

18-21.003 Definitions.

When used in these rules, the following definitions shall apply unless the context clearly indicates otherwise:

(1) "Accretion" means the process of gradual and imperceptible additions of sand, sediment, or other material to riparian lands made by the natural action of water which results in dry lands formerly covered by water.

(2) "Activity" means any use of sovereignty lands which requires board approval for letter of consent, lease, easement, sale, or transfer of interest in such sovereignty lands or materials. Activity includes, but is not limited to, the construction of docks, piers, boat ramps, board walks, mooring pilings, dredging of channels, filling, removal of logs, sand, silt, clay, gravel or shell, and the removal or planting of vegetation on sovereignty lands.

(3) "Applicant" means any person making application for a lease, sale, or other form of conveyance of an interest in sovereignty lands or any other necessary form of governmental approval for an activity on sovereignty lands.

(4) "Appraisal services" has the same meaning as provided in Rule 18-1.002, F.A.C.

(5) "Approved appraisal" has the same meaning as provided in Rule 18-1.002, F.A.C.

(6) "Approved upland residential units" means the number of residential units given final approval by a local government for one parcel of land riparian to the affected waterbody. For the purpose of this rule, conceptual approval shall not be deemed to constitute final approval.

(7) "Aquaculture" means the cultivation of aquatic organisms and associated activities, including, but not limited to grading, sorting, transporting, harvesting, holding, storing, growing and planting.

(8) "Aquaculture Activities" means any activities related to the production of aquacultural products, including, but not limited to, producing, storing, handling, grading, sorting, transporting, harvesting, and aquacultural support docking.

(9) "Aquaculture Restoration" means the controlled propagation and subsequent planting and husbandry of native, aquatic plants and animals on sovereignty submerged lands, not affixed to public or private dock or pier, for wild population enhancement.

(10) "Aquaculture Use Zone" means a contiguous tract of sovereignty submerged lands which allows for an array of multiple aquaculture leases configured to facilitate management and enforcement.

(11) "Artificial accretion" means the addition of sand, sediment, or other material to riparian lands caused by man-made projects and operations which results in dry lands formerly covered by water.

(12) "Artificial erosion" means the slow and imperceptible loss or washing away of sand, sediment, or other material from property caused by man-made projects and operations.

(13) "Avulsion" means the sudden or perceptible loss of or addition to land by the action of water or the sudden or perceptible change in the bed of a lake or the course of a stream.

(14) "Benthic communities" means any sovereignty submerged land where any of the following associations of indigenous interdependent plants and animals occur: grass beds, algal beds, sponge beds, octocoral patches or beds, hard coral patches or reefs, and tidal swamps, including mangroves, identified in any reports submitted pursuant to paragraph 18-21.004(2)(c), F.A.C., Communities is intended to reflect identifiable assemblages of organisms as opposed to scattered or single individuals.

(15) "Board" means Board of Trustees of the Internal Improvement Trust Fund or delegate.

(16) "Channel" means a trench, the bottom of which is normally covered entirely by water, with the upper edges of its sides normally below water.

(17) "Coastal barrier islands" means a depositional geologic feature consisting of unconsolidated sedimentary materials in an island configuration which is subject to direct attack by wave, tidal, and wind energies originating from the Atlantic Ocean or Gulf of Mexico, and which serves to protect landward aquatic habitats, such as bays and estuaries, and the interior uplands of the mainland from oceanic wave, tidal, and wind forces.

(18) "Coastal island" means a coastline geological feature lying above mean high water that is completely separated from the coastal mainland by marine or estuarine waters, including those parcels of land which become insular due to natural causes, and is composed of any substrate material, including spoil material. This specifically includes, in addition to exposed coastal islands:

(a) All islands within aquatic preserves except for Lake Jackson, Rainbow River, and Wekiva River Aquatic Preserves; and,

(b) Other islands within confined or semi-confined marine or estuarine waters with an open connection to the Atlantic Ocean or Gulf of Mexico such as bays, lagoons or inlets. Except for coastal islands within the specified aquatic preserves, it does not include islands or portions of islands within rivers leading into marine and estuarine waters more than one mile upstream of a line drawn at the river mouth from headland to headland.

(19) "DACS" means the Florida Department of Agriculture and Consumer Services for the purposes of aquaculture in Rules 18-

21.020, 18-21.021 and 18-21.022, F.A.C.

(20) "Department" means the State of Florida Department of Environmental Protection (DEP), as administrator for the Board.

(21) "Division" means the Division of State Lands which performs all staff duties and functions related to the administration of lands, title to which is or will be vested in the board pursuant to Section 253.002, F.S.

