



# Florida Department of Environmental Protection

## Submerged Lands and Environmental Resource Permitting (SLERP) Program

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# Overview

## Discussion Topics

- Forms of Authorization
  - Regulatory, Proprietary & Federal (SPGP)
- Small Scale Marina Projects
- Large Scale Marina Projects
- Submerged Land Leases
- Compliance Assistance
- Lease Modifications





# Application Process

One Application = Three Authorizations



Types of Regulatory Authorizations:

Exemptions

General Permits

Individual Permits



# Regulatory vs. Proprietary

- **Regulatory** refers to the authority that allows an entity of the government, such as DEP, to limit certain activities on your property, as well as on publicly owned lands, to some specific degree for the greater public good. Other examples of regulatory authority that you may be familiar with are local zoning, county planning and building codes, and vehicle safety regulations.
- **Proprietary** refers to ownership authority. Most lands including - but not limited to - tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary high water line or mean high water line, beneath navigable fresh water or beneath tidally influenced waters were titled to the State of Florida when it became a state on March 3, 1845. Title to these lands is held by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. The State is responsible for maintaining these submerged lands for a reasonable degree of public use and access, and to protect the lands for future public use.
- Regulatory and Proprietary authorizations are “**Linked**”



# Federal (SPGP)

- State Programmatic General Permit (SPGP V) issued on July 26, 2016.
- SPGP:
  - Reduces the need for separate approval from the Corps for the approved project types,
  - increases the efficiency of both State and Federal staff in serving the public.
- Project Types:
  - Boat Ramps, Boat Launch Areas
  - Docks, Piers, Associated Facilities, and other Minor Piling-Supported Structures
- Maintenance Dredging of Canals and Channels
- Transient Activities, including:
  - Removal of derelict vessels
  - Scientific sampling, measurement, and monitoring devices
  - Upland to upland directional drilling (HDD)
  - Geotechnical investigations



# Small Dock Projects

## Rule 62-330, F.A.C.

- Self-Certification (free)
- Exemption Verification
  - \$100 fee
- General Permits
  - \$250 fee
- Individual Permits
  - \$420 fee (\$320 with online DEP business portal)





# Exemptions - Docks

- Repair or replace in same configuration
  - Rule 62-330.051(5)(d), F.A.C.
  - Section 403.813(1)(d), F.S.
- New dock (natural waters)
  - Rule 62-330.051(5)(b), F.A.C.
  - Section 403.813(1)(b), F.S.
- New dock (artificial waters)
  - Rule 62-330.051(5)(c), F.A.C.
  - Section 403.813(1)(i), F.S.
- Floating vessel platforms & boatlifts
  - Rule 62-330.051(5)(f), F.A.C.
  - Section 403.813(1)(s), F.S.
- Minimum size dock (application required)
  - De minimis exemption
  - Section 373.406(6), F.S.





# Regulatory Review - Docks

## Types of Regulatory Authorizations

- Exemptions – private docks less than 1,000 sq. ft. (or less than 500 sq. ft. in an OFW/AP)
- General Permit – private docks between 1,000 and 2,000 sq. ft.
- Individual Permits – private docks over 2,000 sq. ft. & all commercial docks



# Exemption – Repair/Replace

- Same Configuration
  - Same shape
  - Same measurements
- Any existing authorized dock
- Upgraded materials OK
- Still functional or damaged due to discrete event





# Exemption: Floating Vessel Platforms & Boat Lifts

- Float at all times
- Purpose: supporting a vessel
- Wholly contained within a permitted slip or;
- <200 sq. ft. in OFW/AP
- <500 sq. ft. in non OFW/AP
- Associated with a dock with no slip
- Attached to a bulkhead with no docks
- No navigation hazard
- Minimizes impact to wetlands and seagrasses





# Exemptions: Shoreline Stabilization

- Repair or replace seawall/riprap (artificial waters)
  - Rule 62-330.051(12)(a), F.A.C.
  - Section 403.813(1)(i), F.S.
- Repair or replace seawall/riprap (natural waters)
  - Rule 62-330.051(12)(b), F.A.C.
  - Section 403.813(1)(e), F.S.
- Between and adjoining existing walls/riprap
  - Rule 62-330.051(12)(c), F.A.C.
  - Section 403.813(1)(i), F.S.
- Living shorelines
  - Rule 62-330.051(12)(e), F.A.C.





