j), above.

(5) Swale systems shall:

(a) Percolate 80% of the runoff from the three year, one-hour storm.

(b) Percolate the runoff from the three-year, one-hour storm for those swale systems which have direct discharge to Class I, Class II, Outstanding Florida Waters, or Class III waters which are approved, conditionally approved, restricted, or conditionally restricted for shellfish harvesting.

(c) Provide the capacity for the given volume of stormwater pursuant to paragraphs (a) or (b), above, and contain no contiguous areas of standing or flowing water within 72 hours following the storm event referenced in paragraphs (a) and (b), above, assuming average antecedent moisture conditions. The storage volume must be provided by a decrease of stored water caused only by percolation through soil, evaporation or evapotranspiration.

(d) Meet the criteria in subsection 40C-42.021(29), F.A.C.

(6) Dry detention systems shall:

(a) Provide off-line detention of the first one inch of runoff or 2.5 inches of runoff from the impervious area, whichever is greater.

(b) Provide at least an additional fifty percent of the applicable treatment volume specified in subparagraph 1., above, for those systems which have direct discharge to Class I, Class II, Outstanding Florida Waters, or Class III waters which are approved, conditionally approved, restricted, or conditionally restricted for shellfish harvesting.

(c) Be designed so that the outfall structures shall discharge one-half the appropriate treatment volume of stormwater specified in paragraphs (a) or (b), above, between 24 to 30 hours following a storm event.

(d) Be designed so that discharge structures shall include a device to prevent the discharge of accumulated sediment, minimize exit velocities, and prevent clogging. Examples include perforated riser enclosed in a gravel jacket and perforated pipes enclosed in sand or gravel.

(e) Contain areas of standing water for no longer than 3 days following a rainfall event.

(f) Be stabilized with permanent vegetative cover.

(g) Be designed so the average flow path through the basin has a length to width ratio of at least 2:1. The alignment and location of inlets and outlets should be designed to maximize flow paths in the basin. If short flow paths are unavoidable, the effective flow path should be increased by adding diversion barriers such as baffles to the basin.

(h) Be designed so inlet structures dissipate the energy of water entering the basin.

(i) Be designed to include a maintenance schedule for removal of sediment and debris on at least a bi-monthly basis from the basin and mowing and removal of grass clippings.

(j) Be designed so the basin floor is level or uniformly sloped toward the outfall structure.

(k) Be designed so that the basin floor and control elevation is at least one foot above the seasonal high ground water table elevation. Sumps may be placed up to one foot below the control elevation.

Specific Authority 373.044, 373.113, 373.118, 373.406, 373.414, 373.418 FS. Law Implemented 373.118, 373.406, 373.413, 373.414, 373.416, 373.418, 373.426, 403.813 FS. History--New 9-25-91. Amended 3-21-93, 6-15-93, 4-11-94, 7-20-95, 10-11-01.

40C-42.0265 Design and Performance Criteria for Wetlands Stormwater Management Systems.

(1) The wetlands stormwater management system design and performance criteria and other provisions relating to such systems are an initial but necessary step by the District in a field in which there exists limited knowledge. In an effort to further refine the District's wetlands stormwater management system policies, monitoring data and other pertinent information relating to the performance criteria will be collected and analyzed and periodic reports of the results of this monitoring shall be made available to the public. The District must attempt to ensure that the wetlands stormwater management system is compatible with the ecological characteristics of the wetlands utilized for stormwater treatment and to ensure that water quality standards will not be violated by discharges from wetlands stormwater management system. To achieve these goals, specific performance criteria are set forth in this section for systems which incorporate wetlands for stormwater treatment.

(2) The only wetlands to be used for stormwater treatment are those:

(a) Which are isolated wetlands; and

(b) Which would be isolated wetlands, but for a hydrologic connection to other wetlands or surface waters via another watercourse that was excavated through uplands.

(3) In the review of wetlands stormwater management system permit applications, the District shall consider the following:

(a) Compliance of the wetlands stormwater management system permit with the performance criteria specified in subsection 40C-42.0265(5).

