

RULES OF THE NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
CHAPTER 40A-1, FLORIDA ADMINISTRATIVE CODE

# GENERAL AND PROCEDURAL



Effective March 1, 2000  
Regulatory Guidelines #2000-1



**NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
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(Revised March 1, 2000)**

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# GENERAL AND PROCEDURAL

## PART I – GENERAL

### 40A-1.001 DESCRIPTION OF ORGANIZATION.

Specific Authority 373.044, FS.  
Law Implemented 120.53, 373.103, FS.  
History—New 3-31-80, Formerly 16G-1.02, 16G-1.03, Amended 10-1-84, Repealed 7-1-98.

### 40A-1.0015 GENERAL INFORMATION CONCERNING THE DISTRICT.

Specific Authority 373.044, FS.  
Law Implemented 373.073, 373.076, 373.079, 120.53, FS.  
History -- New 3-31-80, Formerly 16G-1.03, 16G-1.06, 16G-1.08; Amended 10-1-84, Repealed 7-1-98.

### 40A-1.002 DELEGATIONS OF AUTHORITY.

Specific Authority 373.044, FS.  
Law Implemented 373.016, 373.103, FS, 17-1.04, 17-21, 17-22, FAC.  
History—New 3-31-80, Formerly 16G-1.05, Repealed 7-1-98.

### 40A-1.0025 AUTHORITY OF THE GOVERNING BOARD.

Specific Authority 373.044, FS.  
Law Implemented 373.083, 373.103, FS.  
History—New 3-31-80, Formerly 16G-1.03, Amended 10-1-84, Repealed 7-1-98.

### 40A-1.003 INTERAGENCY AGREEMENTS.

Specific Authority 373.044, FS.  
Law Implemented 373.046, 373.083, FS.  
History—New 3-31-80, Amended 6-21-81, 10-1-84, 6-22-94, Repealed 7-1-98.

### 40A-1.004 AGREEMENTS.

(1) The following agreements have been entered into by the District and are hereby incorporated by reference.

- (a) With the Department concerning Mitigation Banking in the Northwest District, dated 1994;

(b) With the Department concerning permitting of potable wells in areas of contaminated ground water in Jackson County, dated 1990;

(c) With the Department and the Department of Health and Rehabilitative Services concerning permitting new potable wells in areas of contaminated groundwater, dated 1992;

(d) With the Office of Trade, Tourism and Economic Development, dated 1997;

(e) With the Department of Environmental Protection concerning procedures for handling permit applications, dated 1981.

Specific Authority 373.044, FS.  
Law Implemented 373.046, 373.083, FS.  
History—New 3-1-00.

### 40A-1.011 POLICY AND PURPOSE.

Specific Authority 373.044, FS.  
Law Implemented 120.53, FS.  
History—New 3-31-80, Amended 10-1-84, Repealed 7-1-98.

### 40A-1.021 DEFINITIONS.

Terms as defined in Chapters 120 and 273, Florida Statutes, apply throughout these rules. In addition:

- (1) “District” means the Northwest Florida Water Management District; and
- (2) “Executive Director” means the person employed by the Governing Board to direct the District’s operations, supervise staff and administrative procedures, and execute policies adopted by the Board.

Specific Authority 373.044, 373.113, FS.  
Law Implemented 373.069, 373.079, FS.  
History—New 3-31-80, Formerly 16G-1.01, FAC.

#### **40A-1.031 IMPLEMENTATION.**

Specific Authority 373.044, FS.  
Law Implemented 120.54, FS.  
History—New 3-31-80, Amended 10-1-84, Repealed 7-1-98.

#### **40A-1.041 PERMITS; PROCEDURE.**

Specific Authority 373.044, FS.  
Law Implemented 120.57, 120.60, 373.106, 373.116, 373.223, 373.229, 373.243, 373.309, 373.313, 373.413, 373.416, 373.426, 373.429, FS.  
History—New 3-31-80, Amended 10-1-84, Repealed 7-1-98.

#### **40A-1.071 MEETINGS, WORKSHOPS, AND NOTICES.**

Specific Authority 120.53(1), 373.044, FS.  
Law Implemented 120.53, 286.0105, 373.044, FS.  
History—New 3-31-80, Amended 10-1-84, 4-9-91, Repealed 7-1-98.

#### **40A-1.072 EMERGENCY MEETINGS.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1)(d), FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.073 CONDUCTING MEETINGS, HEARINGS, AND WORKSHOPS BY COMMUNICATIONS MEDIA TECHNOLOGY.**

Specific Authority 120.53(6), FS.  
Law Implemented 120.53(6), FS.  
History—New 4-9-91, Repealed 7-1-98.

#### **40A-1.081 AGENDAS.**

Specific Authority 120.53, 373.044, FS.  
Law Implemented 120.53, 120.54, FS.  
History—New 3-31-80, Formerly 16G-1.10, 16G-1.11, FAC, Amended 10-1-84, 4-9-91, Repealed 7-1-98.

#### **40A-1.082 AGENCY CLERK AND OFFICIAL REPORTER.**

Specific Authority 373.044, FS.  
Law Implemented 120.53(2)(c), 120.53(4), 373.103, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.091 RULE MAKING PROCEEDINGS.**

Specific Authority 373.044, FS.  
Law Implemented 120.53, 120.54, 120.56, FS.  
History—New 3-31-80, Formerly 16G-1.13-1.18, 16G-1.20, 16G-1.31, Repealed 10-1-84.

#### **40A-1.121 NOTICE AND HEARING REQUIREMENTS.**

Specific Authority 373.044, FS.  
Law Implemented 120.53, 120.54, FS.  
History—New 3-31-80, Formerly 16G-1.20-1.30, 16G-1.32-1.42, Repealed 10-1-84.