(22) "Dock" means a fixed or floating structure, including access walkways, terminal platforms, catwalks, mooring pilings, lifts, davits and other associated water-dependent structures, used for mooring and accessing vessels.

(23) "Easement" means a non-possessory interest in sovereignty lands created by a grant or agreement which confers upon the applicant the limited right, liberty, and privilege to use said lands for a specific purpose and for a specific time.

(24) "Economic demand" means the Projections of Marina Need by County as determined by the Department of Environmental Protection.

(25) "Energy production" means the exploration for, and extraction of, hydrocarbons, including necessary transmission through pipelines, or the water-oriented activities related to the generation of electricity.

(26) "Factual or physical exploration results" means all data and information, excluding interpreted data, gathered as the result of any and all operations conducted under this use agreement by whatever means.

(27) "Fastland" means that portion of a coastal island above the upper limit of tidal wetland vegetation, or, if such vegetation is not present, that portion of the island above the mean high water line.

(28) "Fill" means materials from any source, deposited by any means onto sovereignty lands, either for the purpose of creating new uplands or for any other purpose, including spoiling of dredged materials.

(29) "First come, first served" means any water dependent facility operated on the sovereign lands of the state the services of which are open to the general public with no qualifying requirements such as club membership, stock ownership, or equity interest, with no longer than one-year rental terms, and with no automatic renewal rights or conditions. This is intended to cover services offered to various types, classes or groups of public users and such services need not be comprehensive. The service offered may be a specialty service such as boat repair, seafood purchasing, marine slip rentals or shipping terminals as long as all services offered are open to the general types, classes, or groups of public users with no qualifying requirements such as club membership or stock ownership or equity interest.

(30) "Geophysical testing" means the use of gravity, seismic, and similar geophysical techniques to obtain information and data on oil, gas or other mineral resources. Seismic techniques include air guns, sparker, sniffer, waterguns, mini-sleeve systems, steam injection, percussion sampling, electronic equipment, jet and dart methods, and other non-explosive energy sources. No explosives shall be used when conducting geophysical testing on or above sovereignty submerged lands.

(31) "Incidental Crossings" means the laying of geophysical recording cable on state-owned creek, stream, river or lake bottoms for the purpose of conducting geophysical surveys pursuant to geophysical permits issued by the Department.

(32) "Income" means the gross revenue derived directly or indirectly from the use of sovereignty submerged lands such as slip rental, lease or sublease fees; dock or pier admission fees; club memberships, stock ownership or equity interest in activities where an increased revenue is attributable to the use of the sovereignty submerged lands or "sales" of slips. However, gross revenue shall not include pass-through fees such as fees for utility services or sale of the facility or sales of products not occurring on sovereignty submerged lands. Gross revenue shall include all future payments made for the transfer of the interest in a slip originally obtained from the Board's lessee, including transfer of slip rights by slip sublessees, slip "sellers," slip interest transfers, new club memberships, and other similar transactions.

(33) "Lease" means an interest in sovereignty lands designated by a contract creating a landlord-tenant relationship between the board as landlord and the applicant as tenant whereby the board grants and transfers to the applicant the exclusive use, possession, and control of certain specified sovereignty lands for a determinate number of years, with conditions attached, at a definite fixed rental.

(34) "Letter of consent" means a nonpossessory interest in sovereignty submerged lands created by an approval which allows the applicant the right to erect specific structures or conduct specific activities on said lands.

(35) "Management agreement" means a contractual agreement between the board and one or more parties which does not create an interest in real property but merely authorizes conduct of certain management activities on lands held by the board.

(36) "Marginal dock" means a dock placed adjacent to and parallel with and no more than 10 feet waterward from the shoreline or seawall, bulkhead or revetment.

(37) "Marina" means a small craft harbor complex used primarily for recreational boat mooring or storage.

(38) “Mean high water” means the average height of the high tides over a 19-year period. For shorter periods of observation, “mean high water” means the average height of the high waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19-year value.

(39) “Mean high water line” means the intersection of the local elevation of mean high water with the shore. Mean high water line along the shore of land immediately bordering on navigable waters is recognized and declared to be the boundary between the foreshore owned by the State of Florida in its sovereign capacity and the uplands subject to private ownership. However, no provision of this rule shall be deemed to impair the title to privately owned submerged lands validly alienated by the State of Florida or its legal predecessors.

(40) “Minimum-size dock or pier” means a dock or pier that is the smallest size necessary to provide reasonable access to the water for navigating, fishing, or swimming based on consideration of the immediate area’s physical and natural characteristics, customary recreational and navigational practices, and docks and piers previously authorized under this chapter. The term minimum-size dock or pier shall also include a dock or pier constructed in conformance with the exemption criteria in Section 403.813(1)(b), F.S., or in conformance with the private residential single-family dock criteria in subsection 18-20.004(5), F.A.C.