(b) If the applicant is unable to show compliance with the performance criteria in subsection 40C-42.0265(5), the applicant shall qualify for a wetlands stormwater management

system permit using alternative design and performance criteria if the applicant affirmatively demonstrates that the use of the wetlands is compatible with the ecological characteristics of the wetland and the applicant complies with the standards in Rule 40C-42.023, F.A.C.

(c) If the applicant proposes to dredge or fill in the wetlands used for stormwater treatment, the District in its review of the permit application shall evaluate the adverse effects of the dredging or filling on the treatment capability of the wetland.

(4) A showing by the applicant that the wetlands stormwater management system design complies with the performance criteria listed below shall create a presumption in favor of the issuance of the permit:

(a) The system complies with the requirements of Rule 40C-42.025 and subsection 40C-42.0265(2), F.A.C.

(b) The system is part of a comprehensive stormwater management system that utilizes wetlands in combination with other best management practices to provide treatment of the runoff from the greater of the following:

1. First one inch of runoff; or
2. 2.5 inches times the impervious area.

(c) Those systems which direct discharge to Class I, Class II, or Outstanding Florida Waters shall provide an additional fifty percent of the applicable treatment volume specified in paragraph (b), above.

(d) The wetlands stormwater management system must provide treatment for the runoff as specified in paragraph 40C-42.0265(5)(b) or (c), F.A.C., within the wetlands. The design features of the system shall maximize residence time of the stormwater within the wetland. The outfall structure shall be designed to bleed down one-half the volume specified in paragraph 40C-42.0265(5)(b) or (c) within the first 60 to 72 hours.

(e) Stormwater shall be discharged into the wetlands utilized so as to minimize the channelized flow of stormwater by employing methods including, but not limited to, sprinklers, overland flow or spreader swales.

(f) The use of wetlands for stormwater must meet the criteria in section 12.0, Environmental Considerations, of the Applicant's Handbook: Management and Storage of Surface Waters, adopted by reference in Rule 40C-4.091, F.A.C.

(5) In order to establish a reliable, scientifically valid data base upon which to evaluate the performance criteria and the performance of the wetlands stormwater management system, a monitoring program may be required. Monitoring programs shall provide the District with comparable data for different types of wetlands and drainage designs. Data to be collected shall include (unless irrelevant to the permitted system): sedimentation rate, sediment trace metal concentrations, sediment nitrogen and phosphorus concentrations, changes in the frequency, abundance and distribution of vegetation, and inflow and outflow water quality for nutrients, metals, turbidity, oils and greases, bacteria and other parameters related to the specific site conditions. Inflow and outflow water quality parameters will be monitored on such storm event occurrences as established by the District based on a site specific basis. The District shall eliminate the requirement to continue the monitoring program upon its determination that no further data is necessary to evaluate the performance criteria or ensure compliance with the performance criteria and applicable water quality standards.

Specific Authority 373.044, 373.113, 373.414, 373.418 FS. Law Implemented 373.413, 373.414, 373.416, 373.418, 373.426 FS. History--New 9-25-91, 3-21-93, 10-3-95, 2-1-05.

40C-42.027 Legal Operation and Maintenance Entity Requirements.

(1) The District considers the following entities to be acceptable for meeting the requirements necessary to ensure that a stormwater management system will be operated and maintained in compliance with the requirements of this chapter and other District regulations in Chapters 40C-4 or 40C-40, F.A.C.:

(a) Local governmental units including counties or municipalities, or Municipal Service Taxing Units established pursuant to Section 125.01, F.S.;

(b) Active water control districts created pursuant to Chapter 298, F.S., or drainage districts created by special act, or Community Development Districts created pursuant to Chapter 190, F.S., or Special Assessment Districts created pursuant to Chapter 170, F.S.;

(c) State or federal agencies; or

(d) Duly constituted stormwater, communication, water, sewer, electrical or other public utilities.