#### **40A-1.131 PERSONNEL RULES.**

Specific Authority 373.044, FS.  
Law Implemented 120.53, 120.54, 373.044, FS.  
History—New 4-8-85, Amended 5-4-87, 11-5-90, 11-20-91, Repealed 7-1-98.

#### **40A-1.180 PROCEDURES FOR CONTRACTING FOR PROFESSIONAL SERVICES.**

(1) In order to comply fully with the requirements of Section 287.055, Florida Statutes (“Consultants’ Competitive Negotiation Act”), the following procedures shall be followed in selecting firms to provide professional services.

(2) Definitions.

(a) “Professional Services” means those services within the scope of practice of architecture, professional engineering, or registered land surveying.

(b) “Firm” means any individual, firm partnership, corporation, association, or other legal entity permitted by law to practice architecture, landscape architecture, engineering, or land surveying in the State of Florida.

- (c) "Compensation" means the total amount paid by the District for professional services.
  - (d) "Committee" means the Certification and Selection Committee.
  - (e) "Project" means that fixed capital outlay project, study, or planning activity described in the public notice.
  - (f) A "continuing contract" is a contract for professional services entered into with no time limitation, except that the contract shall provide a termination clause.
- (3) Public Announcement and Qualification Procedures. The District shall announce, in the Florida Administrative Weekly and/or other appropriate publications, each occasion where the fee for professional services for a planning or study activity exceeds \$6,000, or projects for which the basic construction cost is estimated to be more than \$120,000, except in cases of valid public emergency as certified by the Board. Such notice shall include a general description of the project and shall indicate how interested firms may apply for consideration by the District.
- (4) Certification and Competition Selection for Projects.
- (a) There shall be a Certification and Selection Committee comprised of six members as follows: Executive Director of the District, or his designated alternate, and two other staff members appointed by the Executive Director who shall serve to provide the certification function of the committee; the Chairman of

the Governing Board of the District, or his designated alternate, and two other Board members appointed by the Chairman of the Governing Board who shall serve to provide the selection function of the committee. Once the Certification and Selection Committee is established, it shall serve throughout the selection process for which it was established.

- (b) When professional services are required, the Committee shall evaluate current statements of qualifications and performance data submitted by interested firms, and shall conduct discussions with, and may require public presentation by, no less than three firms regarding their qualifications, approach to the project, and ability to furnish the required services.
- (c) The Committee shall determine the relative ability of each firm to perform the services required. Each firm determined to be able to provide the services will be so certified by the Committee and shall be eligible for consideration.
- (d) The Committee shall select no less than three firms in order of preference, deemed to be most highly qualified to perform the required services, after considering such factors as the ability of professional personnel; past performance; willingness to meet time and budget requirements; demonstrated approach to the project; interest; location; recent, current, and projected work loads of the firms; and the volume of work previously awarded to the firm by the District, with the object of

effecting an adequate distribution of contracts among qualified firms, provided, however, that such distribution does not violate the principle of selection of the most highly qualified firm. The committee will report its selections to the Governing Board of the District with the recommendation that the District staff be authorized to negotiate a contract in full accordance with procedures set forth hereafter.

(5) Competitive Negotiation.

(a) When authorized by the Governing Board, the Executive Director shall negotiate a contract for professional services for a project with the authorized firms at compensation determined to be fair, competitive, and reasonable. For all lump sum or cost-plus-a-fixed-fee professional services contracts over \$50,000, the District shall require the firm receiving the award to execute a truth-in negotiation certificate as required in subsection 5(a) of Section 287.055, Florida Statutes.

(b) Should the District be unable to negotiate a satisfactory contract with any of the selected firms, additional firms shall be selected, and negotiations shall continue until an agreement is reached.

(6) Prohibition Against Contingency Fees.

Each contract for professional services shall contain a prohibition against contingency fees, as required by subsection 287.055(6), Florida Statutes.

(7) Inconsistency with Section 287.055, Florida Statutes.

To the extent any inconsistency may exist between these regulations and Section 287.055, Florida Statutes, the provisions of Section 287.055, Florida Statutes, shall prevail.

Specific Authority 373.044, 373.113, FS.  
Law Implemented 287.055, 373.083, FS.  
History—New 3-31-80, Formerly 16G-1.47, Formerly 40A-1.801, Amended 5-4-87.

**40A-1.181 CONTRACT BIDDING –  
RESERVATION OF RIGHTS.**

The District shall reserve the right to reject any or all bids, and such reservation shall be indicated on all advertising and bid invitations. The District shall reserve the right to waive minor irregularities in an otherwise valid bid. A minor irregularity is a variation from the bid invitation terms and conditions which does not affect the price of the bid, or give the bidder an advantage or benefit not enjoyed by other bidders, or does not adversely impact the interests of the District. Variations which are not minor may not be waived. A bidder may not modify its bid after bid opening. Mistakes clearly evident on the face of the bid documents, such as computation errors, may be corrected by the District.

Specific Authority 373.044, 373.113, FS.  
Law Implemented 287.055, 373.083, FS.  
History—New 10-1-84.

**40A-1.182 CONTRACT BIDDING –  
RESOLUTION OF PROTEST.**

(1) The District shall give notice of its decision or intended decision concerning a bid solicitation by United States mail or by hand delivery to all bidders. Notice of other decisions or intended decisions concerning a contract award shall be given by posting the bid

tabulation at the location of the bid opening or by certified United States mail, return receipt requested. All notices pursuant to this rule shall include the following statement: “Failure to file a protest within the time prescribed in Section 120.53(5), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes. The formal written protest shall state with particularity the facts and law upon which the protest is based.”