(41) “Multi-slip docking facility” means any marina or dock designed to moor three or more vessels.

(42) “Nomination” means a proposal for an oil and gas lease.

(43) “Offshore testing” means geophysical testing in the water column above sovereignty submerged lands in bays, estuaries, and Florida Territorial Waters seaward of the mean high water line.

(44) “Open-air dining area” means a fixed or floating structure that serves as a platform for tables and chairs associated with a contiguous upland food or beverage restaurant that is open to the public.

(45) “Person” means individuals, minors, partnerships, corporations, joint ventures, estates, trusts, syndicates, fiduciaries, firms, and all other associations and combinations, whether public or private, including the United States of America and other governmental entities.

(46) “Pier” means a fixed or floating structure used primarily for fishing or swimming and not designed or used for mooring or accessing vessels.

(47) “Pre-cut sunken timber,” also commonly referred to as “deadhead logs,” “deadheads,” and “sinker wood,” means sunken first-growth timber logs that were hand-cut, harvested and floated to downstream sawmills in the late 1700s to early 1900s that became waterlogged and sank to the bottom of lakes and rivers.

(48) “Preempted area” means the area of sovereignty submerged lands from which any traditional public uses have been or will be excluded by an activity, such as the area occupied by docks, piers, and other structures; the area between a dock and the shoreline where access is not allowed, between docks, or areas where mooring routinely occurs that are no longer reasonably accessible to the general public; permanent mooring areas not associated with docks; and swimming areas enclosed by nets, buoys, or similar marking systems. When the Board requires an activity to be moved waterward to avoid adverse resource impacts, the portion of the nearshore area that is avoided by the proposed activity shall not be included in the preempted area.

(49) “Private channel” means a channel that is dredged or maintained by private entities to provide access to or from such locations as private residences, marinas, yacht clubs, vessel repair facilities, or revenue-generating facilities.

(50) “Private residential multi-family dock or pier” means a dock or pier on a common riparian parcel or area that is intended to be used for private recreational or leisure purposes by persons or groups of persons with real property interest in a multi-family residential dwelling such as a duplex, a condominium, or attached single-family residences or a residential development such as a residential or mobile home subdivision.

(51) “Private residential single-family dock or pier” means a dock or pier used for private recreational or leisure purposes that is located on a single-family riparian parcel or that is shared by two adjacent single-family riparian owners if located on their common riparian rights line.

(52) “Processed records” means data collected under the terms of a use agreement for geophysical testing. Processing involves changing the form of data so as to facilitate interpretation. Processing operations may include, but are not limited to, applying corrections for known perturbing causes, rearranging or filtering data, and combining or transforming data elements. Processing shall not include the interpretation of any data collected.

(53) “Public channel” means a channel that is constructed or maintained by a public entity such as a federal or state agency, local government, or inland navigation district listed in Chapter 374, F.S., or that is part of a public navigation project, public water management project, or a deepwater port listed in Section 403.021(9)(b), F.S.

(54) "Public interest" means demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severance of materials from sovereignty lands, the board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials.

(55) "Public navigation project" means an activity primarily for the purpose of navigation which is authorized and funded by the United States Congress or by port authorities as defined by Section 315.02(2), F.S.

(56) "Public utilities" means those services, provided by persons regulated by the Public Service Commission, or which are provided by rural cooperatives, municipalities, or other governmental agencies, including electricity, public water and wastewater services, and structures necessary for the provision of these services and transmission lines for public communication systems such as telephone, radio and television.

(57) "Public water management project" means an activity primarily for the purpose of flood control, conservation, recreation, water storage and supply, and allied purposes, which is authorized and funded by the United States Congress, the State of Florida, or a water management district as defined by Section 373.069, F.S.

(58) "Reclamation of lands" means restoring the upland shoreline to a condition that existed prior to avulsion or artificial erosion.

(59) "Registered grandfathered structure" means any structure that has been formally registered with the department as a grandfathered structure as evidenced by submittal of an acceptable application prior to September 30, 1984.

(60) "Restoration Organization" means a Florida corporation not for profit, incorporated under the provisions of Chapter 617, F.S., and approved by the Department of State, that conducts business to benefit Florida's aquatic environment.

(61) "Restroom facilities" means an accessible restroom on a public pier that is connected to a domestic wastewater facility or portable restroom, pursuant to Rule 64E-6.0101, F.A.C., secured on a public pier.