(2) The property owner or developer is normally not acceptable as a responsible entity when the property is intended to be subdivided. The property owner or developer shall be acceptable in any of the following circumstances:

(a) Written proof is furnished either by letter or resolution, that a governmental entity or such other acceptable entity as set forth in paragraphs (a)-(d) above, will accept the operation and maintenance of the stormwater management system at a time certain in the future;

(b) Proof of bonding or assurance of a similar nature is furnished in an amount sufficient to cover the cost of the operation and maintenance of the stormwater management system;

(c) The property is wholly owned by the permittee and ownership is intended to be retained. This would apply to a farm, corporate office or single industrial facility, for example; or

(d) The ownership of the property is retained by the permittee and is either leased or rented to third parties such as in shopping centers or mobile home parks.

(3) Profit or non-profit corporations including homeowners associations, property owners associations, condominium owners associations or master associations shall be acceptable only under certain conditions that ensure that the corporation has the financial, legal and administrative capability to provide for the long term operation and maintenance of the stormwater management system.

(4) Entity Requirements.

(a) If a multimember association such as a Homeowner, Property Owner, Condominium or Master Association is proposed, the owner or developer must submit Articles of Incorporation for the Association, and Declaration of Covenants and Restrictions, or such other organizational and operational documents which affirmatively assign authority and responsibility for the operation or maintenance of the stormwater management system.

(b) The Association shall have sufficient powers reflected in its organizational or operational documents to:

1. Operate and maintain the stormwater management system as permitted or exempted by the District;

2. Establish rules and regulations;

3. Assess members a fee for the cost of operation and maintenance of the system, and enforce collection of such assessments;

4. Contract for services (if the Association contemplates employing a maintenance company) to provide the services for operation and maintenance;

5. Exist in perpetuity. The Articles of Incorporation must provide that if the association is dissolved the stormwater management system shall be transferred to and maintained by an entity acceptable to the District as defined in this section. Transfer of maintenance responsibility shall be effectuated prior to dissolution of the association;

6. Enforce the restrictions relating to the operation and maintenance of the stormwater management system;

7. Provide that the portions of the Declarations which relate to the operation and maintenance may be enforced by the District in a proceeding at law or in equity; and

8. Require that amendments to the documents which alter the stormwater management system beyond maintenance in its original condition must receive District approval prior to taking effect.

(5) Phased Projects.

(a) If an Operation and Maintenance entity is proposed for a project which will be constructed in phases, and subsequent phases will utilize the same stormwater management systems as the initial phase or phases, the entity shall have the ability to accept responsibility for the operation and maintenance of stormwater management system for future phases of the project.

(b) If the development scheme contemplates independent operation and maintenance entities for different phases, and the stormwater management system is integrated throughout the project, the entities either separately or collectively shall have the authority and responsibility to operate and maintain the stormwater management system for the entire project. That authority shall include cross easements for stormwater management and the ability to enter and maintain the various systems, should any sub-entity fail to maintain a portion of the stormwater management system within the project.

(6) The applicant shall be an acceptable entity from the time construction begins until the stormwater management system is dedicated to and accepted by a legal entity established pursuant to this section. The applicant shall provide proof of the existence of an entity pursuant to this section or of the future acceptance of the system by an entity described in this section prior to initiating construction.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 403.812, 403.814 FS. History-- New 4-1-86. Amended 9-25-91, 3-21-93.

40C-42.028 Operation Phase Permits.

(1) The operation phase of a stormwater management system permit which was designed by an appropriate registered professional does not become effective until all of the following criteria in this subsection and subsection (3) have occurred:

(a) Within 30 days after completion of construction of the stormwater management system, permittee shall submit a signed and sealed certification by an appropriate registered professional indicating that the system has been constructed and that the system is ready for inspection by the District.

(b) The certification prepared by a registered professional (not necessarily the project design registered professional but one who has been retained by the permittee to provide professional services during the construction phase of project completion) shall be made on form number 40C-1.181(13), As Built Certification by a Registered Professional.