- (2) Within 72 hours after a bid tabulation has been posted or after receipt of a notice of decision or intended decision, a person adversely affected by the District’s decision or intended decision shall file with the agency clerk a written notice of protest and shall also file a formal written protest within ten (10) days of filing the notice of protest. Failure to file a notice of protest and a formal protest shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.
- (3) Upon the timely filing of a notice of protest, the bid solicitation or contract award process shall be stopped until the subject of the protest is resolved by final agency action, unless the Board sets forth in writing the facts and circumstances which require that the process be continued without delay to

avoid an immediate and serious danger to the public health, safety or welfare.

- (4) Within 7 days, excluding Saturdays, Sundays, and legal holidays, of the filing of a formal written protest, at the request of a protestor or a member of the Board there shall be a meeting between the protestor and the Executive Director to resolve the protest by mutual agreement.
- (5) If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and legal holidays, of the filing of a formal written protest, the following shall occur:
  - (a) If there is a disputed issue of material fact, the District shall refer the protest to the Division of Administrative Hearings for proceedings under Section 120.57(1), Florida Statutes.
  - (b) If there is no disputed issue of material fact, an informal proceeding pursuant to Section 120.57(2), Florida Statutes, and the District’s rules shall be conducted before a person eligible under the Florida Administrative Code or Chapter 120, Florida Statutes.

Specific Authority 373.044, 373.113, FS.  
Law Implemented 373.083, FS.  
History—New 10-1-84, Amended 6-8-86.

## **PART II – PERMITTING**

### **40A-1.201 PERMIT APPLICATIONS – GENERAL.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, 120.60, 373.083, 373.116, 373.118, 373.119, 373.229, 373.239, 373.243, 373.246, 373.413, 373.416, 373.429, FS.  
History—New 10-1-84, Repealed 7-1-98.

### **40A-1.202 PERMITS REQUIRED.**

Specific Authority 373.044, FS.  
Law Implemented 120.53, FS.  
History—New 10-1-84, Repealed 7-1-98.

### **40A-1.2025 FEES.**

(1) A fee is required and shall be paid to the District when certain applications or petitions are filed pursuant to District rules. This fee is for the purpose of helping defray the costs of evaluation, processing, noticing, advertising, and mailing required in connection with consideration of such applications, as well as costs of monitoring and inspecting for compliance with the permit. Fees are non-refundable in whole or part unless the activity for which an application is filed is determined by the District to be exempt or the fee submitted is determined by the District to be an incorrect amount. The appropriate fees are established in each separate rule. Failure of any person to pay the fees established in the appropriate rule shall result in the denial of an application.

(2) Any portion of the fees enumerated in any District rule in excess of \$100 shall be waived for any city or county government upon receipt of a certification from such city or county of hardship required in Chapter 218.075, Florida Statutes. Any such certification shall be presumed to be valid for the

entire fiscal year of the city or county during which certification is made unless the certification clearly indicates a duration to the contrary.

Specific Authority 373.044, 373.113, FS. Law Implemented 218.075, 373.109, FS. History—New 5-7-95, Amended 3-1-00.

### **40A-1.203 PERMIT APPLICATION PROCEDURE.**

(1) Procedures for permit applications shall be in accordance with Chapter 120, Florida Statutes, and Part II of this Chapter.

(2) A permit application shall be:

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

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

(3) No later than 30 days after receipt of an application for a surface water management permit pursuant to Rule 40A-4.041(2), an agricultural or forestry surface water management permit pursuant to Rule 40A-44.041(2)(b) or (c), or an Individual water use permit pursuant to Rule 40A-2.031, the District shall publish a notice thereof in a newspaper having general circulation as defined in Chapter 50, Florida Statutes. In addition, the District shall provide a copy of the notice to any person who has filed a written request for notification of any pending applications affecting the particular designated area. Interested persons

may object to or comment upon the proposed permit in writing by the date specified in the notice. The District may request persons submitting objections or comments to furnish additional information. The District may consider objections or comments received after the designated time period if proposed agency action has not been taken on the application. The District will provide the applicant with a copy of all objections and comments received.

- (4) Publication of the notice of application pursuant to subsection (3) shall constitute constructive notice of the permit application to all substantially affected persons. Persons who wish to receive a Notice of Proposed Agency Action and the staff report regarding a permit application must file a written request with the District by the date specified in the notice. Notices of Proposed Agency Action will be mailed only to persons who have filed such requests. Failure to timely request an administrative hearing pursuant to the directions contained in the Notice of Proposed Agency Action constitutes a waiver of the right to an administrative hearing on the application.
- (5) Within 30 days after receipt of an application, the District shall notify the applicant if the application is incomplete and request the additional information required to make the application complete. The applicant shall have 90 days after the District mails a timely request for additional information to submit that information to the District. If an applicant requires more than 90 days in which to complete an application, the applicant

may notify the District in writing of the circumstances and for good cause shown, the application shall be held in active status for one additional period of up to 90 days. Unless both the applicant and the District agree to further extensions, any application which has not been completed by the applicant within the given time period following a request for additional information by the District shall be recommended for denial at the next regularly scheduled Board meeting. For the purpose of this paragraph, good cause shall mean unforeseen circumstances outside of the control of the applicant. Denial of an application for lack of completeness is without prejudice to the applicant's right to file a new application on the same subject matter within 180 days without payment of an additional application fee.

