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REFERENCE

State of Florida
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Virginia B. Wetherell, *Secretary*

DIVISION OF RESOURCE MANAGEMENT
Jeremy A. Craft, *Director*

FLORIDA GEOLOGICAL SURVEY
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**An Overview of Florida Marine Mining
and Marine Oil and Gas Production Regulations**

by

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AN OVERVIEW OF FLORIDA MARINE MINING AND MARINE OIL AND GAS PRODUCTION REGULATIONS

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INTRODUCTION

The following is a summary of current rules and regulations concerning marine mining and marine oil and gas production in Florida, as of January 1993. It provides a synopsis of procedures, pertinent statutes, laws, regulations, and contact personnel in the responsible agencies.

RESPONSIBLE AGENCIES:

DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP):

(Former Department of Natural Resources (DNR)): Division of State Lands, Land Management Services, contact Ed Hachenberger (904) 488-2291; Division of Resource Management, Bureau of Mine Reclamation, contact Joseph Bakker (904) 488-8212, and Florida Geological Survey, Oil and Gas Section, contact David Curry (904) 487-2219; Division of Beaches and Shores, Office of Beach Management, contact Lonnie Ryder, (904) 487-1262. (Former Department of Environmental Regulation (DER)): Office of Intergovernmental Programs, contact Lynn Griffin, Federal Consistency Coordinator, (904) 488-0784; Bureau of Wetland Resource Management, contact Janet Llewellyn, (904) 488-0130; Bureau of Water Facilities

Regulation, contact Robert Heilman, (904) 487-0563; Bureau of Air Regulation, contact Clair Fancy (904) 488-1344.

DEPARTMENT OF COMMUNITY AFFAIRS:

Office of the Secretary, Florida Coastal Management Section, contact Chris McKay, (904) 922-5438, Development of Regional Impact Section, contact Alex Magee (904) 488-4925.

EXECUTIVE OFFICE OF THE GOVERNOR:

Office of Planning and Budget, contact Deborah Tucker (904) 488-5551.

STATUTES:

Beach restoration and nourishment, Chapters 125.0104 and 161, Florida Statutes (F.S.).

Comprehensive (growth and development) plans required from local governments (Chapter 163.3177, F.S.); Department of Community Affairs authority, (Chapter 380.22, F.S.); permitted activities, consistency review, (Chapter 380.23, F.S.); developments of regional impact, (Chapter 380.06, F.S.); coastal zone management, (Chapter

163.3178, F.S.); and Federal Coastal Zone Management Act (16 U.S.C. ss. 1451-1464).

Mines and Mineral Exploration, Development and Production; authority of the DEP, Division of Resource Management, Bureau of Geology to regulate and permit oil and gas exploration, production, well closure activities, and security requirements (Chapters 376.40 and 377, Part I, F.S.); commercial code provisions and secured transactions, (Chapter 679.402, F.S.); authority of the DEP Bureau of Wetland Resource Management to regulate activities in wetlands Chapter 403.918, F.S.); authority of the DEP Bureau of Water Facilities Regulation to regulate industrial wastewater discharges (Chapter 403.087, F.S.); authority of the DEP Bureau of Air Regulation to regulate air emissions sources (403.087, F.S.); sale or lease of mineral rights, (Chapters 253.45 and 253.54, F.S.); state land leases, authority, royalties (Chapter 253.45, 253.55, F.S.); and the authority to sell oil and gas leases, (Chapter 253.45, F.S.).

The chapters above are referenced from the 1991 Florida Statutes and the 1992 Florida Statutes supplement. In the references, original chapters are listed with the Division of Statutory Revision (etc.) 1991 source and the amended chapters are listed with the Division of Statutory Revision (etc.) 1992 supplement.

RULES:

Rules and Procedures for Applications for Coastal Construction Permits are covered by the DEP Rule 16B-41, Florida Administrative Code (F.A.C.), under revision to 16B-36 F.A.C.

Chapter 17-312, F.A.C., covers wetland resource permitting. Chapter 17-2, F.A.C., covers air emissions regulations. Chapter 17-660, F.A.C., covers industrial wastewater discharges.