(c) The registered professional shall certify that:

1. The system has been constructed substantially in accordance with approved plans and specifications, or;

2. Any deviations from the approved plans and specifications will not prevent the system from functioning in compliance with the requirements of this chapter. The registered professional shall note and explain substantial deviations from the approved plans and specifications and provide two copies of as-built drawings to the District.

(d) The certification shall be based upon on-site observation of construction (scheduled and conducted by the professional or by a project representative under his or her direct supervision) or review of as-built drawings for the purpose of determining if the work was completed in compliance with approved plans and specifications.

(e) As-built drawings shall be the permitted drawings revised to reflect any changes made during construction. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. All surveyed dimensions and elevations required shall be certified by a registered surveyor. The following information, at a minimum, shall be verified on the as-built drawings:

1. Dimensions and elevations of all discharge structures including all weirs, slots, gates pumps, pipes, and oil and grease skimmers;

2. Locations, dimensions, and elevations of all filter, exfiltration, or underdrain systems including cleanouts, pipes, connections to control structures, and points of discharge to the receiving waters;

3. Dimensions, elevations, contours, or cross-sections of all treatment storage areas sufficient to determine stage-storage relationships of the storage area and the permanent pool depth and volume below the control elevation for normally wet systems, when appropriate;

4. Dimensions, elevations, contours, final grades, or cross-sections of the system to determine flow directions and conveyance of runoff to the treatment system;

5. Dimensions, elevations, contours, final grades, or cross-sections of all conveyance systems utilized to convey off-site runoff around the system;

6. Existing water elevation(s) and the date determined; and

7. Elevation and location of benchmark(s) for the survey.

(2) The operation phase of a stormwater management system permit which was not designed by an appropriate registered professional does not become effective until all of the criteria in this subsection, and subsection (3) below, have occurred. Within 30 days after completion of construction of the stormwater management system, permittee shall submit a certification, on form number 40C-1.181(14), As Built Certification, that the system has been constructed in accordance with the design approved by the District and shall notify the District that the system is ready for inspection.

(3) The permittee shall submit documentation to the District showing that adequate provisions have been made for the operation and maintenance of the system and for meeting any special permit conditions. Entities which qualify to operate and maintain systems for purposes of

this rule are listed at Rule 40C-42.027, *supra*. Documentation must include an affirmative indication that the entity intends to or agrees to take over maintenance responsibility for the system, unless the transfer is associated with the conversion of the construction permit to its operation phase and the maintenance entity exists as approved under the permit.

(4) The permit will be converted from a construction permit to an operation permit once the project is determined to be in compliance with the permitted plans and an appropriate entity exists for maintenance of the system. The District will transfer the permit to the maintenance entity upon request, pursuant to Rule 40C-4.351, F.A.C., once all conditions for converting the construction permit to an operation permit have been met.

Specific Authority 373.044, 373.113, 373.171, 373.418 FS. Law Implemented 373.413, 373.416 FS. History--New 9-25-91, 3-21-93. Amended 7-20-95.

40C-42.029 Monitoring and Operational Maintenance Requirements.

(1) The operation and maintenance entity is required to provide for periodic inspections of the stormwater management system to insure that the system is functioning as designed and permitted. If specified below or by permit condition, the entity shall submit inspection reports to the District, certifying that the stormwater management system is operating as designed. In addition, the entity will state in the report what operational maintenance has been performed on the system. The reports shall only be required for those systems which are subject to operation phase permits pursuant to subsection 40C-42.028(1), F.A.C., after the effective date of this rule adoption, unless indicated otherwise in a permit. The reports shall be submitted to the District as follows unless otherwise required by a permit condition:

(a) Inspection reports for exfiltration, and pumped systems shall be submitted one year after the completion of construction and every two years thereafter on form number 40C-1.181(15), Registered Professional's Inspection Report. A registered professional must sign and seal the report certifying the exfiltration or pumped system is operating as designed. However, reports for those systems in sensitive karst areas must be submitted pursuant to paragraph (b) below.