- (6) If additional information submitted to the District incorporates or results in material changes in the proposed activity for which the applicant seeks a permit, the application will be considered to have been amended and the proposal contained in the original application will be deemed withdrawn. The District shall have 90 days from the date of receipt of the additional information in which to approve or deny the amended application and such application shall be subject to review for completeness under subsection (5) above.
- (7) The District shall notify the applicant of the date on which the application is declared complete. Within a reasonable time thereafter, the District shall prepare a staff report, which shall contain its recommendations regarding

the subject application. A Notice of Proposed Agency Action and the staff report shall be furnished to the applicant and to those persons who have filed written requests pursuant to subsection (4). The Notice shall state the District's intention to recommend that the Board approve, approve with conditions, or deny the permit application and shall specify a date for filing a petition for administrative hearing which shall be not less than 21 days after the date of mailing of the Notice of Proposed Agency Action. Substantially affected persons shall have the right to request an administrative hearing under Section 120.569, Florida Statutes, and Part V of these rules by filing a petition for administrative hearing with the Agency Clerk by the date specified in the Notice of Proposed Agency Action.

- (8) A petition for administrative hearing shall be deemed filed with the District on the date of receipt by the Agency Clerk and must be in substantial compliance with the provisions of Uniform Rules of Procedures. Failure to timely request an administrative hearing shall constitute a waiver of the right to an administrative hearing pursuant to Section 120.569, Florida Statutes.
- (9) The District shall review the sufficiency of each petition for administrative hearing filed and provide a Statement of Compliance of the petition with the requirements of the Uniform Rules of Procedure to the Board and the petitioner.
- (10) The Board shall consider the permit application on the date indicated in the

Notice of Proposed Agency Action. The permit applicant and other interested parties may appear before the Board to present informal argument in favor of or against the proposed agency action. Appearance before the Board pursuant to this subsection shall not provide a basis for appealing the decision of the Board pursuant to Chapter 120, Florida Statutes.

- (11) The Board may approve, reject or modify the proposed agency action, which shall constitute final agency action, except in those instances when a valid petition for administrative hearing has been timely filed. In such instances, if the dispute is not resolved at the Board meeting to the satisfaction of the petitioner, the Board shall defer final consideration of the matter pending the completion of the administrative hearing and the submission of a recommended order and exceptions to that order.
- (12) Applicants and other interested parties not objecting to the Notice of Proposed Agency Action should nevertheless be prepared to defend their positions regarding the permit application when it is considered by the Board for final agency action. In the event the Board takes final agency action which differs materially from the proposed agency action, the District shall mail a Notice of Final Agency Action to all persons who received a Notice of Proposed Agency Action. Substantially affected persons who did not request an administrative hearing based upon the Notice of Proposed Agency Action shall have the right to request such a hearing on the final agency action under Section 120.57, Florida Statutes,

and Part V of these rules in accordance with subsection (8).

- (13) Applicants entitled to a hearing pursuant to Section 120.57(1), Florida Statutes, may waive their right to such a hearing and request an informal hearing before the Board pursuant to Section 120.57(2), Florida Statutes, which may be granted at the option of the District.

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.60, FS.  
History—New 10-1-84, Amended 1-5-86, 7-1-98, 3-1-00.

#### **40A-1.204 DENIAL OF PERMIT.**

Specific Authority 373.044, FS.  
Law Implemented 120.60, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.205 SUSPENSION, REVOCATION AND MODIFICATION OF DISTRICT PERMITS.**

- (1) The District may suspend or revoke a permit, in whole or in part, when it determines that the permittee or his agent has:
  - (a) Submitted false or inaccurate information on an application, operational report, or completion report;
  - (b) Violated Chapter 373, Florida Statutes, and the rules promulgated thereunder, or any other provision of Florida law related to the operations of the District;
  - (c) Failed to comply with an administrative order issued pursuant to Section 373.119, Florida Statutes;
  - (d) Violated a condition of the permit; or

- (e) Failed to allow inspection of the subject property.

- (2) The District may revoke a permit or modify its terms and conditions when it determines that such action is necessary to protect the public health, safety and welfare, prevent a public or private nuisance, or when the continued utilization of the permit becomes inconsistent with the objectives of the District. In such instances, due consideration shall be given to the extent to which the permittee has detrimentally relied upon the permit.
- (3) The Executive Director shall initiate proceedings to suspend, revoke, or modify a permit by serving upon the permittee by actual service or certified mail a Notice of Intention which shall state the nature of the intended action, and those findings of fact and conclusions of law which support the action.
- (4) The permittee may request a formal or informal administrative hearing pursuant to Section 120.57, Florida Statutes, by filing a petition for administrative hearing with the District within 14 days of receipt of the Notice of Intention. Petitions are deemed filed upon receipt by the Agency Clerk.
- (5) A petition for a formal hearing pursuant to Section 120.57(1), Florida Statutes, must comply with Rule 40A-1.521. When a formal hearing is requested, the permittee or other affected persons shall admit or deny each finding of fact contained in the Notice of Intention, or state that the permittee is without knowledge as to the same, which shall be deemed to be a denial. The District may decline to hold a formal hearing

when there are no disputed issues of material fact.

- (6) Failure to comply with the provisions of subsection (4) shall constitute a waiver of the right to an administrative hearing pursuant to Section 120.57, Florida Statutes. In such event, all findings of fact and conclusions of law contained in the Notice of Intention shall be deemed uncontested and true in any further judicial or administrative proceedings.
- (7) The Board shall consider the Notice of Intention for which no timely petition for an administrative hearing has been filed at the meeting specified in the notice. The permittee or other affected persons may state their objections to or comment in favor of the intended action, but the appearance shall not constitute grounds for an administrative appeal pursuant to Chapter 120, Florida Statutes.
- (8) When a valid petition for administrative hearing has been filed, the Board shall defer consideration of the matter pending the completion of the administrative hearing and the submission of a recommended order and any exceptions to the order. The permittee may appear before the next meeting of the Board to discuss the intended action by submitting a written request within 14 days of receipt of the Notice of Intention. The Board may cancel the intended action or make such modifications as are deemed appropriate. An informal appearance before the Board pursuant to this subsection shall not constitute a waiver of the right to a formal administrative hearing.
- (9) In the case of an emergency, the Executive Director may enter an order which suspends or revokes a permit, in

whole or in part, or which modifies the terms and conditions of a permit. The permittee shall take whatever actions necessary to cause immediate compliance with the emergency order, but shall have the right of administrative appeal, subject to the provisions of subsections (4) through (7).