(62) "Revenue-generating" means any structure or activity on sovereignty submerged lands that generates revenue or income by any means or serves as an accessory activity or facility to any revenue-generating or income producing operation, such as docking for marinas, restaurants, hotels, motels, commercial fishing, shipping, and boat or ship construction, repair and sales. However, the following shall not be construed to be revenue-generating or income producing: the sole act of mooring a commercial vessel at the vessel owner's private residential single-family dock; incidental aquaculture activities on a private residential dock or pier; rental of a private single-family residence with a dock or pier; or construction by a developer of a private residential single-family or multi-family dock or pier.

(63) "Riparian rights" means those rights incident to lands bordering upon navigable waters, as recognized by the courts and common law.

(64) "Sale" means a conveyance or transfer of title of sovereignty lands in fee simple by the board, for consideration.

(65) "Satisfactory evidence of sufficient upland interest" shall be demonstrated by documentation, such as a warranty deed; a certificate of title issued by a clerk of the court; a lease; an easement; or condominium, homeowners or similar association documents that clearly demonstrate that the holder has control and interest in the riparian uplands adjacent to the project area and the riparian rights necessary to conduct the proposed activity. Other forms of documentation shall be accepted if they clearly demonstrate that the holder has control and interest in the riparian uplands adjacent to the project area and the riparian rights necessary to conduct the proposed activity.

(66) "Slip" or "wet slip" means an area of the water column above sovereign submerged lands specifically set aside for a boatlift or the mooring of a single vessel associated with a docking facility.

(67) "Sovereignty submerged lands" means those lands including but not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated. For the purposes of this chapter sovereignty submerged lands shall include all submerged lands title to which is held by the Board.

(68) "Special Event" means the installation and use of temporary structures, including docks, moorings, pilings, and access walkways on sovereign submerged lands solely for the purposes of facilitating boat shows or boat displays in, or adjacent to, established marinas or government owned upland property.

(69) "Spoil island" means any artificially created island having an elevation above water upon formerly submerged sovereign

lands, title to which is vested in the board.

(70) “Spring” means a point where ground water emerges onto the earth’s surface, including under any surface water of the state, excluding seeps. The term “spring” shall include karst windows, a depression opening that reveals portions of a subterranean flow or the unroofed portion of a cave.

(71) “Spring run” means a body of flowing water that originates from a spring or whose primary source of water is from a spring or springs under average rainfall conditions.

(72) “Telecommunication line” means any cable utilized for the purpose of transmitting such things as voice communications, video signals, Internet material, electronic mail, or data.

(73) “Undeveloped coastal island” means a coastal island not directly or indirectly connected to the mainland by a bridge suitable for automobile traffic, and which has an overall density of less than one structure per five acres of fastland as of December 18, 1990. For the purpose of this definition, a structure means a walled and roofed habitable structure that is principally above ground and affixed to a permanent foundation with a projected ground area exceeding 200 square feet and constructed in conformance with all applicable legal requirements. For the purpose of determining density, facilities such as docks, groins, utility poles and pipelines are not counted as structures.

(74) “Undeveloped coastal island segment” means, for an unbridged coastal island with an overall density of greater than or equal to one structure per five acres of fastland, a segment or portion of the island which either is at least one-quarter mile in linear shoreline length or comprises a minimum of 25 percent of the total fastland of the island and which contains less than one structure per five acres of fastland as of December 18, 1990. A segment boundary shall be contiguous with a line drawn from the shore at the point of the outermost structure within a developed area to intersect each shoreline, then continue laterally along the sinuosity of each shoreline until another developed area is encountered or the end of the island is reached. For the purpose of this definition, a structure means a walled and roofed habitable structure that is principally aboveground and affixed to a permanent foundation with a projected ground area exceeding 200 square feet and constructed in conformance with all applicable legal requirements. For the purpose of determining density, facilities such as docks, groins, utility poles and pipelines are not counted as structures.

(75) “Unregistered grandfathered structure” means any unregistered revenue generating structure constructed prior to March 10, 1970, or unregistered multi-family residential or other nonrevenue generating structure constructed prior to March 27, 1982, which preempted at time of construction in excess of ten square feet of sovereignty submerged land per foot of shoreline owned by an applicant. Multi-family residential or other nonrevenue generating structures approved by the board or department between March 10, 1970 and March 27, 1982, but not constructed until after March 27, 1982, shall also be considered as unregistered grandfathered structures only if constructed pursuant to a valid Department of Environmental Protection permit or Department of Environmental Protection exemption.

(76) “Use agreement” means a grant or agreement which confers upon the applicant a nonexclusive and limited right, liberty and privilege to use sovereign lands for a specific purpose and for a specific time.

(77) “Water dependent activity” means an activity which can only be conducted on, in, over, or adjacent to water areas because the activity requires direct access to the water body or sovereign submerged lands for transportation, recreation, energy production or transmission, or source of water, and where the use of the water or sovereign submerged lands is an integral part of the activity.

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