(b) Other Systems. Any other type of stormwater management system shall be inspected by the operation and maintenance entity once within two years after the completion of construction and every two years thereafter to insure that the system is functioning as designed and permitted. If a required inspection reveals that the system is not functioning as designed and permitted, then within 14 days of that inspection the entity shall submit an Exceptions Report on form number 40C-42.900(6), Exceptions Report for Stormwater Management Systems Out of Compliance. The operation and maintenance entity must maintain a record of each required inspection, including the date of the inspection, the name, address, and telephone number of the inspector, and whether the system was functioning as designed and permitted, and make such record available for inspection upon request by the District during normal business hours.

(c) Systems in sensitive karst areas must be inspected monthly for the occurrence of sinkholes and solution pipes. The inspection reports for these systems must be submitted to the District annually on form number 40C-1.181(15), Registered Professional's Inspection Report, for systems designed by a registered professional. For systems not designed by a registered professional, the inspection reports shall be submitted on form number 40C-1.181(16), Statement of Inspection Report.

(2) All permits issued pursuant to this chapter prior to October 11, 2001, are hereby modified to reflect the requirements in paragraph (1)(b) above and to remove any condition requiring the submittal of inspection reports for retention, underdrain, wet detention, dry detention, swales and wetland stormwater management systems. All other conditions of these permits shall remain in effect unless revoked or modified by the District.

(3) Permittees which operate stormwater management systems that are designed and constructed to accept stormwater from multiple parcels within the drainage area served by the system shall notify the District annually of the stormwater discharge volumes of all new parcels which have been allowed to discharge into the system in the previous year and shall certify that the maximum allowable treatment volume of stormwater has not been exceeded.

(4) The following operational maintenance activities shall be performed on all permitted systems on a regular basis or as needed:

- (a) Removal of trash and debris,
- (b) Inspection of inlets and outlets,
- (c) Removal of sediments when the storage volume or conveyance capacity of the stormwater management system is below design levels, and

- (d) Stabilization and restoration of eroded areas.

(5) Specific operational maintenance activities are required, depending on the type of permitted system, in addition to the practices listed in subsection (3), above.

- (a) Retention, swale and underdrain systems shall include provisions for:

- 1. Mowing and removal of grass clippings, and
 - 2. Aeration, tilling, or replacement of topsoil as needed to restore the percolation capability of the system. If tilling or replacement of the topsoil is utilized, vegetation must be established on the disturbed surfaces.

- (b) Exfiltration systems shall include provisions for removal of sediment and debris from sediment sumps.

- (c) Wet detention systems shall include provisions for operational maintenance of the littoral zone. Replanting shall be required if the percentage of vegetative cover falls below the permitted level. It is recommended that native vegetation be maintained in the littoral zone as part of the system's operation and maintenance plan. Undesirable species such as cattail and exotic plants should be controlled if they become a nuisance.

- (d) Dry detention systems shall include provisions for mowing and removal of grass clippings

- (e) Systems in sensitive karst areas shall include provisions for the repair of any sinkhole or solution pipe that develops in the system.

(6) If the system is not functioning as designed and permitted, operational maintenance must be performed immediately to restore the system. If operational maintenance measures are insufficient to enable the system to meet the design and performance standards of this chapter, the permittee must either replace the system or construct an alternative design. A permit modification must be obtained from the District prior to constructing such alternative design pursuant to Rule 40C-4.331, F.A.C.

Specific Authority 373.044, 373.113, 373.118, 373.406, 373.414, 373.418, 403.877 FS. Law Implemented 373.117, 373.118, 373.406, 373.413, 373.414, 373.416, 373.418 FS. History—New 9-25-91. Amended 3-21-93, 4-11-94, 10-11-01.

40C-42.031 Exemptions for Stormwater Management Systems.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 403.812, 403.814 FS. History-- New 4-1-86. Amended 8-11-91. Repealed 9-25-91.

40C-42.032 Limiting Conditions.

(1) The Governing Board shall impose upon any permit granted pursuant to this Chapter such reasonable conditions as are necessary to assure that construction and operation of the permitted system will not be inconsistent with the District's permitting standards set forth in Rule 40C-42.023, F.A.C., and will not be harmful to the water resources of the District.