Specific Authority 373.044, 373.113, FS.  
Law Implemented 373.243, 373.246, 373.429, FS.  
History—New 10-1-84.

#### **40A-1.206 TEMPORARY PERMITS.**

The Board or the Executive Director may issue temporary permits for consumptive water use while an application is pending pursuant to Section 373.244, Florida Statutes. A temporary permit request must be made in writing by the applicant. Prior to the issuance of a temporary permit, the applicant may be requested to waive any right under Section 120.60, Florida Statutes, to have his application approved or denied within 90 days after receipt of the application or additional information requested by the District.

Specific Authority 373.044, 373.113, FS.  
Law Implemented 373.244, FS.  
History—New 10-1-84.

#### **40A-1.207 COMPLAINTS.**

- (1) Any person may file a written complaint with the District alleging that a person is in violation of any of the provisions of Chapter 373, Florida Statutes, the rules promulgated thereunder or an order issued pursuant thereto, or that a lawfully issued District permit is causing a public or private nuisance.
- (2) The complaint shall specify to the best of complainant's knowledge the identity of the alleged violator, the location and

nature of the alleged violation, and any additional information deemed relevant or material by the complainant. The complaint must be signed by the complainant or his agent and contain an address or phone number where complainant can be reached. The District may require complainant to furnish any additional information reasonably necessary to aid in investigating the complaint.

Specific Authority 373.044, FS.  
Law Implemented 373.219(2), FS.  
History—New 10-1-84.

#### **40A-1.208 ADMINISTRATIVE ENFORCEMENT ACTION.**

- (1) An Order and Notice of Violation shall be served by actual service or certified mail on the alleged violator or violators. The Order and Notice of Violation shall specify the statute, rule, or permit provision alleged to be violated or about to be violated, shall indicate the facts alleged to constitute a violation and shall order that corrective action be taken within a reasonable time specified in the Order.
- (2) The respondent may request an administrative hearing under Section 120.569, Florida Statutes, by filing a petition for administrative hearing with the District within 14 days of receipt of the Order and Notice of Violation. If no petition is timely filed, the Order shall become final. Petitions are deemed filed with the District on the date of receipt by the Agency Clerk. The petition must be in substantial compliance with the provisions of the Uniform Rules of Procedure.

Specific Authority 373.044, 373.113, FS.  
Law Implemented 373.119, 373.423, FS.  
History—New 10-1-84, Amended 7-1-98, 3-1-00.

#### **40A-1.209 EMERGENCY ACTION.**

- (1) An emergency exists when immediate action is necessary to protect public health, safety or welfare; the health of animals, fish or aquatic life; the works of the District; a public water supply; or recreational, commercial, industrial, agricultural or other reasonable uses of land and water resources.
- (2) Whenever an emergency exists, the Executive Director shall issue an emergency order, which shall describe the conditions which are causing the emergency, and the type of corrective action necessary to minimize or abate the emergency conditions. The order shall be delivered by service of process or by personal delivery by an agent of the District to the person, or to the agent of the person responsible for causing or contributing to the emergency conditions.
- (3) The person or his agent shall take whatever action necessary to cause immediate compliance with the terms of the emergency order, but shall have the right to appeal the order in accordance with the provisions of Rule 40A-1.205, subsections (4) through (7).
- (4) When an emergency condition exists pursuant to Section 373.439, Florida Statutes, the Executive Director may employ the resources of the District to take whatever remedial action necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.

Specific Authority 373.044, 373.113, FS.  
Law Implemented 373.119, 373.439, FS.  
History—New 10-1-84.

## **PART III – RULEMAKING PROCEEDINGS**

### **40A-1.301 COMMENCEMENT OF PROCEEDINGS.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), FS.  
History—New 10-1-84, Repealed 7-1-98.

### **40A-1.303 NOTICE OF PROCEEDINGS AND THE PROPOSED RULES.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.54(1), FS.  
History—New 10-1-84, Repealed 7-1-98.

### **40A-1.307 CONTENT OF NOTICE.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.54(1), FS.  
History—New 10-1-84, Repealed 7-1-98.

### **40A-1.311 PETITIONS TO INITIATE RULEMAKING PROCEEDINGS.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.54(5), FS.  
History—New 10-1-84, Repealed 7-1-98.

### **40A-1.313 DISTRICT ACTION ON PETITIONS TO INITIATE RULEMAKING PROCEEDINGS.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.54(5), FS.  
History—New 10-1-84, Repealed 7-1-98.

### **40A-1.327 RULEMAKING MATERIALS.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.54, FS.  
History—New 10-1-84, Repealed 7-1-98.

### **40A-1.330 RULEMAKING PROCEEDING – NO HEARING.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.54, FS.  
History—New 10-1-84, Repealed 7-1-98.

### **40A-1.331 RULEMAKING PROCEEDING – HEARING.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.54(3), (6), FS.  
History—New 10-1-84, Repealed 7-1-98.

### **40A-1.335 INCORPORATION BY REFERENCE.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53, 120.54, FS.  
History—New 10-1-84, Repealed 7-1-98.