# Exemptions: Repair or Replace

- Repair or replace (artificial waters)
  - Seawalls &/or Riprap
  - Only backfill needed to level land landward of structure
- Restoration of seawall/riprap (natural waters)
  - If damaged/destroyed within last year
    - Storm, flood, accident, fire
  - No more than 18 inches waterward of previous location
- Construction of new seawall/riprap between and adjoining two seawalls/riprap
  - Must be in line with adjacent walls/riprap
  - May not exceed 150 feet in length
  - Signs of erosion?





# Exemption – Living Shorelines

- Restoration of an eroding shoreline with vegetation
  - Native wetland vegetation
  - 500 linear feet of shoreline or less
  - Plantings extend no further than 10 feet waterward of MHWL
- Breakwaters
  - Inner toe extends no more than 10 feet waterward of MHWL
  - Top height is no more than MHWL
  - Clean and fossilized oyster shell
  - 3-foot channels located at every 20 feet of breakwater



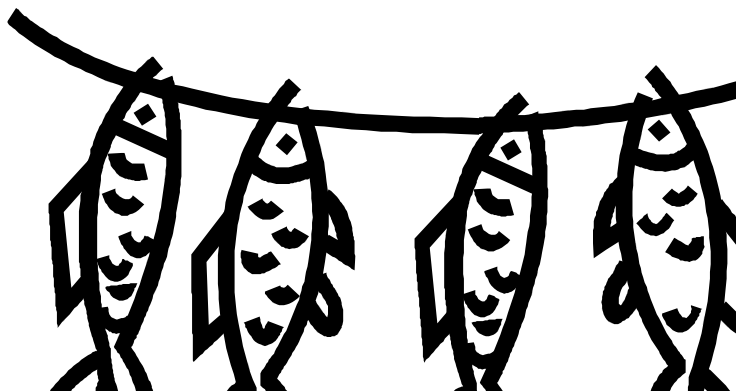
# Riprap Revetment





# General Permit (GP)

- Certain piers and associated structures  
Rule 62-330.427, F.A.C.
- Floating vessel platforms and floating boat lifts  
Rule 62-330.428, F.A.C.





# Individual Permits

- All commercial facilities
- Any private residential/local government project that does not qualify for an Exemption or GP





# Proprietary Forms of Authorization

## Rule 18-21.005, F.A.C.

- **Consent by Rule-** no application or written authorization is required for certain exempt activities under Section 403.813(1), F.S.
- **Letter of Consent-** Written authorization is required for the following:
  - Minimum-size private single-family dock
  - Private SF or MF docks & associated activities < 10:1 threshold.
  - Section 403.813(1), F.S. exemptions which do not qualify for Consent By Rule.
  - Public docks or piers that are exempt under Section 403.813(1), F.S, qualify for minimum size, or are under 10:1 threshold



# Letter of Consent

## What is a “minimum-sized dock or pier”?

- Private SF 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 practice
- Minimum-size dock also includes a dock constructed in conformance with criteria
  - Main access dock max width of 4 feet
  - Terminal platform no more than 160 sq. ft.
  - Maximum light penetration
  - Extend no further than a maximum depth of minus 4 mean low water
- Minimum size dock is evaluated by permit processor



# Proprietary Forms of Authorization

- **Lease (or lease modification)**

- All revenue-generating activities
- Commercial/Industrial docks
- Open-water mooring fields
- Certain special events
- Changes to existing structures already under lease
- Accommodating larger vessels, if outside lease area
- Changing uses (i.e. recreational to commercial vessels)
- Adding slips