(2)(a) In addition to project-specific special conditions, the following standard limiting conditions shall be attached to all permits issued pursuant to this Chapter unless waived by the Board upon a determination that the conditions are inapplicable for the work authorized by a given permit:

1. This permit for construction will expire five years from the date of issuance unless otherwise specified by a special condition of the permit.

2. Permittee must obtain a permit from the District prior to beginning construction of subsequent phases or any other work associated with this project not specifically authorized by this permit.

3. Before any offsite discharge from the stormwater management system occurs, the retention and detention storage must be excavated to rough grade prior to building construction or placement of impervious surface within the area served by those systems. Adequate measures must be taken to prevent siltation of these treatment systems and control structures during construction or siltation must be removed prior to final grading and stabilization.

4. The permittee must maintain a copy of this permit complete with all conditions, attachments, exhibits, and permit modifications, in good condition at the construction site. The complete permit must be available for review upon request by District representatives. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.

5. All activities shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall be considered a violation of this permit.

6. District authorized staff, upon proper identification, must be granted permission to enter, inspect and observe the system to insure conformity with the plans and specifications approved by the permit.

7. Prior to and during construction, the permittee shall implement and maintain all erosion and sediment control measures (best management practices) required to retain sediment on-site and to prevent violations of state water quality standards. All practices must be in accordance with the guidelines and specifications in Chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation 1988), which are hereby incorporated by reference, unless a project specific erosion and sediment control plan is approved as part of the permit, in which case the practices must be in accordance with the plan. If site specific conditions require additional measures during any phase of construction or operation to prevent erosion or control sediment, beyond those specified

in the erosion and sediment control plan, the permittee shall implement additional best management practices as necessary, in accordance with the specifications in Chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation 1988). The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.

8. If the permitted system was designed by a registered professional, within 30 days after completion of the stormwater system, the permittee must submit to the District the following: District Form No. 40C-1.181(13) (As Built Certification By a Registered Professional), signed and sealed by an appropriate professional registered in the State of Florida, and two (2) sets of "As Built" drawings when a) required by a special condition of this permit, b) the professional uses "As Built" drawings to support the As Built Certification, or c) when the completed system substantially differs from permitted plans. This submittal will serve to notify the District staff that the system is ready for inspection and approval.

9. If the permitted system was not designed by a registered professional, within 30 days after completion of the stormwater system, the permittee must submit to the District the following: District Form No. 40C-1.181(14) (As Built Certification), signed by the permittee and two (2) sets of "As Built" drawings when required by a special condition of this permit, or when the completed system substantially differs from permitted plans. This submittal will serve to notify the District staff that the system is ready for inspection and approval.

10. Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven (7) days after the construction activity in that portion of the site has temporarily or permanently ceased.

11. Should any other regulatory agency require changes to the permitted system, the permittee shall provide written notification to the District of the changes prior to implementation so that a determination can be made whether a permit modification is required.

12. Within thirty (30) days after sale or conveyance of the permitted stormwater management system or the real property on which the system is located, the owner in whose name the permit was granted shall notify the District of such change of ownership. Transfer of this permit shall be in accordance with the provisions of Rule 40C-1.612, Florida Administrative Code. All terms and conditions of this permit shall be binding upon the transferee. The permittee transferring the permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.

13. The stormwater management system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure. The system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the stormwater management system to a local government or other responsible entity.

14. The operation phase of the permit shall not become effective until the requirements of condition No. 8 or 9 have been met, the District determines that the system complies with the permitted plans, and the entity approved by the District in accordance with Rule 40C-42.027, F.A.C., accepts responsibility for operation and maintenance of the system. The permit cannot be transferred to such an approved responsible operation and maintenance entity until the requirements of Rule 40C-42.028, F.A.C., are met, and the operation phase of

the permit becomes effective. Following inspection and approval of the permitted system by the District in accordance with Rule 40C-42.028, F.A.C., the permittee shall request transfer of the permit to the responsible approved operation and maintenance entity, if different from the permittee. Until the permit is transferred pursuant to subsection 40C-42.028(4), F.A.C., the permittee shall be liable for compliance with the terms of the permit.