### **40A-1.337 EMERGENCY RULE ADOPTION.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.54(9), FS.  
History—New 10-1-84, Repealed 7-1-98.

## **PART IV – DECLARATORY STATEMENTS**

### **40A-1.401 GENERAL.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.565, FS.  
History—New 10-1-84, Repealed 7-1-98.

### **40A-1.405 PURPOSE AND USE OF DECLARATORY STATEMENT.**

Specific Authority 373.044, 373.114, FS.  
Law Implemented 120.565, FS.  
History—New 10-1-84, Repealed 7-1-98.

### **40A-1.407 DISTRICT DISPOSITION.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.565, FS.  
History—New 10-1-84, Repealed 7-1-98.

**PART V  
DECISIONS DETERMINING  
SUBSTANTIAL INTERESTS**

**40A-1.501 SCOPE.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.54(16), 120.57, 120.60(1), FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.502 PRESIDING OFFICER.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.503 COMPUTATION OF TIME.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.504 PARTIES.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.505 APPEARANCES; CRITERIA FOR  
AUTHORIZED REPRESENTATION.**

Specific authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.62(2), FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.506 CONSOLIDATION.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.507 JOINDER OF PARTIES.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.508 DISQUALIFICATION.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, 120.71, FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.509 FILING AND SERVICE OF  
PAPERS.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.510 DISTRICT INVESTIGATIONS  
AND PROBABLE CAUSE  
DETERMINATION.**

- (1) Upon receipt of a complaint filed pursuant to Rule 40A-1.207, the District shall conduct an investigation and make a determination of probable cause. The District may conduct other investigations and make other probable cause determinations as are authorized or required by law.
- (2) An investigation or determination of probable cause is a nonadversary executive function to discover or procure evidence as part of the fact-finding function of the District. The District need not have an Order or Notice of Violation pending to conduct an investigation or make such a determination.

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.62, 373.219(2), 373.319, 373.423, FS.  
History—New 10-1-84, Amended 3-1-00.

**40A-1.511 POINT OF ENTRY INTO  
PROCEEDINGS.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Amended 7-1-98, Repealed 3-1-00.

**40A-1.521 INITIATION OF FORMAL  
PROCEEDINGS.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.522 AMENDMENT OF PETITIONS.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.523 ANSWER.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.524 MOTIONS.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.525 MOTIONS IN OPPOSITION TO PETITION.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.526 PREHEARING CONFERENCES.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.527 INTERVENTION.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.528 DISCOVERY.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.529 NOTICE OF HEARING.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.530 CONTINUANCES.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.531 DISMISSAL AND DEFAULT.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.541 SUBPOENAS.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, 120.58(1), FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.542 WITNESS FEES.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.543 ORDER OF PRESENTATION.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.544 BURDEN OF PROOF.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.545 WITNESSES.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.546 EVIDENCE.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, 120.58, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.547 RECORDATION.**

Specified Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

#### **40A-1.548 VENUE.**

Specified Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.561 POST-HEARING MEMORANDA.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.562 RECOMMENDED ORDER.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, 120.58(1), FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.564 EXCEPTIONS TO  
RECOMMENDED ORDER.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.565 FINAL ORDER.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57, 120.59, 120.60, FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.571 INFORMAL PROCEEDINGS.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57(2), FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.572 SUBMISSION OF EVIDENCE.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57(2), FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.573 FINAL ORDER.**

Specific Authority 373.044, 373.113, FS.  
Law Implemented 120.53(1), 120.57(2), FS.  
History—New 10-1-84, Repealed 7-1-98.

**40A-1.801 PROCEDURES FOR  
CONTRACTING FOR PROFESSIONAL  
SERVICES.**

Specific Authority 373.044, FS.  
Law Implemented 287.055, FS.  
History—New 3-31-80, Formerly 16G-1.47, Transferred to 40A-1.180.

**PART X – EXCEPTIONS TO THE ADMINISTRATION COMMISSION’S UNIFORM RULES OF PROCEDURES**

**40A-1.1002 VARIANCES FROM WATER SHORTAGE PLAN.**

In addition to the requirements of the Uniform Rules of Procedure regarding the application content to request a variance, petitions for variances from the District’s Water Shortage Plan, as provided in Rule 21.275, shall contain the following:

- (1) A detailed map showing the location of the property;
- (2) The water use restrictions which petitioner can meet and the date when petitioner can comply with such restrictions;
- (3) If the variance is sought because compliance will require measures that, because of their extent or cost, cannot be accomplished within the anticipated duration of the declared water shortage, information identifying the restrictions which currently can be met, a description of the measures which would be necessary to meet all restrictions and the date when these measures could be completed;
- (4) If the applicant is the owner or operator of a golf course whose need for a variance arises from the operational inability of its irrigation system or works to meet the front half/back half golf course irrigation requirement in 40A-21, Part VI, Specific Restrictions, the applicant shall submit a map showing the proposed alternative division of the course in halves and an explanation of

the applicant’s proposed irrigation scheme;

- (5) For applications for variance from restrictions on irrigation, a general description of the irrigation system, including pump size or water system output, map of irrigated area, and net acres irrigated;
- (6) The steps the petitioner is taking to meet the restriction or provision from which the variance is sought; and
- (7) Any other information the petitioner believes is material.

Specific Authority 120.54(5), 373.044, 373.113, FS.  
Law Implemented 120.54(5), 373.175, 373.246, FS.  
History–New 7-1-98.