- **Private Easement**

- Groins, breakwaters, other shoreline stabilization except when constructed as part of a facility that requires a lease.
- Private navigational channel



# Large-Scale Marina Projects

Larger more complex project types include:

- Maintenance dredge (previously permitted)
  - Typically will qualify as exempt
  - Severance fees may be assessed
  - May qualify for SPGP from US Army Corps
- Initial dredge (new work)
- Major increase in slips (>10 new slips)
- New breakwater, wave attenuator or “wave fence”



# Permit Application Materials

Additional required materials may include

- Hydrographic Study
- Water Quality Analysis
- Grain Size Analysis
- Additional testing, permit specific conditions or revised design may be necessary depending on the results.



# Preapplication Meeting

**DEP recommends a pre-application meeting before submittal of any permit application.**

**Benefits to the applicant and the department:**

- Applicant gains a better understanding of the permit application process and requirements
- Potential issues or hurdles can be addressed prior to submission
- Assists the applicant in putting together a complete application, which can:
  - Reduce permit application review time
  - Provide project clarity to Department staff
  - Save applicant money and time on unnecessary items or information
- No fee for pre-app meetings

**Call 850-595-8300 to schedule a meeting.**



# Sovereign Submerged Lands Lease

**Lease** - A sovereignty submerged lands lease is required for the following:

- Private single and multi-family docks that do not qualify for Consent by Rule or Letter of Consent
- Private multi-family docks designed to moor three or more vessels within an aquatic preserve
- Commercial docking facilities
- Revenue generating activities
- Certain special events





# What's in a Lease?

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND  
OF THE STATE OF FLORIDA

## SOVEREIGNTY SUBMERGED LANDS LEASE RENEWAL

BOT FILE NO. 461065801

THIS LEASE is hereby issued by the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, hereinafter referred to as the Lessor.

WITNESSETH: That for and in consideration of payment of the annual lease fees hereinafter provided and the faithful and timely performance of and compliance with all terms and conditions stated herein, the Lessor does hereby lease to Sandpiper Cove Condominium Association, Inc., a Florida nonprofit corporation, hereinafter referred to as the Lessee, the sovereignty lands described as follows:

A parcel of sovereignty submerged land in unsectionalized, Township 02 South, Range 22 West, in Old Pass Lagoon, Okaloosa County, Florida, containing 33,608 square feet, more or less, as is more particularly described and shown on Attachment A, dated October 27, 1989.

TO HAVE THE USE OF the hereinabove described premises from October 7, 2016, the effective date of this lease renewal, through October 7, 2026, the expiration date of this lease renewal. The terms and conditions on and for which this lease renewal is granted are as follows:

1. USE OF PROPERTY: The Lessee is hereby authorized to operate a 17-slip private residential multi-family docking facility with a boat ramp to be used exclusively for mooring of recreational vessels in conjunction with an upland residential condominium, without fueling facilities, with a sewage pumpout facility if it meets the regulatory requirements of the State of Florida Department of Environmental Protection or State of Florida Department of Health, whichever agency has jurisdiction, and without liveaboards as defined in paragraph 26, as shown and conditioned in Attachment A. All of the foregoing subject to the remaining conditions of this lease.

2. LEASE FEES: The Lessee hereby agrees to pay to the Lessor an annual lease fee of \$0.00, which includes the discounts authorized pursuant to Section 253.0347(2)(f), Florida Statutes, plus sales tax pursuant to Section 212.031, Florida Statutes, if applicable, within 30 days of the date of receipt of the invoice. The annual fee for the remaining years of this lease shall be adjusted pursuant to provisions of Rule 18-21.011, Florida Administrative Code. The State of Florida Department of Environmental Protection, Division of State Lands (the "Division") will notify the Lessee in writing of the amount and the due date of each subsequent annual lease payment during the remaining term of this lease. All lease fees due hereunder shall be remitted to the Division as agent for the Lessor.