15. Prior to lot or unit sales, or upon completion of construction of the system, whichever occurs first, the District must receive the final operation and maintenance document(s) approved by the District and recorded, if the latter is appropriate. For those systems which are proposed to be maintained by county or municipal entities, final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final document will result in the permittee remaining personally liable for carrying out maintenance and operation of the permitted system.

16. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40C-42, F.A.C.

17. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the activities authorized by the permit or any use of the permitted system.

18. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

19. Activities approved by this permit shall be conducted in a manner which do not cause violations of state water quality standards.

(b) This section shall not be construed as a limitation on the authority of the Board to impose such other limiting conditions as may be necessary in order to assure that the permitted system is consistent with the requirements for issuance listed in Rule 40C-42.023, F.A.C.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.409, 373.413, 373.416, 373.419, 373.423, 373.426 FS. History--New 3-21-93, 10-3-95.

40C-42.033 Implementation.

(1) This chapter shall become effective on September 25, 1991.

(2)(a) Each construction permit issued under Chapter 40C-42, F.A.C., prior to the effective date of this rule shall remain valid according to its terms.

(b) Each construction permit application which is filed with the District prior to the effective date of this rule will be processed and evaluated under the rules implemented on April 1, 1986.

(c) Each construction permit application which is not filed with the District prior to September 25, 1991, will be processed and evaluated according to the rule provisions implemented on September 25, 1991.

Specific Authority 373.044, 373.113, 373.171, 373.429 FS. Law Implemented 373.416 FS. History--New 9-25-91. Amended 11-11-03

40C-42.035 Stormwater General Permits.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 403.812, 403.814 FS. History--New 4-1-86. Repealed 9-25-91.

40C-42.041 Individual Permit Requirements for New Stormwater Discharge Facilities.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 403.812, 403.814 FS. History--New 4-1-86. Repealed 9-25-91.

40C-42.061 Relationship to Other Permitting Requirements.

(1) Whenever the construction, alteration, removal, operation, maintenance, or abandonment of a stormwater management system requires that an environmental resource permit be secured pursuant to Chapter 40C-4 or 40C-40, F.A.C., the requirements in this chapter shall be reviewed as part of those permit applications. A separate permit application under this chapter shall not be required. However, the applicant must provide the required technical information as part of those applications to demonstrate compliance with this chapter. If the applicant requests a separate environmental resource stormwater permit, the applicant must notify the District of any other District permits, exemptions, or certifications which have or will be requested for the project.

(2) When a permit is required pursuant to this chapter and an individual environmental resource permit is required pursuant to Chapter 40C-4 for the same system, the time frames of Chapter 40C-4 shall apply to issuance of a permit under Rule 40C-42.024(2), F.A.C.

(3) This rule does not apply to any stormwater discharge facility listed in (a) and (b) below, unless such facility is modified pursuant to Rule 40C-42.024, F.A.C.:

(a) Which was in existence on February 1, 1982; or

(b) Which was permitted, modified, or found to be exempt, under Chapter 62-25, F.A.C., by the Department of Environmental Regulation (DER) after February 1, 1982, but prior to April 1, 1986, provided the facility was constructed in accordance with the DER permit or exemption, and is functioning in accordance with the requirements of Chapter 62-25, F.A.C.

(4) The operation phase permit requirements set forth in subsection 40C-42.028(1), F.A.C., shall not apply to systems permitted and found to be in compliance with all rule requirements prior to the effective date of this rule.

(5) Applications for conceptual agency review of stormwater management systems, as required by Section 380.06, F.S., will be reviewed in accordance with the procedure used by the District to review conceptual approval permit applications pursuant to subsection 40C-4.041(2), F.A.C.