REGULATIONS:

Florida Administrative Code, Chapters 18-2 and 18-21 cover management and sovereignty of the State's Submerged Lands.

MINERAL EXPLORATION:

Lease Requirements:

A lease (a nonexclusive use agreement from the DEP Division of State Lands) is required for mineral exploration and development. Applications for leases of state lands are made to the Bureau of Land Management Services, Division of State Lands, DEP. A public hearing is required and a competitive, sealed bidding process is used for awarding leases (Chapter 253.54, F.S.).

Leasable Submarine State Lands:

The Board of Trustees (Trustees) of the Internal Improvement Trust Fund (the Governor and Cabinet) may sell or lease any mineral, timber or water in, on, or under, any land titles in the state. Currently however, in addition to the off-

shore lands leasing prohibition, sale or lease of hard-surfaced beaches that are used for bathing or driving and contiguous areas out to a mean low-water depth of three feet and landward to the nearest paved public road is also prohibited by the state (Chapter 253.45, F.S.).

On the Florida Gulf coast, state lands extend 3 leagues (approximately 10.36 miles) offshore, while on the east coast of Florida they are designated as extending 3 miles offshore. The dividing line between these two designations falls at the end of the Florida Keys. At this time, the lease of offshore state lands for oil and gas exploration will not be considered, and permits for exploration or for drilling will not be considered except for those leases that were entered into before June 7, 1991 (Chapter 377.24, F.S.).

In addition to the above restrictions on mineral production on state-owned submerged lands, Trustees Action 124-89 prohibits seismic activities using explosives on the sovereign waters of Florida. This action also prohibits drilling for, exploring for, or producing mineral resources from, structures located on the Florida's sovereign waters. Sovereign waters include bays, estuaries, freshwater lakes, rivers and streams. Permits issued by the Trustees for geophysical or seismic exploration on, over or beneath sovereign waters cannot be construed to imply consent by the Governor and Cabinet for future exploration or production of mineral resources from these sovereign waters. Chapters 377.22, 377.24, 377.2424, and 377.2425, F.S. also address permitting of geophysical activities and prohibit the exploration for oil and gas in tidal waters and on hard-surfaced beaches.

Exploration and Mineral Production Permits, and Coastal Consistency Requirements:

Once a lease has been obtained, an oil and gas exploration permit is required as described in Chapters 377.24 and 377.241, F.S. The permit is for one year and may be renewed for a second year. A bond or other form of security is required (Chapters 376.40 and 377.22, F.S.). Exploration, development and production also require wetland resource permits from DEP under Chapter 403.918, F.S., and may require wastewater discharge and air emissions permits under Chapter 403.087, F.S.

Federal permits and licenses required for drilling and mining on public lands must be reviewed for consistency with the state's coastal management program (Chapter 380.23, F.S.). Typically, this review is conducted in conjunction with the necessary state permits identified above. The federal consistency review involves the Executive Office of the Governor and the appropriate state resource agencies to ensure the protection of all living and non-living coastal resources.

A Development of Regional Impact (DRI) is also required by DCA (Chapter 380.06, F.S.) if mining would have a substantial effect on the health, safety or welfare of citizens in more than one county.

Chapter 403.918, F.S. sets forth criteria for permitting Dredge and Fill activities in wetlands. Mining and oil and gas exploration and development projects in wetlands must not violate state water quality standards and must preserve fish and wildlife habitats,

marine productivity, navigability, and historical and archeological resources.

Chapter 679.402, F.S. describes a sufficient financing statement which must accompany a security agreement necessary for minerals mining or oil and gas production.

Royalty Payments:

If offshore-mining were to commence after appropriate exploration, the Board of Trustees would determine in advance, royalty amounts, (by statute-never less than one-eighth, in-kind or in-value, Chapter 253.53, F.S.). The Board would also determine a definite rental rate, which would increase annually after the first two years upon lands not developed in good faith, to secure production in paying quantities (Chapter 253.53, F.S.). The Board could, at its discretion, incorporate within the terms of any lease provisions for unitizing. The Board would specify in each lease, in clear and precise terms, the particular minerals for which the lessee is permitted to drill for (or mine), and the manner in which the minerals could be extracted (Chapter 253.45, F.S.).