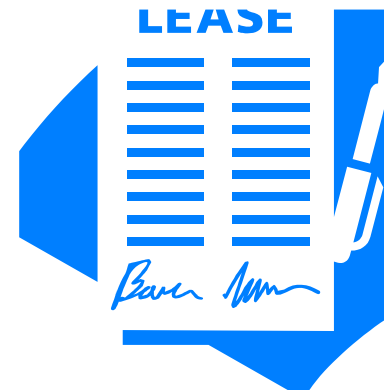
[05]

- **BOT/Instrument number** – unique to your facility
- **Lessee** - Property owners (Responsible for Compliance).
- **Effective and expiration date.**
- **Use of property:**
  - Number of slips
  - Liveaboards
  - Pumpout
  - Fueling
  - Upland use
- **General and special lease conditions.**



# Lease Term

- Commercial: standard term is 5 years
  - If 90 percent is open to public for rent, standard is 10 years
- Single-family & multi-family standard term is 10 years
- Extended term leases allowable for up to 25 years
  - Requires additional approval by the Office of the Attorney General
  - Lease fees exceed fees of standard terms





# Compliance Assurance

## What should I expect of my docking facility?

- **Lease inspections**

- Lessee's facility is inspected at a minimum every five years or with change in upland ownership
- Must be in compliance before renewal of lease

- **Regulatory permit compliance inspections**

- Permitted activities are inspected after construction commencement, or as needed.

- **If the facility is not in compliance...**

- DEP will work with you to bring the facility into compliance.
- Depending on the issue, fines, a temporary use agreement, or consent order may be required.





# Lease Inspections

- 60 days before expiration date
- Inspector will verify compliance:
  - with Lease conditions
  - Existing SSL Lease Survey
  - Measurements of the dock structure taken to verify no changes or additions
- Lease renewal is based on the compliance status at the time of inspection.





# General Conditions

- Standard conditions included in every lease document.
- These include:
  - Wet slip rental certification
  - Maintain upland interest
  - Compliance/termination
  - Maintenance of facility
  - Right to inspect
  - Renewal provisions
  - Gambling vessels





# Non-compliance Examples



New construction without authorization



Vessels extending outside of lease area



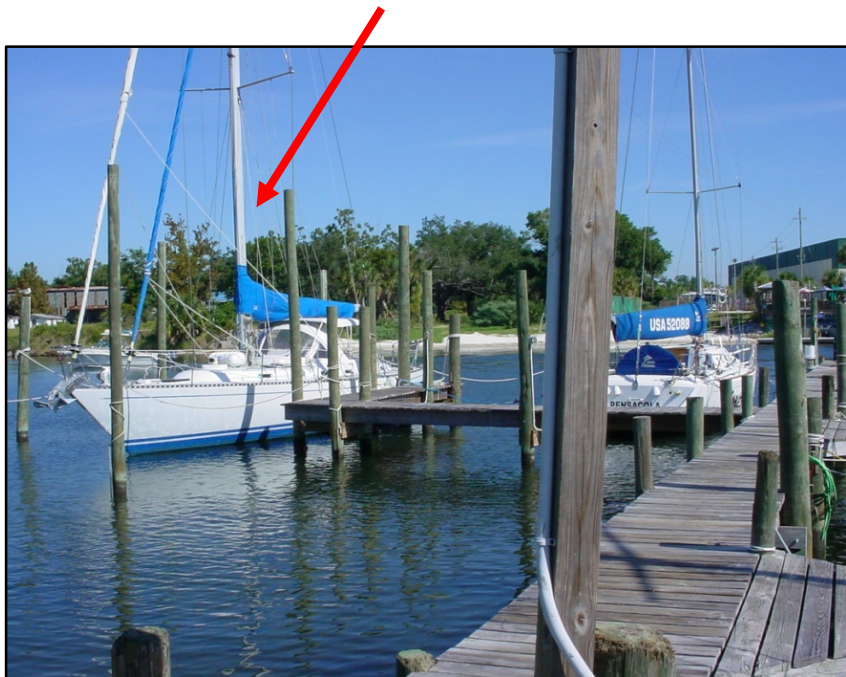
# Mooring Outside of Lease Area

- Any over-water structure or vessel is considered preemption area





# Non-compliance Examples



Slip outside lease area



Storage of hazardous substances on the dock



# Non-compliance examples



Docks are dilapidated



Structures in disrepair/seawall failing



# Non-Water Dependent

- Most leases do not authorize non-water dependent activities.
- Defined as any activity that can occur without the need of being over water
  - Tiki bars, Over-water dining, refrigerators, freezers, etc.
  - Living quarters, kitchens TVs, washing machines/dryers
  - Enclosures on more than three sides





