

OPERATING AGREEMENT

BETWEEN

THE DEPARTMENT OF ENVIRONMENTAL REGULATION

AND

NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT

CONCERNING

CERTIFICATION OF WATER QUALITY STANDARDS

UNDER THE FEDERAL CLEAN WATER ACT

84-17
581
12/19/84

THIS OPERATING AGREEMENT, made and entered into this 19 day of December ~~November~~, 1984, by and between the Northwest Florida Water Management District (NFWWMD) and the Department of Environmental Regulation (DER) is to clarify interagency operating procedures associated with coordination and review of applications for water quality certifications pursuant to Section 401 of the Federal Clean Water Act. The power to apply and enforce surface water quality standards was delegated to NFWWMD by Order of Delegation, dated December 19, 1984 ~~November 30, 1984~~, signed by the Secretary of the Department. The power to process water quality certifications pursuant to Section 401 of the Federal Clean Water Act for agricultural activities and agricultural water management systems was delegated to NFWWMD by letter dated September 28, 1984, signed by the Governor, to be effective December 1, 1984. NOW,

THEREFORE, the DER and the NFWWMD agree as follows:

1. The NFWWMD shall notify the DER Northwest Florida District Office of all requests for certification under Section 401 within three days of receipt of such requests. The DER may offer comments on the certification request within 30 days of receipt. In the event comments are not received within that time period, NFWWMD shall presume that DER has no objection to issuance of the water quality certification. The DER will provide technical and legal assistance to NFWWMD for certification determinations upon request.

2. In the event of material changes in a permit application subsequent to initial notification to DER pursuant to Paragraph 1, NFWFMD shall notify the Northwest Florida District DER Office within three days of receipt, and DER may provide comments thereon within 20 days. If the DER receives new information concerning the proposed certification prior to the time of certification, but after the 30 day comment period and such information would materially alter the DER's comments, then it shall submit additional comments in writing to the District for its consideration. The DER's right of appeal pursuant to paragraph 6 shall be applicable in this instance.

3. In the event NFWFMD is required to defend a water quality certification decision made pursuant to Section 401 of the Federal Clean Water Act in a legal proceeding, the DER will, upon request, provide technical or legal support needed to assist in the defense of any such action.

4. All certification applications which are pending or for which final or intended agency action has not been taken, shall remain the responsibility of DER.

5. NFWFMD shall provide DER with notice of intended agency action on all Section 401 certifications. In the event DER objects to intended NFWFMD action, it shall petition for formal administrative hearing in all cases involving a disputed issue of material fact, or an informal hearing in cases not involving a disputed issue of material fact. In the event the DER subsequently disagrees with final agency action taken pursuant to Section 120.57(1)(b)9., Florida Statutes, it may then appeal said action pursuant to Section 373.114, Florida Statutes. The record in that proceeding shall be limited to that which was developed in the prior proceeding.

6. The DER shall only appeal NFWFMD certification decisions pursuant to paragraph 5 in the event it has recommended against granting the certification in accordance with the time limitations

of paragraphs 1 and 2 hereof, and said recommendation was not accepted by NFWWMD.

7. In order that the Department may be periodically informed regarding certifications processed by the NFWWMD, information regarding certifications or permits and the certification or permitting program shall be provided to the DER upon request.

8. This operating agreement will be reviewed annually and may be amended or further clarified from time to time with the consent of both the NFWWMD and DER.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective names the day and year first written above.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

NORTHWEST FLORIDA WATER
MANAGEMENT DISTRICT

By *Victoria J. Belmont*
Secretary

By *John McCarty*
Executive Director

Attest *Siane M. Nelson*

Attest *Ann C. Roberts*