Current Activities:

No offshore minerals are currently being mined, with the exclusion of movement of offshore sand and sediments, for beach nourishment and inlet dredging projects. Protection and conservation of Florida's coastal environment and coastal zone natural resources are paramount considerations in assessing proposed mineral exploration plans. Because of these environmental and economic considerations, the State currently considers habitat preservation, fishing,

boating, and recreation as primary uses of its marine resources.

BEACH NOURISHMENT PROJECTS:

Florida has a long history of dredging sand and shell for beach nourishment. Since 1965, 24 beach restoration projects have been carried out along 85 miles of Florida beaches. By the end of 1993, three new beach restoration projects will have been completed along 19 miles of beach. Beach construction projects are considered on a site-by-site basis with environmental, engineering, geologic, social, and economic considerations being evaluated for each site before state authorization or funding is granted and before such projects are subjected to the more detailed review inherent in the environmental permitting process. This permitting process includes the Department of Environmental Protection Water Quality Certification and Coastal Construction Control Line permit under the provisions of Chapter 16B-41, F.A.C., "Rules and Procedures for Application for Coastal Construction Permits". Rule 16B-41, F.A.C., is currently being revised; it will become Rule 16B-36, F.A.C.. Beach renourishment also requires a wetland resource permit from DER under Chapter 403.918, F.S.

Beach restoration and nourishment projects are funded in part by state appropriations which can account for up to 75% of the non-federal share of project planning and construction costs under the provisions of Chapter 161.101, F.S.. The local share of project planning and construction cost may be derived from the Tourist Development Tax, an optional county tax on living quarters rented for six months or less (Chapter 125.0104,

F.S.). The U.S. Army Corps of Engineers is involved in most of Florida's beach restoration and nourishment projects (DNR authority to work with the Corps is given in Chapter 161, F.S.). Federal funding for each project varies, depending on such criteria as public access to the area, the proximity of the eroding beach to Corps navigation projects, degree of upland development, etc.

CONCLUSIONS

Current policies preclude lease of offshore submerged state-owned lands for mining or oil or gas recovery. Holders of previously purchased offshore land leases must satisfy the requirements of the Florida Administrative Code, Florida Statutes, and the Federal Coastal Zone Management Act to gain permission to recover oil or gas on these leases.

Beach construction projects are considered on a site-by-site basis with environmental, engineering, geologic, social, and economic considerations being evaluated for each site. Since 1965, 24 beach restoration projects have been carried out along 85 miles of Florida beaches. By the end of 1993, three new beach restoration projects will have been completed along 19 miles of beach, and other such projects are planned.

REFERENCES

Chapters 16B-41, 16C-25 through 16C-30, 18-2, 18-21, Florida Administrative Code.

Coastal Zone Management Act, 1972, (16 U.S.C. ss. 1451-1564)

Department of Natural Resources, Division of Beaches and Shores, Office of Beach Management, under revision, 1993, Chapter 16B-41, will become 16B-36. Rules and Procedures for Application for Coastal Construction permits.

Division of Statutory Revision of the Joint Legislative Management Committee, 1992, Supplement to Florida Statutes 1991, Volumes 1 and 2, Specific Chapters: 161, 161.1101, 253.45, 253.53, 253.54, 253.55, 376.40, 377.22, 377.24, 377.241, 377.2424, 377.2425; State of Florida, publisher. Available from the Law Book Distribution Office, Room LL-14, The Capitol, Tallahassee, Florida, 32399-1400, (904) 488-2323.

Division of Statutory Revision of the Joint Legislative Management Committee, 1991, Florida Statutes 1991, Volumes 1-4, Specific Chapters: 125.0104, 163.3177, 163.3184, 380.06, 380.22, 380.23, 403.087, 403.918, 679.402; State of Florida, publisher. Available from Law Book Distribution Office, Room LL-14, The Capitol, Tallahassee, Florida, 32399-1400, (904) 488-2323.

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