# Liveaboards



- Vessel docked at a facility and inhabited by a person or persons for five consecutive days OR a total of 10 days within a 30 day period.
- If liveaboards are authorized in your lease, in no event shall a liveaboard status exceed six months within any 12 month period, nor shall any such vessel constitute a legal or primary residence.



# Alcoholic Beverages

- No permanent or temporary signs directed to the boating public advertising the sale of alcoholic beverages shall be erected or placed within the leased premises





# Special Lease Conditions

- Tailored to your individual facility.
- Not all leases have them.
- May require specific signage or structures.

## 29. SPECIAL LEASE CONDITIONS:

A. The Lessee has previously agreed to plant a spartina marsh on one-foot centers waterward along the 165 feet of frontage and waterward to a depth of 1.0 foot at mean high water and to maintain the area to ensure no less than 75 percent survival rate of the spartina marsh. The Lessee also agreed to re-vegetate the marsh as necessary to maintain the 75 percent survival rate. The Lessee further agreed to ensure that the vegetation will be regularly policed to remove trash to maintain the integrity of the marsh system after planting.

B. The Lessee hereby agrees to continue daily cleaning of the State of Florida Department of Transportation storm water outfall catch basin. Additionally, the Lessee agrees to use only slow release fertilizer on any upland property fronting Old Pass Lagoon.



# Signage



- Natural resource awareness/educational signs may be required.



# 90 Percent Open to the Public

- “A minimum of 90 percent of the wet slips at the docking facility shall be made available for rent to the general public on a “first come, first served” basis, ... the Lessee shall erect permanent signs at the waterward entrance to the docking facility and at the upland entrance to the docking facility which are clearly visible to passing boaters and the general public...”





# Hand Railings



- The Lessee shall prohibit any mooring, on either a temporary or permanent basis
- The Lessee agrees to place and maintain:
  1. A three-foot high railing along...
  2. Signs advising boaters that mooring either on a temporary or permanent basis is prohibited.





# What if a Violation is Found?

- Compliance assistance first
  - DEP's inspector works with the facility to bring them back into compliance.
- Lease modification and/or regulatory permit
- Enforcement for repeat violators





# New Lease Application Existing Lease Modification

- New Lease Application Requirements:
  - Contact info
  - Location, Waterbody
  - Detailed Statement of proposed use of uplands and state-owned lands
  - Satisfactory evidence of sufficient upland ownership
  - Lease survey or sketch that meets DEP requirements
  - Proprietary Noticing
  - Lease Fees
- Existing lease and want to make changes?
  - Requires an "Application for a Lease Modification" and may require a permit





# Detailed Statement-lease application or modification

- Applicant should provide a detailed description of activities and structures that are existing and/or proposed to occur on state-owned submerged lands and activities occurring on the upland riparian parcel
- Detailed Statement:
  - For example: proposed 40-slip commercial marina in conjunction with upland restaurant and bait/tackle shop.
  - Include number of slips and how they are used (rented to public, slips used for residents only, club membership, etc.)
  - If slip exclusive right of use is assigned indicate who can be assigned a slip
  - Be sure to include all upland activity (i.e. seafood processing, apartment, hotel, motel, resort, restaurant, office complex, etc.) and all sovereign submerged land activities.