(6) Systems for agricultural lands will be regulated under Chapter 40C-44, F.A.C.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.413, 373.416, 380.06(9) FS. History--New 4-1-86. Amended 9-25-91, 3-21-93, 4-11-94, 7-20-95, 8-3-95.

40C-42.071 Permit Processing Fee. There shall be a non-refundable permit processing fee as specified by Rule 40C-1.603, F.A.C., payable to the District at the time that an application for a permit is submitted.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.109, 373.113 FS. History-- New 4-1-86. Amended 9-25-91.

40C-42.081 General Provisions. Nothing under this chapter shall preclude:

(1) Stormwater effects from being considered in the evaluation of other types of permits where such consideration is relevant to a determination of compliance with applicable District requirements.

(2) The legal joinder in a permitting proceeding under this chapter of any person who owns or controls an unpermitted stormwater management system or systems which comprise a significant portion of the stormwater management system.

(3) The District from taking appropriate legal action including but not limited to the requiring of a permit to prevent the impairment of a use for which a water of the state has been designated under Chapter 62-302, F.A.C.

(4) The District from entering interagency or interlocal agreements to accomplish the provisions of this chapter.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 403.812, 403.814 FS. History-- New 4-1-86. Amended 9-25-91.

40C-42.091 Publications Incorporated by Reference.

(1) The Governing Board adopts by reference Part I "Policy and Procedures", Part II, "Criteria for Evaluation", and Part III "Operation and Maintenance", of the document entitled "Applicant's Handbook: Regulation of Stormwater Management Systems, Chapter 40C-42, F.A.C.", effective 12-3-06.

(2) This document provides information regarding the stormwater management system permitting program

(3) A copy of this document may be obtained by contacting:
Director, Division of Permitting Data Services,
St. Johns River Water Management District,
4049 Reid Street,
Palatka, Florida 32177-2529

St. Johns River Water Management District,
7775 Baymeadows Way, Suite 102
Jacksonville, Florida 32256

St. Johns River Water Management District,
975 Keller Road.
Altamonte Springs, Florida 32714-1618.

St. Johns River Water Management District,
525 Community College Pkwy., S.E.
Palm Bay, Florida 32909

Specific Authority 369.318, 120.54(8), 373.044, 373.113, 373.118, 373.406, 373.414, 373.418 F.S. Law Implemented 369.318, 373.109, 373.117, 373.118, 373.406, 373.413, 373.414, 373.415, 373.416, 373.418, 373.419, 373.423, 373.426, 373.461, 403.0877, 403.813. History--New 4-11-94. Amended 7-20-95, 10-3-95, 1-11-99, 10-11-01, 4-10-02, 2-1-05 12-3-06.

40C-42.900 Forms and Instructions. The following forms and instructions incorporated by reference have been approved the Governing Board and are available upon request from:

Department of Resource Management
St. Johns River Water Management District
4049 Reid Street
Palatka, Florida 32177-2529.

(1) Joint Application For Environmental Resource Permit/Authorization to Use State Lands/Federal Dredge and Fill Permit , form number 40C-4.900(1), adopted 12-3-06.

(2) As Built Certification by a Registered Professional, form number 40C-1.181(13), adopted March 21, 1993.

(3) As Built Certification, form number 40C-1.181(14), adopted 3-21-93.

(4) Registered Professional's Inspection Report, form number 40C-1.181(15), adopted 3-21-93.

(5) Statement of Inspection Report, form number 40C-1.181(16), adopted 3-21-93.

(6) Exceptions Report for Stormwater Management Systems Out of Compliance, form number 40C-42.900(6), adopted 10-11-01.

Specific Authority 373.044, 373.113, 373.118, 373.406, 373.414, 373.418 FS. Law Implemented 369.318, 373.085, 373.116, 373.117, 373.118, 373.406, 373.413, 373.414, 373.415, 373.416, 373.418, 373.426, 373.461, 403.0877 FS. History--New 5-30-90. Amended 9-25-91, 3-21-93, 2-27-94, 10-3-95, 10-11-01, 2-1-05, 12-3-06.