**40A-1.1003 VARIANCE AND EMERGENCY VARIANCE OR AUTHORIZATION PROCEDURES.**

- (1) Petitions for variances from District rules, including but not limited to Rules 40A-3.451, 40A-6.451, 40A-21.275, and 40A-44.451, FAC, that require immediate action and which comply with the variance petition requirements of Ch. 28-104, FAC, shall be temporarily acted upon by the Executive Director or his designee. Petitions acted upon by the Executive Director or his designee shall be presented to the Governing Board for concurrence, rejection or modification.
- (2) Mere carelessness, lack of planning on the part of the applicant or an agent for the applicant, or a desire to expedite the required work shall not be sufficient grounds to warrant the granting of an emergency variance or authorization. The decision of the Executive Director or his designee, will remain in effect

until such time as the petition is fully evaluated and acted upon by the Governing Board.

- (3) The District shall take action on an application for an emergency variance or authorization within 30 days of its receipt by the District or at its next regularly scheduled meeting for which notice may properly be given.

Specific Authority 120.54(5), 373.044, 373.085(1), 373.246, 373.308, 373.309, 373.113, 373.171, FS.  
Law Implemented 120.54(5), 373.175, 373.246, 373.308, 373.309, 373.313, 373.316, 373.326, 373.342, 373.413, 373.416, 373.426, 373.439, 373.084, 373.085, FS.  
History—New 7-1-98, Amended 3-1-00.

#### **40A-1.1010 POINT OF ENTRY INTO PROCEEDINGS.**

- (1) The District's publication of notice of its decisions or of its intent to render a decision in the Florida Administrative Weekly, or in newspapers of general circulation in the area affected by such decisions, whichever is later, or, where appropriate, mailing copies of its notice to applicants, competitors, and interested groups shall be used in establishing the date petitioner received notice. "Receipt" of mailed notice shall be deemed to be the third day after the date on which the notice is deposited in the United States Mail.
- (2) Any person who fails to request a hearing within the applicable time period after receipt of notice, as defined by sections (1) shall have waived the right subsequently to request a hearing on such matters.
- (3) The point of entry for all enforcement and remedial proceedings of the District is 14 days from receipt of the administrative complaint or order for corrective action or such other similar

notification of violation or need for remediation, pursuant to the provisions of Section 373.119, FS.

- (4) The point of entry for all license and permit proceedings, except license disciplinary proceedings, is 21 days after receipt of the notice of proposed action or the notice of action, pursuant to the provisions of the Uniform Rules of Procedure.

Specific Authority 120.54(5), 373.044, 373.113, 373.171, FS.  
Law Implemented 120.54(5), 120.569, 373.084, 373.085, 373.216, 373.308, 373.309, 373.116, 373.119, 373.219, 373.323, 373.406(6), 373.413, 373.416, 373.418, 373.426, 373.427, FS.  
History—New 7-1-98, Amended 3-1-00.

#### **40A-1.1020 GENERAL PROCEDURES FOR PERMIT APPLICATIONS.**

- (1) A permit application where required by District rule shall be:
  - (a) filed with the District on the appropriate form provided by the Board; and
  - (b) accompanied by the appropriate fee in accordance with the schedule of fees established by the Board. The failure of any person to pay the required fee shall result in the denial or revocation of the permit.
- (2) No later than 30 days after receipt of an application for a surface water management permit pursuant to Rule 40A-4.041(2), an agricultural or forestry surface water management permit pursuant to Rule 40A-44.041(2)(b) or (c), or an individual water use permit pursuant to Rule 40A-2.031, the District shall publish a notice thereof in a newspaper having general circulation as defined in Chapter 50, Florida Statutes. In addition, the District shall provide a copy of the notice to any person who has

filed a written request for notification of any pending applications affecting the particular designated area. Interested persons may object to or comment upon the proposed permit in writing by the date specified in the notice. The District may request persons submitting objections or comments to furnish additional information. The District will provide the applicant with a copy of all objections and comments received.

- (3) Publication of the notice of application pursuant to subsection (2) shall constitute constructive notice of the permit application to all substantially affected persons. Persons who wish to receive a Notice of Proposed Agency Action and the staff report regarding a permit application must file a written request with the District by the date specified in the notice. Notices of Proposed Agency Action will be mailed only to persons who have filed such requests. Failure to timely request an administrative hearing pursuant to the directions contained in the Notice of Proposed Agency Action constitutes a waiver of the right to an administrative hearing on the application.
- (4) Within 30 days after receipt of an application, the District shall notify the applicant if the application is incomplete and request the additional information required to make the application complete. The applicant shall have 90 days after the District mails a timely request for additional information to submit that information to the District. If an applicant requires more than 90 days in which to complete an application, the applicant may notify the District in writing of the circumstances and for good cause shown, the application shall be held in active status for one additional

period of up to 90 days. Unless both the applicant and the District agree to further extensions, any application which has not been completed by the applicant within the given time period following a request for additional information by the District shall be recommended for denial at the next regularly scheduled Board meeting. For the purpose of this paragraph, good cause shall mean unforeseen circumstances outside the control of the applicant. Denial of an application for lack of completeness is without prejudice to the applicant's right to file a new application on the same subject matter within 180 days without payment of an additional application fee.

- (5) If additional information submitted to the District incorporates or results in material changes in the proposed activity for which the applicant seeks a permit, the application will be considered to have been amended and the proposal contained in the original application will be deemed withdrawn. The District shall have 90 days from the date of receipt of the additional information in which to approve or deny the amended application and such application shall be subject to review for completeness under subsection (4) above.
- (6) The District shall notify the applicant of the date on which the application is declared complete. The District shall prepare a staff report, which shall contain its recommendations regarding the subject application. A Notice of Proposed Agency Action and the staff report shall be furnished to the applicant and to those persons who have filed written requests pursuant to subsection (3). The Notice shall state the District's intention to recommend that the Board approve, approve with conditions, or

deny the permit application and shall specify a date for filing a petition for administrative hearing which shall be not less than 21 days after the date of mailing of the Notice of Proposed Agency Action. Substantially affected persons shall have the right to request an administrative hearing under Section 120.569, Florida Statutes, and Part V of these rules by filing a petition for administrative hearing with the Agency Clerk by the date specified in the Notice of Proposed Agency Action.