# Lease Survey/Sketch Lease Application or Modification

- Survey required for lease area > than 3,000 sq. ft.
- Professional sketch (less requirements) can be submitted for lease areas  $\leq$  3,000 sq. ft.
- Must be done by licensed surveyor
- Department has a checklist that must be met, common things that are crucial for department review:
  - Riparian lines labeled & depicted accurately
  - Survey and legal description should include all structures & activities within boundaries
  - Number of wetlands indicated
  - Dimensions of all structures
  - Is survey one 8 ½ " x 11" and size paper
  - Scaled so structure/lease area is legible
  - Mean High Water Line (MHWL)
  - Shoreline or Submerged Aquatic Vegetation shown





# Sufficient Upland Interest

- Satisfactory evidence of sufficient upland interest: 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.
- Only the owner of the shoreline can be the applicant and lessee
- Property boundary must go up to the shoreline along the MHWL



# Sufficient Upland Interest

## Examples of What May Provide Sufficient Upland Interest (SUI)

- **Deed**
  - *Warranty*
  - *Quit Claim (with acceptable backup documentation)*
  - *Tax deed*
- **Marina Easement** – that includes riparian rights and the right to construct/operate/maintain docks
- **Upland Lease**
- **Condominium, Homeowners or Similar Association Documents**
- **Clerk of Court's Certificate of Title Court Judgment**
- **Board of Trustees' Instruments**
  - *1975 Fill Certificate*
  - *Butler Act Disclaimer*
  - *Quit Claim Deed (doesn't require backup documentation)*
  - *Dedications*



# Lease & Easement Fees

## Lease Fees

- Covered in Section 18-21.011: The annual Lease fee for standard term leases shall be six percent of the annual income, the base fee or the minimum annual fee, whichever is greater.
  - **Income:** from slip rental, lease or sublease fees, dock or pier admission fees, club membership, stock ownership or equity interest
  - **Current Base Fee:** \$0.174244/per square foot
  - **Current Minimum Annual Fee:** \$516.00
- Lease Renewal/Modification Processing Fee:
  - Single Family: \$257
  - All other: \$648





# Common Scenarios that Require a Lease Modification

“The economy has changed since I got my lease. The current lease only allows mooring of recreational vessels, but I also want to allow commercial vessels to moor at my marina.”

- You will need:
  - A lease modification
- “What will I need to submit?”
  - An “Application for Lease Modification”





# Common Scenarios that Require a Lease Modification

“My lease hasn’t changed in fifteen years, but the average size of boats has. The larger boats don’t fit in my lease area. I want to be allowed to accommodate larger vessels without changing any structures.”

- You will need:
  - A lease modification
- “What will I need to submit?”
  - An “Application for Lease Modification”
  - A revised signed and sealed survey showing the proposed new lease boundaries.





# Common Scenarios that Require a Lease Modification

“I want to maximize summer profits by offering seasonal pontoon boat and jet-ski rentals at my marina. To do this, I will need to install floating vessel platforms, moor them outside of my existing slips, and use an area that is not currently included in my lease, or is not currently designated for mooring.”

- You will need:
  - An ERP permit
  - A lease modification
- “What will I need to submit?”
  - Sections A, B, D, and F of the ERP application
  - A new signed and sealed survey showing lease boundaries large enough to accommodate the vessels and platforms. Clearly label the pontoon boat and jet-ski areas on the survey.
- Suggestion:
  - Start this process as early as possible (Fall, Winter) so you can have your authorizations in hand when Summer rolls around.





# Common Scenarios that Require a Lease Modification

**“I want to add five slips and three finger piers to my commercial marina that is already under lease.”**

- You will need:
  - An ERP Permit
  - A lease modification
- “What will I need to submit?”
  - Sections A, B, D, and F of the ERP permit application
  - Signed and sealed project drawings
  - A revised signed and sealed survey showing the proposed new structures.



# Commercial Discounts

- Clean Marina Program
  - 10 percent discount on lease fees
- 90 percent Open to Public for Slip Rental:
  - 30 percent discount on lease fees
  - Must have signs at facility
  - Must include language in rental agreements and websites





# Revenue Reporting

- Annual Wetslip Revenue Reporting Forms are mailed out once a year to all lessees
- All “income” from last year must be reported on the forms
- Forms are required even if the amount of income reported is \$0.00
- If six percent of total income exceeds base rate fees, a supplemental invoice



# Revenue Reporting Forms

- Indicate slip type on the forms
- If there are slips that are unusable please state reason
- If any changes are made to number of slip or use of slips, a lease modification will be required

2016/2017 Wet Slip Information Form	
Lessee:	Instrument No:
<b>I. INFORMATION ON WET SLIPS LOCATED ON STATE-OWNED LANDS</b>	
1. Number of Temporary Slips - Slips that are not rented and are used as fuel docking, launching or removing boats, restaurants, or store purchases. These slips should be <b>Non revenue generating slips</b> .	
2. Number of Transient Slips- Slips that are rented on a short term basis.	
3. Number of Public Slips - open to the public on a "first come, first served" basis. - Rental term shall be no longer than one year and with no automatic renewal rights or conditions.	
4. Number of Slips Not Usable - Slips that are silted in or are in low water.	
5. Number of Slips Sold, Subleased, Licensed, Assigned, etc. - Attach a copy of the document which represents the sale, sublease, license or assignment. The document should include the sublessee's name, unit number, the slip number, and the amount of the transaction.	
6. Number of Private Slips, not rented to the public - Slips used for personal mooring, Association common area, etc.	
Total Number of Slips on State-Owned Lands, Add lines 1 through 6	
Is your facility a Pier with Admission Fees?	
YES NO Circle One	
Boating has a tremendous economic impact on the State of Florida each year. In an effort to learn if boaters have an adequate number of slips around the state, we are requesting information on wet slips that are not within a state-owned submerged land lease. <b>No income generated from these slips is to be reported.</b>	
<b>II. INFORMATION ON WET SLIPS LOCATED ON PRIVATELY-OWNED LAND</b>	
1. Number of Slips Sold, Subleased, Licensed, Assigned, etc:	
2. Number of Public Slips - open to the public on a "first come, first served" basis.	
3. Number of Private Slips, not rented to the public - Slips used for personal mooring, Association common area, etc.	
Total Number of Slips on Privately-Owned Lands, Add lines 1 through 3	



# How do I know what my slip is worth?

- Location, water depth, length of slip, boatlift, etc.
- Slip Appraisal
- Report a Fair Market Value

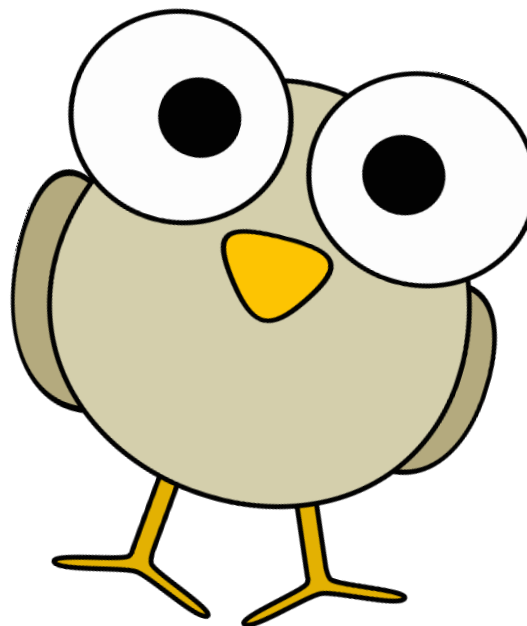
Feel free to call Division of State Lands if you have questions about Revenue Reporting Requirements or Fair Market Value of Slips:

Starla Wagner  
Accounting Services Analyst (DEP)  
Bureau of Financial Management  
Phone: (850) 245-2616  
Email: [Starla.Wagner@floridadep.gov](mailto:Starla.Wagner@floridadep.gov)



# Questions?

Please be sure to sign in with email for the presentation slides





# Contact Information

## Florida Department of Environmental Protection Northwest District

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