- (7) A petition for administrative hearing shall be deemed filed with the District on the date of receipt by the Agency Clerk and must be in substantial compliance with the provisions of the Uniform Rules of Procedure. Failure to timely request an administrative hearing shall constitute a waiver of the right to an administrative hearing pursuant to Section 120.569, Florida Statutes.
- (8) The Board shall consider the permit application on the date indicated in the Notice of Proposed Agency Action. The permit applicant and other interested parties may appear before the Board to present informal argument in favor of or against the proposed agency action. Applicants and other interested parties not objecting to the Notice of Proposed Agency Action should nevertheless be prepared to defend their positions regarding the permit application when it is considered by the Board for final agency action. Appearance before the Board pursuant to this subsection shall not provide a basis for appealing the decision of the Board pursuant to Chapter 120, Florida Statutes.
- (9) The Board may approve, reject or modify the proposed agency action,

which shall constitute final agency action, except in those instances when a valid petition for administrative hearing has been timely filed. In such instances, if the dispute is not resolved at the Board meeting to the satisfaction of the petitioner, the Board shall defer final consideration of the matter pending the completion of the administrative hearing and the submission of a recommended order and exceptions to that order.

- (10) In the event no petition for an administrative hearing was timely filed and the Board takes final agency action which differs materially from the proposed agency action, the District shall mail a Notice of Final Agency Action to all persons who received a Notice of Proposed Agency Action.
- (11) Applicants entitled to a hearing pursuant to Section 120.569, Florida Statutes, may waive their right to such a hearing and request an informal hearing before the Board pursuant to Section 120.569 Florida Statutes, which may be granted at the option of the District.
- (12) This rule provides general guidance regarding the District's processing of permit and license applications. Information specific to the processing of applications for a particular program of the District is contained in the rule chapter that implements the particular program.

Specific Authority 120.54(5), 373.044, 373.113, 373.118, 373.4136, FS.

Law Implemented 120.54(5), 120.60, 373.084, 373.085, 373.171, 373.216, 373.219, 373.229, 373.308, 373.309, 373.118, 373.2295, 373.323, 373.413, 373.416, 373.418, 373.426, FS.

History—New 7-1-98, Amended 3-1-00.

**40A-1.1030 CONTRACT BIDDING –  
RESOLUTION OF PROTEST.**

- (1) The District shall give notice of its decision or intended decision concerning a bid solicitation by United States mail or by hand delivery to all bidders. Notice of other decisions or intended decisions concerning a contract award shall be given by posting the bid tabulation at the location of the bid opening or by certified United States mail, return receipt requested. All notices pursuant to this rule shall include the following statement: "Failure to file a protest within the time prescribed in Section 120.53(5), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes. The formal written protest shall state with particularity the facts and law upon which the protest is based."
- (2) Within 72 hours after a bid tabulation has been posted or after receipt of a notice of decision or intended decision, a person adversely affected by the District's decision or intended decision shall file with the agency clerk a written notice of protest and shall also file a formal written protest within ten (10) days of filing the notice of protest. Failure to file a notice of protest and a formal protest shall constitute a waiver of proceedings under Chapter 120, Florida Statutes.
- (3) Upon the timely filing of a notice of protest, the bid solicitation or contract award process shall be stopped until the subject of the protest is resolved by final agency action, unless the Board sets forth in writing the facts and circumstances which require that the process be continued without delay to

avoid an immediate and serious danger to the public health, safety or welfare.

- (4) Within 7 days, excluding Saturdays, Sundays, and legal holidays, of the filing of a formal written protest, at the request of a protestor or a member of the Board there shall be a meeting between the protestor and the Executive Director to resolve the protest by mutual agreement.
- (5) If the subject of a protest is not resolved by mutual agreement within 7 days, excluding Saturdays, Sundays, and legal holidays, of the filing of a formal written protest, the following shall occur:
  - (a) If there is a disputed issue of material fact, the District shall refer the protest to the Division of Administrative Hearings for proceedings under Section 120.57 (1), Florida Statutes.
  - (b) If there is no disputed issue of material fact, an informal proceeding pursuant to Section 120.57(2), Florida Statutes, and the District's rules shall be conducted before a person eligible under the Florida Administrative Code or Chapter 120, Florida Statutes.

Specific Authority 120.54(5), 373.044, FS.  
Law Implemented 120.57(3), 373.083, FS.  
History—New 7-1-98.

**40A-1.1040 GENERAL PERMITS.**

General Water Use Permits are granted as a matter of law under the provisions of 40A-2.041(3)(a). No personal or mail notification to the applicant of the grant of such permits is given.

Specific Authority 120.54(5), 373.044, 373.118, FS.  
Law Implemented 373.118, FS.  
History—New 7-1-98.





District Headquarters  
(10 miles west of Tallahassee on U.S. Highway 90)  
81 Water Management Drive  
Havana, FL 32333-9700  
(850) 539-5999

Marianna Field Office  
4765 Pelt Street  
Marianna, FL 32446  
(850) 482-9522

Pensacola Field Office  
2261 West Nine Mile Road  
Pensacola, FL 32534-9416  
(850) 484-5125

Visit Us on the Web at:  
[www.state.fl.us/nwfwmd](http://www.state.fl.us/nwfwmd)